

# Pathways to Indigenous Disempowerment: The Russian State, Arctic Regions and Corporate Strategies

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# Pathways to Indigenous Disempowerment:

The Russian State, Arctic Regions and Corporate Strategies

A dissertation submitted in partial fulfillment of the requirements for the degree of

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## Abstract

By the end of the second decade of the 21st century, one of the most hidden groups on the planet - Russian indigenous communities - have found themselves outcast in their own lands. Inhabiting the country's richest area, the Arctic, they got trapped between the unmatched severity of extractive industries' activities and destructive government policy. Current research invites readers to examine the complexity of pathways to Russia's indigenous disempowerment and explore a whole variety of instruments that the federal state, regional authorities and industrial companies do not hesitate to use in order to weaken already modest indigenous peoples' rights protection.

Referencing the previous works and questionnaires results, the study offers insight into the paradoxical nature of Russia's response to indigenous problematics, that is characterized by powerful lobby of extractive industry, full and direct engagement of state authorities, and aggressive policies directed at purposeful destruction of indigenous peoples.

The study begins with the historical trajectory of Russian indigenous disempowerment of Imperial and Soviet times, followed by the brief wave of democratization in the 1990's. The analysis proceeds with case studies selected to capture diverse dynamics and a range of broader patterns of indigenous disempowerment in the Russia's Arctic. Research findings challenge readers to consider that instead of rupturing the practice of extremely successful indigenous colonization, the Russian state is far more incline to remove the "last obstacle" standing on the way of its "Arctic dream." As a result, a comprehensive policy designed to address indigenous accommodation is neither an aspiration nor a political ideal for the Russian federal and regional governments.

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### List of Abbreviations

CBD - Convention on Biological Diversity

CHAO - Chukotka Autonomous Okrug

CSR - Corporate Social Responsibility

EBRD - European Bank for Reconstruction and Development

EIA - Environmental Impact Assessment

EPs - Equator Principles

ESPO - Eastern Siberia-Pacific Ocean pipeline

FPIC - Free, Prior and Informed Consent

GRI - Global Reporting Initiative

IFC - International Finance Corporation

KHMAO - Khanty-Mansi Autonomous Okrug – Yugra

PSAs - Production-sharing agreements

RAIPON - Russian Association of Indigenous Peoples of the North

RSFSR - Russian Soviet Federative Socialist Republic

SAPI - Sakha Diamond Province Investment company

SIMDP - Sakhalin Indigenous Minorities Development Plan

SPC – Save Pechora Committee

TTNU - Territories of Traditional Nature Use

UNDRIP - United Nations Declaration on the Rights of Indigenous Peoples

USSR - Union of Soviet Socialist Republics

## Definition & Use of Terms

The definition “indigenous” is highly contested with different terms used in various countries. This paper uses the expressions “indigenous peoples,” “indigenous population,” “aboriginal population,” “small-numbered indigenous peoples,” “indigenous communities,” “tribal communities” interchangeably. These terms refer to the indigenous peoples of the Russian Federation recognized by international institutions and, are inclusive of small-numbered indigenous peoples as defined in the Russian constitution.

Since the paper aims at examination of the process of disempowerment of Russia’s indigenous peoples, the definition and conceptual borders of the term, as well as its opposite –that of empowerment, should be clarified. In relation to indigenous peoples’ movements the term empowerment usually refers to legal empowerment of indigenous peoples, i.e., indigenous peoples’ protection through the implementation and guarantee of their inherent rights (self-determination, self-government, land rights, etc.) that are conceived as the pillars of indigenous empowerment. Craig (2002) defines empowerment as “*the creation of sustainable structures, processes, and mechanism, over which local communities have an increased degree of control, and from which they have a measurable impact on public and social policies affecting these communities*” (p. 3). Legal empowerment is an overarching goal of all indigenous movements and is also one of the key concepts in the field of human rights. Thus, closely related to legal empowerment, the human rights-based approach is defined as “*accountability of the duty-bearers (primarily the state and its representatives) and a greater role to participating agents of the rights-holders (such as representatives of local communities)*” (Broberg and Sano, 2018, p.670). The term disempowerment, therefore, refers to the prevention from having rights, authority, or influence in policies affecting indigenous communities. To adapt the UN Secretary General’ (2009) and Craig’ (2002) wording, *disempowerment is the process aimed at creation*

*of structures, processes, and mechanisms through which indigenous peoples are left unprotected and unable to use the law to advance their rights and interests.*

The terminology of Arctic is highly ambiguous. In Russia, various terms are used to describe the Arctic region, including Russian North, Far North, Territories equivalent to those of the Far North, or the Arctic. The Far North is defined as an area from the Urals to Chukotka. The status is attributed according to the climatic criteria (permafrost), and other characteristics such as remoteness, distance, and accessibility. “Arctic” entered the Russian vocabulary in the 2000s when the state recognized Arctic as a key priority area of development. Now it tends to replace the term Far North. At the political and legal levels, scholars and politicians often turn to the “Arctic” notion, settled in the international agenda (Zaikov, Tamitskiy and Zadorin, 2017). Territories equivalent to those of the Far North, although being geographically situated in sub-Arctic regions, rather than in the Arctic, are, nevertheless, characterized by the same climatic conditions and remoteness, as the regions located in the North. In compensation for the difficult working conditions, people who work in these territories receive higher wages, referred to as the “Northern Bonus.” Additional preferences include extra vacation, a lower retirement age, housing benefits, etc. Such compensation was initiated under the Soviet Union and has been maintained by the Russian Federation.

Geographical definition of Russia’s Arctic and its exact delineation is also highly contested. While Russia’s Arctic Western and Eastern boundaries are clearly defined (border with Finland and Norway on one side and the Bering Sea on the other), Southern border with country’s multiple domestic territories remains imprecise. According to the 2008 Arctic Policy of the Russian Federation until 2020, the Arctic zone of the Russian Federation means a part of the Arctic which includes, in full or in part, the territories of the Republic of Sakha (Yakutia), Murmansk and Arkhangelsk provinces, Krasnoyarsk territory, Nenets, Yamal-Nenets and Chukotka autonomous districts. The state program, “Socio-economic development of the

Russian Arctic zone until 2020” also includes part of Komi Republic. For the purposes of the paper, Khanty-Mansi Autonomous Okrug located in West Siberia and Russia's largest island Sakhalin in the Far East of the country are included in case studies albeit geographically they belong to the sub-Arctic.

### *Note on Russian Language Terms*

The federal subjects of Russia (referred to as “subjects of the Russian Federation,” “federal subjects” or “regions”) are the constituent entities all of which are equal subjects of the Russian Federation. In 1993 the Russian Federation comprised 89 federal subjects. By 2008, as a result of several mergers, the number of federal subjects had decreased to 83.<sup>1</sup> According to the Russian Constitution, federal subjects enjoy wide-ranging powers and consist of:

Territorially-defined entities:

- *Oblasts*: Oblasts are provinces with locally elected governor and legislature. They serve as a first-level of administrative division. Oblasts are divided into districts, cities of oblast significance and autonomous okrugs, which are legally federal subjects equal to an oblast but are administratively subservient to one.
- *Krais* are legally identical to oblasts and the difference between a political entity with the name "oblast" or krai is purely traditional.
- Cities of federal importance (Moscow and Saint Petersburg)

Ethnically-defined entities:

- Republics are nominally autonomous and usually economically strong entities with their own constitution, elected head of republic, and parliament. Republics are also allowed to establish

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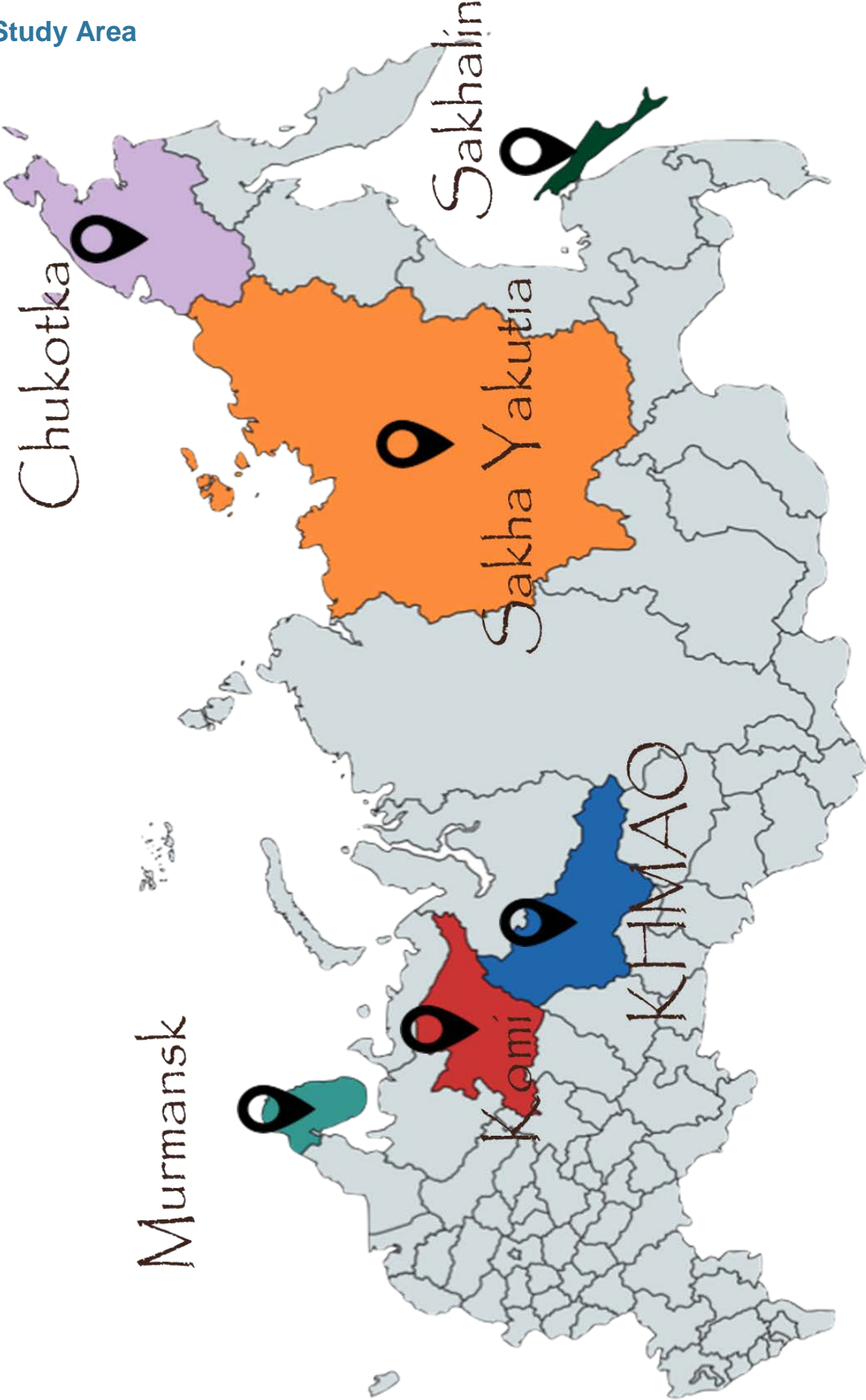
<sup>1</sup> In 2014 Sevastopol and Crimea Republic became federal subjects of Russia, although the two are not recognized by most countries.

their own official language alongside Russian. Initially, republics were created to accommodate specific ethnic minorities.

- *Autonomous oblasts* and *okrugs*: These are originally autonomous entities with traditionally population mix of various ethnic groups, created for ethnic minorities. In the 1990s their status was elevated to that of federal subjects.

*Obshchina* (or *obshchinas* for plural) is a form of kinship or territory-based community organization of indigenous peoples, usually translated as “community” or “commune” that is modeled after the pre-Soviet form of socio-territorial organizations of traditional economies of most indigenous peoples of the North. Historically, organization of *obshchinas* was based on the principle of kinship as the key norm for managing property and land (Stamatopoulou, 2017).

Study Area



*“In the past, indigenous peoples were living peacefully in their homelands, in harmony with nature. Then came ‘civilization’... They conquered the land, we lost our homes, our sacred sites, our agricultural areas, our hunting fields, our fishing waters. They called it development, we called it destruction. They said it would raise living standards, we said it brings humiliation. They earned money, we got poor. They founded big companies, we became cheap labor. They ruined the biodiversity; we lost our sources of traditional medicines. They spoke of equality, we saw discrimination. They said infrastructure, we saw invasion. They thought civilization; we lost our cultures, our language, and our religion. They subjected us to their laws; we saw them claiming our land. They brought illness, weapons, drugs and alcohol, but not equal education and health care. It has been going on for more than 500 years. And it still goes on” (Ooft, 1995, p.15).*

## Introduction

### *Rationale & Problem Statement*

In 2011, the Russian mining company “Yuzhnaya” started its activities near Kazas settlement in Kemerovo region in Southwest Siberia – one of the major coal districts of the Russian Federation. Kazas, the territory of traditional residence of Russia’s indigenous peoples - the Shors, has been subject to decades of environmental destruction and fatal effects of the coal industry (IWGIA et al., 2017). At the end of 2012, “Yuzhnaya” started buying households in Kazas to expand its industrial activities. By 2013, only five families refused to sell their houses and leave the ancestral lands. On 2 November 2013, at the meeting with the villagers, the CEO of the company threatened to set on fire all the remaining houses if the families refuse to sell them to the company. The first house was burnt a week later. At the end of December, the second one was set on fire. In January 2014 two houses burnt down. The last one was struck in March 2014 (Sulyandziga, 2016).

In 2012, Sergei Nikiforov, the leader of the Amur Evenki people, was sentenced to four years in prison for allegedly extorting money from the “Petropavlovsk” gold mining company after he led a protest movement against company’s attempts to take over native reindeer pastures and hunting grounds (IWGIA et al., 2017).

In 2013, 1 million tons of oil was discovered on the bottom of Lake Imlor in Khanty-Mansi Autonomous Okrug, Russia's leading oil-producing region. The same year, Surgutneftegaz company obtained a license to explore oil and gas deposits under the lake which happen to be sacred for the indigenous Khanty people. With their land under threat and alternative job prospects, the majority of Khanty people has left the ancestral land. In 2015, Sergei Kechimov, a Khanty shaman, the only person left living near the lake, got accused of uttering death threats to a worker of Surgutneftegas oil company and sentenced to imprisonment (Stamatopoulou, 2017; Lerner et al., 2017).

Just a couple of months before the launch of criminal investigation against Kechimov, the 113<sup>th</sup> Session of UN Human Rights Committee was attended by an unprecedented number of representatives of the Russian Federation, "*presenting their shadow reports denouncing a wide range of human rights violations*" (IWGIA, 2015). A couple of months after Kechimov's hearings in the court, the Russian Federation also attended the Third Committee of UN General Assembly, where it was stated that the "*Russian Federation has always supported and continue to support indigenous peoples in full and effective implementation of their rights.... We are confident that the main instrument for the practical implementation of the UNDRIP provisions and the outcome document of the World Conference on Indigenous Peoples should be the goodwill of states, coupled with the daily hard work to support the indigenous population and protect their rights and freedoms, as it is done in Russia.*" (Statement by the representative of the Russian Federation/Agenda Item 70 "Indigenous peoples rights" of the Third Committee of UN General Assembly, 2015).

How do the described cases fall into place? Or, more importantly, how does Russia's approach to its indigenous peoples fit in the four decades of what was labeled "*the most progressive stage in the history of development of indigenous peoples' rights and freedoms*" (Garipov, 2013, p.19)?

Among indigenous peoples' achievements, native communities of the Arctic region have set themselves apart as a non-state political agency "*with the capacity to help steer and guide Arctic and global political processes*" (Tennberg and Shadian, 2016, p.43). Arctic indigenous groups comprise approximately 10% of the estimated four million people living in the region (Fondahl, 2015; Tishkov, 2014, Annex 1). They are citizens of eight different countries who speak dozens of distinct languages. These communities have inhabited the Arctic for thousands of years, evolving rich cultural heritage and knowledge systems and pursuing the traditional way of life based on hunting, fishing, reindeer herding, and gathering. Through the recent decades, despite a delicate environmental, economic and political balance that composes the Arctic and makes it one of the most dynamic and hotly contested regions on the planet, indigenous voices in Arctic states have become influential in shaping region's future. The Arctic region has been even claimed to be a unique place where "*for arguably the first time in history, indigenous peoples are engaged in foreign policy and international politics on almost equal par with nation-states*" (University of Washington, 2014).

Yet, evolvement of the Arctic into the site for meaningful engagement between the government and indigenous peoples has occurred with one notable exception – the Russian Federation: despite a rather promising beginning of professional indigenous activism in the 2000s, Russian indigenous groups saw even further division — yet more separate paths in contrast to international indigenous development (Eckert, 2012). Thus, the task of placing within the context of increasing complexity and sophistication of Arctic governance deserves specific attention.

## *Research Question(s) & Hypothesis*

Under those circumstances, the paper proposes an overall research question, as follows:

*Where are Russia's Arctic indigenous peoples now, or why, 28 years after the demise of the Soviet Union have Russia's Arctic indigenous peoples been virtually invisible at both national political agenda and international scene? What might stand behind this striking silence?*

The research question establishes a starting point for defining the major problematics and setting the context for further analysis. Sub-questions guiding the development of the study and specific objectives of the research, have been identified as well and included in the Outline of the Chapters section.

Given the international status of the Arctic, an examination of the growing influence of international actors in the region is of major importance. Interestingly, despite an increasing number of competing interests and competition over strategic shipping routes and resources, common challenges, such as climate change, as well as shared interests, such as in developing the region's abundant natural resources, led to extensive international, regional, and sub-regional cooperation (Zojer and Hossain, 2017). One can notice that recent conversations around regional affairs are centered around the notion of "*Arctic exceptionalism*" referring to the unusual degree of cooperation between Russia and the seven Arctic states despite emerging security issues (O'Rourke, 2016).<sup>2</sup> In other words, Arctic has been pictured as a unique zone of peace and a territory of dialogue where contrary to other areas involving national interests, Russia's behavior is largely cooperative. This has prompted observers to say that the Arctic is "*the only region left in the world where Russian and Western leaders meet on an equal level,*

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<sup>2</sup> Some of the Arctic states, particularly Russia, have announced an intention or taken actions to enhance their military presences in the the region. U.S. military forces have begun to pay more attention to the region in their planning and operations as well. Additionally, the Ukrainian conflict has created tensions within the region that have been intensified further with the introduction of sanctions against Russia.

*promising to abide by international accords in demarcating boundaries, concluding binding agreements on softer security measures, and encouraging people-to-people contacts” (Closson, 2017, p. 8). Indeed, from international perspective, the region has been described as immune, detached, or “isolated from global political competition,” and thus “characterized primarily as an apolitical space of regional governance, functional co-operation, and peaceful co-existence” (Käpylä and Mikkola, 2015, p.4). In this regard, hypothesis can be described as follows: *If the Arctic is framed as a zone of negotiation and cooperation, Russia will be more willing to engage multilaterally in the Arctic that will eventually lead to significant impacts on indigenous policy.**

Given the problem statement, the Arctic offers a fruitful ground for testing the research question and hypothesis. Region's distinctiveness is a promising point of departure for conceptualizing the process of indigenous disempowerment and placing indigenous narrative at the intersection of governance issues and resource politics in Russia.

### *Research Goals & Framework*

The paper is designed to address the rapidly changing Arctic by connecting the dots between indigenous peoples, governance, and economy, and seeks to produce a comprehensive study on contemporary policies on Russia's indigenous peoples within the broader spectrum of challenges, both old ones and those brought by the new era. In particular, this research is an attempt to raise fundamental questions about the nature of contemporary Russian policy towards its indigenous population and shed light upon the various characteristics that have come to define Russia's response to indigenous problematics. The study positions Russia's Arctic indigenous peoples' development within the broader dimension of state political and economic aspirations and, by applying the notion of a rights-based approach, develops a critical discussion of pathways to indigenous disempowerment in Russia. Given these points, the research

examines strategies undertaken by various interests at play to address indigenous issues and relationships between them, and tries to understand why the Russian government fails to reconcile the interests of industrial companies, federal and regional authorities and indigenous communities.

In order to examine Russia's contemporary stance towards its indigenous groups, it is crucial to look at indigenous peoples' development through the reference to the historical background of these societies. Seeking to examine the problematic relationship between the Soviet past and modern history, the discussion, therefore, takes place in the context of past and contemporary paths of Russia's indigenous peoples. In that behalf, the research turns to the postcolonial ground that can strengthen and provide a solid foothold for critically examining the historical trajectory of Russia's indigenous groups.

The postcolonial framework gives an opportunity to question the effectiveness of current strategies to indigenous development and historical foundations of indigenous peoples' movement in several interrelated ways. First and foremost, it challenges us to find new sources and new ways of reading them. In other words, by recovering the hidden and lost voices, postcolonial perspective is capable of resurrecting the untold stories of indigenous peoples. Such tools are necessary for developing a history able to account for the experience and perspective of the suppressed groups. Secondly, it is directed to critical analysis of continuities between the past and the present — that is, to articulate how sociohistorical conditions shaped and continue to shape indigenous peoples' lives. Thirdly, by engaging with postcolonial discourses, we confront both the possibilities and limitations for detrimental consequences mitigation. Furthermore, since for large parts of the world colonialism involved significant economic exploitation of resources, the case of Russia's Arctic whose abundant resources is a stepping stone for the Russian state, sorts well with the above-mentioned framework. Another asset of postcolonial approach is its explicit dedication to exposing various strategies used by

colonizers in exercising their power. By looking at the legislative system and existing institutions, a postcolonial perspective envisions the potential fragmentation of governmental systems which, instead of providing an opportunity for responsive change, becomes an instrument for control. As such, it helps to understand the role of law in indigenous disempowerment (Cunneen, 2011). Finally, by focusing on institutional change and multiplicity of power relations, postcolonial narrative also draws critical attention to issues of multiple agents participating in indigenous rights' implementation, that are not limited to the state legislative system, but involve a range of institutions and norms that shape, contribute and determine the process of empowerment/disempowerment itself (Balaton-Chrimes and Stead, 2017).

### *Research Methodology & Limitations*

Research methodology on which this paper is based were primarily collected via two methods. The framework was developed based, first of all, on qualitative analysis based on both primary and secondary sources. Literature reviewed the evidence of challenges facing indigenous communities in the Arctic and included:

- Constitution and legislative documents of the Russian Federation.
- International documents (treaties, agreements, resolutions, etc.).
- Governmental/official publications and materials (Russian and Western).
- Published interviews with officials, politicians, NGO leaders, and experts; official statements by key people, where appropriate.
- Statistical information, guides, and reference books.
- Scholarly literature: monographs, analytical papers, and articles from peer-reviewed journals and books.
- Media publications and internet websites on the actual subject.

In the paper, we will look at various instruments of indigenous disempowerment that federal/regional governments and companies do not hesitate to use, and major set of strategies pursued by different actors to regulate relations between indigenous people and national and regional legislation and corporate policies of companies. In order to bring a methodological consistency to this project, the paper uses a multiple case study approach and includes six case studies on indigenous policies, divided into two Republics (Komi and Sakha Yakutia Republics), two Autonomous regions (Khanty-Mansi and Chukotka Autonomous Areas) and two Oblasts (Murmansk and Sakhalin). Such comparison can be of great value since the comparison of conditions in various regions can contribute to a wider understanding of the great differences within Russian indigenous people.

Methodological tools for this part of the study were participatory observations and lessons learned from discussions in seminars and workshops. Additionally, findings were supported and complemented by the perspectives of relevant actors and individuals in the form of questionnaires. The main purpose of questionnaires is to give a voice to direct witnesses and document participants' understanding of the scope of the current and expected changes and the effect on the future of their communities. Guiding questions (Annex 2) focused on major challenges indigenous groups face in relation to implementation of their rights, with particular focus on land issues and relations with extractive companies.

The potential limitations of the project include the lack of accurate data on indigenous population and absence of specific questions on indigenous ethnic identity in national census survey questionnaires leads to difficulties in the examination of current indigenous policy of Russia and in quantifying the number of ethnic groups. On the top of that, due to the lack of disaggregated data based on ethnicity it is hard to establish trends in the relationship between poverty, education, health and ethnic membership. Very little information on the state of indigenous communities can therefore be discerned from census results since no systematic

data collection on the indigenous peoples has been organized. Additionally, in a case of a lack of available data on certain companies' operations, especially those related to violations of indigenous rights, the research turns to media sources. In terms of questionnaires' conduction, question of anonymity among respondents arose, which does not allow to include their real names and occupations, and refer to them directly in the dissertation.

### *Outline of the Chapters*

The paper is organized as follows:

First chapters are dedicated to the search of theoretical clarity and exploration of historical background of indigenous peoples' accommodation throughout Russian history timeline. Literature review (Chapter I) explores debates and previous findings in the field with a major focus on indigenous rights, establishes a theoretical framework and places Russia's response to indigenous peoples' problematics within the context of the Soviet colonialism.

Chapter II provides a brief introduction to the evolution of indigenous rights movement and indigenous empowerment in the West and explore how international organizations' strategies have affected indigenous communities over time. Furthermore, Chapter III focuses on how the Russian government addresses indigenous peoples' issues via the state legislation and identifies a number of recent legal developments that have potential to protect indigenous peoples. The Chapter aims at answering the following question: *What shaped the path of indigenous peoples through the history of the Russian state? What was the Russian Imperial, Soviet and post-Soviet approach to indigenous problematics? How to position its response to diversity within post-colonial context? What indigenous rights are granted by the Russian legislation?*

Chapter IV and V focus on case studies and results' analysis. We start with a legal and socio-political overview of indigenous peoples living in six regions. In these sections, we consider

different set of strategies implemented by the Russian state, regions and companies to disempower indigenous peoples. The Chapters examine the place indigenous rights occupy in the reality guided by the logic of resource exploitation, and explore why indigenous communities do not have an opportunity to obstruct or stop new industry entering the Arctic. Chapters explore unique characteristics of indigenous-industrial negotiations, and analyze different conditions, trends and countertrends, and factors that influence indigenous peoples position in six regions (status of the region, legislation, actors, economy, etc.). Chapters focus on a multitude of challenges indigenous peoples face arising from extractive industry and implications of extractive activities to concrete local/regional contexts, and try to understand the political dynamics of resource exploitation. By examining the typology of company benefit-sharing modes, the Chapters try to find advantageous models for meeting indigenous needs. Taking into account the sets of actors involved (state, regional government, company and indigenous communities), the study reveals asymmetrical power relations sustained between the Arctic indigenous nations, state and extractive industries.

The following sub-questions are to be answered:

*Have the Republics and Autonomous okrugs provided better conditions than other regions of the Russian Federation, for its indigenous population? What about lower-level administrative-territorial divisions?*

*What are the factors that account for variance in indigenous rights in different regions or Why do companies vary in their tendency to incorporate indigenous players in negotiations?*

*Who is responsible for implementation of indigenous rights: state, regions or companies?*

*Whose support (state, regions, companies) is more comprehensive?*

*As powerful industrial actors expand their resource extraction industries in the Arctic, is resource extraction a zero-sum game with only one winner? Can benefit-sharing actually*

*counterbalance an 'extractivist' logic? Does it represent the most promising practice toward which to aspire?*

Finally, Chapter V is followed by Discussions and Implications of Results Chapter. It positions the results within the broader framework of post-Soviet history and Russia's current political developments. It includes answers for broader questions such as what is Arctic for the Russian state, and specific issues such as what indigenous peoples are willing/have to sacrifice in negotiations with various actors. The Chapter sheds the light on the state-driven de-emphasis of indigenous claims and includes reflections on current centralization policy of the Russian state that affects not only indigenous peoples, but regional power structure as well (militarization, tax legislation). Main findings, existing gaps and future directions of the research are identified.

### *Significance of the Study*

Arctic indigenous peoples continue to gain the ground and drive the current conversations on the region's future. While other Arctic states have taken a course towards empowerment of native populations, the progress in indigenous policy in the Russian Arctic has been less sound. Under those circumstances, the cross-cutting issue of how to approach the case of Russia's indigenous peoples that has followed its own logic and represents a strongly deviating case on its own account deserves specific attention.

Despite extensive, vast and multidisciplinary literature on Arctic studies, it is often focused and limited to the Canadian, European and the US Arctic realities, leaving behind other important players in the region. Similarly, indigenous perspective is present primarily by Inuit and Sámi communities. While indigenous voices in other Arctic states become influential in shaping region's development, Russia is characterized by the absence of visible indigenous-led research. In sum, in modern Russian society indigenous studies remain a peripheral field of

science. By the same token, there has been a clear distinction between Western knowledge located within disciplines such as philosophy, history and literature, and corresponding indigenous forms that were “*denied the access in these academic subjects and instead, are constrained within fields of anthropology, ethnography and folklore*” (Kuokkanen, 2006, pp. 251-252). Indeed, for a long time, Russian literature focused primarily on Arctic indigenous anthropology while examination of indigenous policy, including relationships of indigenous peoples with extractive companies, remained marginal despite the fact that the most extensive and spectacular resource development in the Arctic is taking place in Russia (Tishkov, 2016). Accordingly, since rich territories of the Arctic are fragile ecosystems and homeland for many indigenous communities, it is a timely puzzle to reconcile the quest for natural resources and at-risk indigenous peoples.

By and large, international indigenous rights’ debates left Russia aside from the critical revision of how the recognition of indigenous rights was understood in different contexts, at both political and academic level. As such, there is a lack of both theoretical and practical background on how non-Western societies have traditionally debated and managed indigenous problematics. Analysis of Soviet/Russian theoretical tradition that developed under specific historical, geopolitical, demographic circumstances and took a different trajectory is, therefore, of major importance. In other words, examination of largely hidden indigenous communities and Russia’s multicultural possibilities can be conceived as a clue for the development of modern Russian indigenous studies.

# CHAPTER I

## LITERATURE REVIEW: Major Debates & Previous Findings

### 1.1. Postcolonial studies

As it is examined further below, over the last centuries indigenous peoples all over the world have been victims of profound historical injustices and violations of human rights that can be partially understood in the context of the modern state development. A postcolonial vision, whereas engaging with debates on public policy formulation, draws critical attention to the long-term implications of colonization and imperialism (Cunneen, 2011). With this in mind, postcolonial perspective offers a helpful testing ground for analyzing how indigenous claims to human rights protections and state's response to them develop within historical narrative, and what impact this historical path has on current indigenous policies (ibid.). By placing indigenous peoples' problematics at the intersection of state, institutions, legislative framework and corporate policies, the postcolonial theoretical ground can, therefore, be useful for the analysis of the current structures that come to (pre)determine the trajectory of indigenous empowerment or disempowerment.

The indigenous movement emerged out of the political struggles of the late 1960s and early 1970s. The world community's attention to indigenous peoples concerns and wide popularization of the issues connected to their rights has contributed to the development of vast and multidisciplinary academic works. As a result, the last twenty years saw a growing body of scholarly literature - in method, scale, sophistication and quantity - on still emergent discipline of indigenous peoples.

The theoretical foundations of an existing body of indigenous studies have their basis in ideas developed in the Western philosophy after the Second World War when discriminative ideologies of fascism became the subject of widespread intellectual doubt (Judd, 2014).

Coincident with the national liberation movements of the 1960s, indigenous studies are thus frequently viewed within the broader framework of postcolonial studies. Grown from the backdrop of European political domination, anticolonial struggles and the era of decolonization, postcolonialism came to be perceived as *“a cultural, intellectual, political, and literary movement of the twentieth and twenty-first centuries characterized by the representation and analysis of the historical experiences and subjectivities of the victims, individuals and nations, of colonial power. Postcolonialism is marked by its resistance to colonialism and by the attempt to understand the historical and other conditions of its emergence as well as its lasting consequences.”* (Fajardo-Acosta, 2006).

The field of study traces its origins back to notable theorists of postcolonial thought such as Edward Said (who developed the idea and coined the term “Orientalism” in his book, *Orientalism*, 1978), Gayatri Chakravorty Spivak (known for analyzing questions of colonial and ‘native’ representation in her highly influential essay, “Can the Subaltern Speak?” and defining terms such as “subaltern” and “essentialism”), and Homi K. Bhabha (especially known for his discussion of cultural hybridity).

Despite the numerous contestations around definition and stature of postcolonialism, its theories converge on several key points: focus on addressing the legacy of imperialism and colonialism, criticism of their structures, purposes and processes; critical analysis of the experiences of colonialism and their current manifestations; deliberate decentralization of dominant culture and knowledge construction of marginalized groups; constructions of race, racialization, and culture within particular historical contexts; a heightened consciousness and resistance to all forms of control (Maringe, 2015; Browne, Smye and Varcoe, 2005).

Absence of definitive boundaries of postcolonial theorizing has resulted in diverse applications and interdisciplinary nature of the field that came to encompass works from anthropology,

international relations, legal, sociopolitical, economic, cultural and area studies (Oleszczynski, 2016). With time, the central focus of postcolonialism that was previously limited to examination of liberated nation-states, has been enriched with the analysis of the so-called 'internal colonialism' applied to struggles of subjugated groups within the boundaries of the state.

The dialogue between postcolonial and indigenous studies started with a massive growth of liberation sentiments by the middle 1990s when the concept "postcolonial" has come to be the principal designator in much of the Western academia for the emergent minority studies (Moore, 2001). As a result, by offering a powerful critique of colonialism and its effects on the colonized societies, these theories have also been embraced by indigenous scholars. Since both movements examine decolonizing and liberating strategies, political reclamation of indigenous rights and power struggles, postcolonial studies came to be seen as an important conceptual tool for indigenous scholars (Byrd and Rothberg, 2011). Chatterji (2001) claims that indigenous research is indeed a postcolonial research that "*seeks to create knowledge relevant to the communities*" (p.1), addresses colonial problematics and confronts existing tensions between colonial power and oppressed groups. Indigenous movements or aboriginal nationalism (as McGregor describes it) "*was an anti-colonial nationalism seeking a liberated future for the Aboriginal people along with an expansion of their rights and entitlements*" (2009, p. 345).

At the crossroads with postcolonial narratives, the foundational texts of indigenous studies openly criticize colonizing practices and prioritize issues such as sovereignty, unequal power relations, concept of indigeneity and self-determination, political rights, land titles, traditional knowledge, capacity-building and cultural revitalization (Anderson, 1999; Smith, 1999; Taiaiake and Corntassel, 2005; Corntassel, 2008; Maaka and Fleras, 2005; Stewart-Harawira, 2005; Moreton-Robinson, 2007; Desai and Nair, 2005).

In the wake of the United Nations' 1993 'Year of Indigenous Peoples' and further reinforced with the adoption of the UN Declaration on the Rights of Indigenous Peoples in 2007, the indigenous-related analysis has proven to be best conceptualized through a human rights-based approach defined as "*accountability of the duty-bearers (primarily the state and its representatives) and a greater role to participating agents of the rights-holders (such as representatives of local communities)*" (Broberg and Sano, 2018, p.670). The right-based approach is often presented under the guise of legal empowerment - a key concept in the field of the human rights-based approach - through their rights to self-determination, political participation in the management of their lands and resources and decision-making process (ibid; Gisselquist, 2018). Furthermore, in line with individual scholars, international organizations provided a normative justification for indigenous policies which ensure indigenous rights. A current manifestation of global trend towards indigenous empowerment is found guidelines, policies and documents adopted by international organization such as the UN, ILO Organization, World Bank, etc.

The origins of the term empowerment date back to the civil rights and women's movements of the 1960s. In the early use of the term, the term was described as a process through which people gain control over their lives (Rappaport, 1987). The concept is highly contested, and its 'fluidity' is well examined in the literature (Palacio, 2006, p. 15). In the field of political science, empowerment refers to as is "*strengthening physical and intellectual opportunities and [finally] orienting these toward the gaining of power*" (Hyung Hur, 2006, p. 526). In social science, empowerment includes "*mobilizing the poor and then transforming their social power to political power*" (ibid, p. 527). Despite multiple variations, the term always refers to disadvantaged populations who use legal services and "*related development activities to increase [...] control over their lives*" (Golub, 2003, p. 3).

During the 1980s, the concept was recognized as highly relevant for addressing indigenous experience with oppression and powerlessness, and has been, therefore, embraced by indigenous peoples, who see empowerment as a means of remediating the trauma experienced from their diverse, yet parallel, histories of social injustices and oppression and develop “*new representations of reality*” (Dudgeon et al., 2014, p. 440). The UN Secretary General refers to empowerment as “*the process of systemic change through which the poor are protected and enabled to use the law to advance their rights and their interests as citizens and economic actors*” (United Nations, 2009). In other words, it implies that, as the rights-holders indigenous nations are legally empowered to claim their rights against the duty-bearer (the state or company), acquire political, social and/or economic power and the ability to think and to act freely, to take decisions and to fulfil his or her own potential as a full and equal member of society.

The early 1990s scholars made attempts to position indigenous rights in the prism of multiculturalism by developing theories of how liberal democracies address indigenous rights. Proponents of liberal multiculturalism such as Will Kymlicka and Amy Gutmann argued for differentiated rights for minority groups and elaboration of egalitarian forms of diversity accommodation within liberal tradition of Europe and the Americas. It has been argued that the West has framed and channeled ethnic politics in a way that is compatible with the promotion of democracy and has managed to integrate the collective rights into the framework that supports individual human rights. As a result, liberalism became the champion in accommodating indigenous claims within the framework of the liberal theory of Multiculturalism or (“*liberal policies of multiculturalism, minority rights and indigenous rights*”) (Kymlicka, 2007, p. 41). Specific attention deserves the works of Will Kymlicka on multicultural policy in Western democracies and Donna Van Cott’s writings on the experience of Latin America countries. The two scholars are among the few who have addressed the need

for the comprehensive methodology in indigenous studies and seek to fill this gap. Will Kymlicka, while having put indigenous diversity in a separate group of multicultural policies, made the first systematic project to go from the theory into practical policy recommendations by constructing a multiculturalism policy index that assesses indigenous policy in Western states. The index proposed in Van Cott's 'multicultural model' focused on the evidence collected in Latin American countries. Complementing Kymlicka's research, Van Cott's model of multiculturalism argues for the recognition of collective minority rights.

Despite progress in indigenous rights' recognition, backed up by the development of international law, scholars continue to critically analyze issues of state power and policies towards peoples who are often left neglected. As such, an asset of the dialogue between postcolonial and indigenous frameworks is its critical gaze on the unequal relations of power. Following influential postcolonial intellectuals, postcolonialism demands to recognize the ongoing and enduring effects of colonialism and critically assess and question the notion of "post" in "postcolonial." The main argument of supporters of this narrative is that despite dedicated and substantive progress toward indigenous empowerment, confronting the ongoing colonization of native lands remains at the top of the agenda for many indigenous peoples worldwide (Kennedy, 2013; Balaton-Chrimes and Stead, 2017). As a result, indigenous scholars "*have been reluctant to sign on to a theoretical project that appears to relegate their dilemmas to the past or an achieved 'after'*" (Byrd and Rothberg, 2011, p.4). The misleading suggestion that colonialism is over has been often and productively discussed by scholars such as Young who claims that colonialism continues to shape people's lives, and, in fact, the very definition of postcolonialism "*is difficult to capture because some argue that colonialism never ends, it only transforms*" (Young, 2001). Cunneen argues, for instance, that a postcolonial perspective forces indigenous debates to leave the zone of definitions of empowerment and critically consider how marginalized peoples continue to view structures governing them as

unjust (2011). Colonization and postcolonialism, he continues, “*are not historical events but continuing social, political, economic and cultural processes. The postcolonial exists as an aftermath of colonialism and it manifests itself in a range of areas from the cultures of the former imperial powers to the psyches of those that were colonized.*” (Cunneen, 2011, p.249). Browne, Smye and Varcoe, in turn, emphasize that “*postcolonial theory draws attention to the ways in which the past is present in every moment of every day, in every policy and practice and in the very language we use.*” (2005, p.29). Similarly, Smith (1999) explains: “[*To name the world as ‘postcolonial’ is, from indigenous perspectives, to name colonialism as finished business....There is rather compelling evidence that in fact this has not occurred...the institutions and legacy of colonialism have remained*” (p. 98). Hall also argues about emergent, new forms of inequities that exist today as a result of colonialism (1996). Other scholars claiming that the world structures of colonial relations continue include McClintock (1992), Shohat (1992), Silva (2004), Womack, Weaver and Warrior (2006) and many others. According to these scholars, while ‘postcolonialism’ as a generic term for colonial period is historically over, it continues in more sophisticated forms, reflected in state development assistance programs, extractive companies’ strategies in regard to resource development on indigenous lands, etc. (University of Massachusetts, 2017). Changes in form and strategies of modern colonialism also manifests in the growing range of players involved in power relations’ structures: whereas previous focus of the literature on recognition and indigeneity privileged the state as “*the primary recognizing agent*”, recently other agents of recognition including financial institutions, global governance systems and corporations came under academic scrutiny (Balaton-Chrimes and Stead, 2017).

Specific attention deserves the works of Alexander Etkind (2001, 2014) and David Moore (2001) dedicated to examining history of the Russian state in terms of postcolonial lens. Generally, however, attempts to cross-reference postcolonial concepts and Russian contexts,

have been characterized by a peculiar uncertainty and dissatisfaction among scholars (Briggs and Sharp, 2004). First of all, vast majority of scholars who analyze Russia in the context of postcolonial narrative, tend to focus on former Soviet states, instead of internal colonization of indigenous peoples. Secondly, scholars also question whether the Soviet Union and its satellite states can be located within the postcolonial paradigm. Some argue that the development of Russian Imperial and Soviet histories was distinct from that of other European powers (the matter of race central in the postcolonial analysis was not deterrent in the Soviet drive for power; the lack of ocean between Russia and colonized territories) and, as such, the Soviet narrative cannot be described as strictly colonial. Klyuchevsky claimed that Russian colonization deviates from Western models because “*the history of Russia is the history of a country that colonizes itself*” (1956, p. 31). Saïd, similarly, admits that “*Russia, however, acquired its imperial territories almost exclusively by adjacency. Unlike Britain or France, which jumped thousands of miles beyond their own borders to other continents, Russia moved to swallow whatever land or peoples stood next to its borders, which in the process kept moving farther and farther east and south*” (1993, p.10). It has been, therefore, argued that the post-Soviet history is clearly constructed into an independent narrative, impossible to be taken reduced to postcolonial or other models (Tlostanova, 2014). Others, on the contrary, argue that the former USSR fits the terminology of an empire with a clearly defined core (Moscow and the Russian Soviet Federative Socialist Republic) and peripheries (other Soviet republics) (Kuzio, 2002). Thirdly, in Western thought, the term “post-Soviet” often exists in the time, not space, paradigm – as a temporal succession to the Soviet regime, whereas the spatial aspect of the problem—the post-Soviet as a place, and especially people within these post-Soviet boundaries have been left ignored (Tlostanova, 2014).

In spite of the flourished body of indigenous research, very little attention has been given to engaging indigenous perspectives in non-Western postcolonial realities. In particular, these

ideas have not been taken up to any great extent or as a systematic approach within indigenous studies in Russia. Few postcolonial theorists have examined the effects of Russian and Soviet domination on indigenous peoples. As a result of the failure to find a middle ground for deciding on the nature of Russian colonialism, is, therefore, remains unclear how indigenous discourse is positioned, conceived, implemented, and articulated within post-colonial narratives of the Russian state. This paper argues that the postcolonial theoretical ground provides meaningful insights into several crucial sectors curial for examination of indigenous peoples: power structures, use of law, multiple actors and new methods of disempowering policies. As such, this paper approaches postcolonial theorizing as a *perspective* that can offer new theoretical insights and significantly enhance examination of the complex process of current struggles of Russia's Arctic peoples.

## 1.2. Indigenous peoples' rights

In Russia, the dissolution of USSR and adopted course on democratization sparked an unprecedented scope of scientific works dedicated to indigenous peoples and their rights. As a result, since the beginning of the 21st century Russian and foreign scholars have dedicated their works to examination of a vast range of issues on indigenous rights and political and legal mechanisms of interaction between the state and indigenous population (Andrichenko, 2005; Fondahl and Sirina, 2006; Fondahl and Poelzer; 1997; Murashko, 2008; Xanthaki, 2004; Kryazhkov, 2010, 2012, 2013; Sleptsov, 2017; Khariuchi and Zharomskikh, 2005; Bogoslovskaya, 2015).

Since the 1960s, with the new stage of industrial development and increasing presence of resource extraction activities on Russian Arctic territories, a significant number of researches have raised issues of management of nature use and industrial development of the Northern territories in the context of ethnic and environmental problems. Fondahl and Sirina (2006), Xanthaki (2004), O'Faircheallaigh (2013), Wilson (2003), Tulaeva and Tysiachniouk (2017)

analyze the impact of extractive industry on culture and economies of local communities and observe that many destructive processes amongst indigenous populations – such as deterioration of living standards, degradation of reindeer herding, high levels of unemployment, destruction of culture, poor living conditions – are linked to the legacy of state development policies. Since the beginning of the 2000s, discussions of indigenous participation in the management of their lands, resources and economic development and indigenous peoples’ relationships with industrial companies have been on the rise. However, the research on the specific outcomes of industries on indigenous communities remains largely unexplored.

Similarly, analysis of industrial companies’ strategies in relation to indigenous rights with a major focus on corporate social responsibility (CSR)<sup>3</sup>- the corporate parallel to an international regulatory and monitoring system developed within the private sector – seen as a counterbalance to an ‘extractivist’ imperative has recently gained the ground (Wilson and Stammler, 2016). Generally viewed as a way of holding corporations accountable and addressing the corporate world’s responsibility for its actions in a number of fields, including environmental issues, workers’ rights, universal human rights and, most recently, indigenous peoples’ rights, CSR represents the effort to balance out economic, environmental, and social concerns and contribute to creation of sustainable society (Kumar and Wati, 2017). The idea behind the concept is that companies are responsible not only for maximizing profits, but also

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<sup>3</sup> Corporate social responsibility (CSR) is also known by a number of other names. These include corporate responsibility, corporate accountability, corporate ethics, corporate citizenship or stewardship, responsible entrepreneurship, and “triple bottom line,” to name just a few.

Contemporary definitions of CSR include:

*‘the continuing commitment by business to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large’, and “CSR is generally defined as the voluntary activities undertaken by a company to operate in an economically, socially and environmentally sustainable manner”.*<sup>3</sup>

*the responsibility of an organization for the impacts of its decisions and activities on society and the environment through transparent and ethical behavior that contributes to sustainable development, takes into account the expectations of stakeholders, complies with applicable law and is consistent with international norms of behavior, is integrated into the activities of the organization and practiced in its relationships.*

The European Union defines CSR as “A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with stakeholders on a CSR represents corporate self-regulation, which involves companies’ compliance with both national legislation and international standards and is often regarded as the business contribution to sustainable economic development.

for recognizing for their impact on and the needs of employees, customers, demographic groups and even the regions they serve (Tysiachniouk and Petrov, 2018; Kumar and Wati, 2017).

Existing literature on benefit-sharing and indigenous communities primary focuses on Canadian and American experience (Keeping, 1998; Sosa and Keenan, 2001; Berkes, 2009; Berkes and Armitage, 2010; Forbes and Kofinas, 2014; O’Faircheallaigh, 2008; Hitch and Fidler, 2007; Evengard, Nymand Larsen and Paasche, 2015). To the contrary, relatively little research has been conducted on benefit-sharing agreements between Russian indigenous peoples and extractive industries. Scholars such as Tysiachniouk (2016), Maksimov (2005), Funk, (2018), Kryazhkov (2010, 2012, 2013), Garipov (2013, 2014), Wilson (2000), Kryukov and Tokarev (2005) are among the few researchers examining a history of industrial companies’ rights violations against indigenous communities in the Russian context. The phenomenon of “resource curse” or “the anthropology of oil” is often a recurring theme in the literature dedicated to the analysis of interaction between business and indigenous groups in Russia (Wilson and Stammler, 2016; Wilson, 1999; Stammler and Wilson, 2006; Funk, 2018).

## CHAPTER II

### CONCEPTUAL FRAMEWORK: Indigenous Empowerment within Western Liberal Framework

#### 2.1. Who are Indigenous Peoples?

Although the term “indigenous peoples” has been in circulation since the 1970s,<sup>4</sup> till today, there is no universal definition, as such, the designation is highly contested and differs between countries. The working definition upon which international organizations and scholars rely is that proposed by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Cobo, 1986), as follows:

*“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.”*

James Anaya (2004, p. 396) provides a simpler version of the term, as follows:

*“They are indigenous because their ancestral roots are embedded in the lands much more deeply than others. They are peoples because they represent distinct communities and have culture and identity that link them with their nations of the ancestral past.”*

Today there are approximately 370 million indigenous people spanning 90 countries and speaking over 4000 languages (United Nations Global Compact, 2013). Indigenous peoples

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<sup>4</sup> Another term used to refer to indigenous peoples was the Fourth World. The Fourth World that came into popular usage in 1974, with the publication of *The Fourth World: An Indian Reality*. Manuel, George, and Michael Posluns. *The Fourth World: An Indian Reality*. Ontario: Collier-Macmillan Canada, Ltd., 1974.

occupy approximately 20% of the world's land surface, yet steward 80% of the planet's biodiversity (ibid). Historically, many indigenous peoples have suffered from policies of colonization and assimilation, and whereas they comprise only 5% of the world's population, yet they constitute one-third of the world's extremely poor people (ibid). Furthermore, while indigenous peoples and their cultures represent an invaluable resource of the world's linguistic and cultural diversity, they often lack full legal protection at the state level. While indigenous peoples live with severe disadvantages, they live on lands rich in natural resources. As such, their lands are considered a source of income generation "*rather than as heritage to be cherished*" (Glennie, 2014). They face serious obstacles, including exclusion from mainstream society, land deprivation, reduced access to life-sustaining resources, poverty, and repression. As a result, their cultures, languages and ways of life are threatened. These elements result in conflicts with many national governments (Anaya, 2008).

### *2.1.1. Indigenous Peoples vs Ethnic Minorities*

Indigenous peoples distinguish themselves from minority groups and instead demand their recognition as a group with a special status. Similarly, international law distinguishes indigenous rights from those of ethnic minorities and gives them distinct sets of legal protections.<sup>5</sup> Although indigenous peoples often face the same experience of discrimination as other ethnic communities, ethnic groups' rights do not meet the needs of indigenous peoples (for example, collective land rights are not relevant for ethnic minorities because they often do not live on their titular lands) (Asian Forum for Human Rights and Development, 2010).

Additionally, according to Kymlicka, while minorities "*were contenders but losers*" (Kymlicka & He, 2005, p. 48) in the process of the state-formation, indigenous peoples were entirely isolated from it (this can serve as an explanation of why the Catalans in Spain are not

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<sup>5</sup> United Nations have separate Declarations for both groups: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities United Nations and Declaration on the Rights of Indigenous Peoples

considered as indigenous nation). Also, majority of indigenous nations retain a pre-modern way of life and represent entirely distinct cultures, if not civilizations. Indigenous economy is based on hunting and gathering, or in the case of Sámi, on nomadism. Importantly, in their relations with the land, they do not use the concepts of private land ownership (Minde, 2008).

## **2.2. Historical Development: From discrimination to empowerment?**

After the Second World War, in the wake of the spreading of the human rights movements, indigenous peoples, once subjugated to the control of imperialism, united their forces in a struggle for sovereignty, self-determination and political recognition. The late 1960s became the formative years that shaped the basis of indigenous activism and marked the beginning of political mobilization. The emergence of indigenous movements created the space for indigenous empowerment and led the way for the reclamation of rights and liberties that had been previously denied (Saunders, 2018).

After the First World War which *"had given sixty-million people a state of their own, but it turned another twenty-five million into minorities"* (Mazower, 1998, p. 41), the ethnic groups problem was limited to the people who found themselves in the newly created states of new international borders. With the invasion of Poland and Czechoslovakia by Nazi Germany on the ground of rights violations of ethnic Germans in these countries, the international community realized the need for a universal framework of guaranteeing basic political and civil rights, regardless of their group membership (Kymlicka, 2007). For this reason, the very concept of human rights was articulated in terms of individual's interests which laid the foundation of a new international order and adoption of the Universal Declaration of Human Rights. Originally the liberal tradition left no room for collective rights and was aimed at indirect protection of minorities by guaranteeing basic civil and political rights to all individuals. According to the classic liberal thought, each individual possesses equal rights, while specific rights undermine the stability, unity, equality and universalism (He, 2003).

Since the late 1960s, however, when human rights issues were high on the agenda, Western countries and scholars began to challenge the core normative assumption of the post-war order centered on individual interests. As a result, articulation of normative theories of multiculturalism and liberalism's egalitarian possibilities was launched (Kymlicka, 2014). Ultimately, accommodation of ethnic diversity was proven to be not only consistent with, but, in fact, a precondition for the maintenance of the international order and itself represent a manifestation of a broader process of democratization (Kymlicka, 2007).

In the following decades indigenous peoples discourse extended beyond the domestic stage to the global arena (Anaya, 2004).<sup>6</sup> Indigenous peoples and their advocates have forced international communities to reevaluate indigenous protections (Wiersma, 2005). Many achievements have been made with reference to indigenous justice and expansion of human rights standards, primarily through indigenous engagement and dedication within global society. As a result of unprecedented level of empowerment, today indigenous peoples are more mobilized than any other time. Several circumstances contributed to the rise of indigenous voices around the world. The first factor is demographics. In the past, many states expected that ethnic minorities would disappear, "*through dying out or assimilation or intermarriage*" (Kymlicka, 2002, p.4). However, today indigenous peoples represent a growing segment of the population. Secondly, human rights revolution and the development of the idea of the inherent equality of human beings marked the break from older ideas of a racial or ethnic hierarchy, according to which some peoples were superior to others. Justification for minority protections

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<sup>6</sup> For most of the past 500 years the indigenous peoples' project has had one major priority: survival. This has entailed survival from the effects of a sustained war with the colonizers, from the devastation of diseases, unjust regimes. From the 1960s the indigenous peoples' project was reformulated around a much wider platform of concerns. a new agenda for indigenous activity has been framed that goes beyond the decolonization aspirations of a particular indigenous community towards the development of global indigenous strategic alliances. The development of international indigenous relations which began after the Second World War needs to be seen within the context of indigenous struggles for self-determination which were occurring at the grassroots level. In New Zealand, Australia and Canada and the United States, the rise of indigenous activism was paralleled with the civil rights movement, women's liberation, student uprisings and the anti-Vietnam War movement. Meanwhile, indigenous peoples, a comparatively small sector of traditional community landowners, were making progress in claiming territorial lands in Latin America (Wily, 2018).

has been found in the fundamental goal of liberalism - equality of all people, according to which it is “*unjust and morally arbitrary*” that indigenous communities do not have the same possibility to have and enjoy their language and culture that the majority population takes for granted (Tsunemoto, 2002). Lastly, human rights consciousness and democracy have opened the access to decision-making at both domestic and international arenas giving a chance to minority voices to rise (Kymlicka & He, 2005). After 50 years of active participation in the global arena, indigenous rights movements continue to gain momentum transforming into one of “*the most visible civil society grouping across the UN*” (Morgan, 2011, p.2). Two International Decades of the World's Indigenous Peoples saw the adoption of international standards and guidelines in addition to the establishment of institutions that specifically target the concerns of indigenous people.

The protection of indigenous peoples' rights and interests is becoming an important national goal, and the essential sphere of international cooperation. The policy of assimilation and forcible integration has been replaced by declarations of indigenous peoples' rights to self-government, development, land and preservation of their national, cultural and language identity. Particularly in the Arctic, indigenous peoples have played a decisive role in central issues around the region's future using both domestic and international channels and enjoy unprecedented level of empowerment and organization within the world today. Indigenous peoples and their incorporation into the narrative of the Arctic and global politics have been central to the construction of the Arctic discourse (Tennberg and Shadian, 2016).

## **2.3. Rights Granted**

### *2.3.1. What do Indigenous Peoples demand?*

Indigenous peoples' rights occupy a special place in the system of human rights. The most important element of these rights is their collective nature based on the idea that indigenous peoples never exist isolated from their community and their identity is, therefore, inseparably

connected to the community they belong, which means that collective rights can be wielded (exercised, invoked, or waived) non-individually, by a whole group (Buchanan, 1993). As a result, an introduction and the progressive development and entrance of the so-called “collective rights” or “third generation of rights” in international jurisprudence, which originally left little place for specific rights, has been perceived as one of the most striking development in the theory of international law (Buchanan, 1993).

Empowerment of indigenous peoples and their inclusion in decision-making process is realized through the recognition of their interests and, most importantly, their inherent rights, violations of which pose the main challenge to their well-being (CIGI, 2014). These rights include self-determination, self-government, land, development, and maintaining traditional institutions (UN, 2007). Among indigenous claims, the right to self-government and land rights are the ones about which governments remain concerned. The former is sometimes perceived to be the most threatening for the state unity. On top of that, two UN Covenants declare that all peoples have the right to self-determination and “determine their political status” (UN General Assembly, 1966, p. 5; UN General Assembly, 1966, p.173), that is why in order to lessen the weight of arguments for independence or secession, some states use the term “populations” not “peoples” when referring to distinct groups (Holder and Cornassel, 2002). The right to secure land and resource tenure is another fundamental indigenous right. Yet, similarly to the right to self-government, granting land to indigenous nations is perceived as undermining the principles of equality by the states.

### *2.3.2. Indigenous Land Rights: What is at risk?*

*“Indigenous land – its mountains, rocks, rivers, and specific places – may hold religious and ceremonial significance – comparable to the significance that the great religions place in their sacred places in Jerusalem or Mecca.” (Downing et al., 2002, p. 9)*

Historically, indigenous lands were considered terra nullius (“nobody's land”) or previously ownerless, and, therefore, open for utilization by newcomers. Indigenous peoples, in turn, have not operated under the concept of private land ownership (Berg-Nordlie, 2015). The land was instead governed by customary tenure. According to the common law, land distribution had a collective and temporary character based on the principles of long-term and uninterrupted land use, inheritance and oral agreements with neighbors (Kasten, 2005).

One of the most significant presuppositions held by indigenous peoples is that their inalienable rights to lands and resources override the subsequent claims by dominant societies (Rogers 2000). In fact, land issues have always been fundamental in indigenous struggles with the restitution of indigenous lands seen as an act of overcoming historical injustice. This assertion is grounded in the fact that indigenous livelihoods are inseparable from the lands and resources, which form a basis for traditional activities such as hunting, fishing, gathering, and nomadism, as well as religious, spiritual, and ceremonial practices (Minde, 2008). Many indigenous communities see themselves as part of the land they have resided on for centuries. Natural resources, in turn, are not only the sources of livelihoods for many indigenous peoples but also a source of their identity and a means to preserve their traditions and customs. The loss of land would thus mean the threat to their entire culture. For this reason, the continued existence of indigenous peoples depends on the surrounding environmental conditions (Downing et al., 2002). Henceforth, securing access to these territories and natural resources and legal recognition of land tenure rights are an essential foundation to empower indigenous peoples with civil, social, cultural, political, and economic rights (Alcorn, 2013).

### *2.3.3. Threat posed by Extractive industry*

The indigenous peoples' strong attachment to the environment and surrounding ecosystems have resulted in complex and distinct tenurial arrangements, that are often at odds with the formal legal management regimes of the state. Particularly, albeit indigenous peoples constitute

one of the most vulnerable populations on earth as a result of centuries of marginalization and discrimination, their territories often contain abundant natural resources. Another distinctive feature and problematics of indigenous land tenure are that due to traditional livelihoods, indigenous peoples, especially those who preserve a nomadic way of life, need much more territory for subsistence than the other populations. As a result, indigenous territories become objects for land acquisition for agriculture, infrastructure developments, appropriation by outside interests, inappropriate tenure instruments, agrarian reforms and biodiversity conservation (Alcorn, 2013).

Historically, extractive industrial development in particular, has caused severe environmental degradation (United Nations Permanent Forum on Indigenous Issues, 2009). From the perspective of the industries these lands are frequently regarded as “*frontier lands*”, “*free and waiting to be explored, void of meaning before explorers arrive there*” (Stammler and Ivanova, 2016; Fedina, 2017, p.19). Indigenous peoples, in turn, have to live adjacent to extractive facilities that generate enormous wealth for their owners, international and national governments and do not stand to gain economically or socially from the projects, neither collectively nor as individuals (O’Faircheallaigh, 2013). The compensation, that is sometimes provided by companies cannot cover the deterioration inflicted to the land, which frequently becomes unfit for indigenous practices (Stamatopoulou, 2017). In other words, since the government and corporate sector view indigenous land as a marketable commodity to be used for economic growth and profit, explicit land rights reserved for indigenous communities and their special relationship with the surrounding nature pose an obstacle to extractive and other development initiatives, both private and governmental ones (Latta, 2018).

Big projects such as mining, oil and gas extraction have proven to generate particularly serious challenges to indigenous communities. While they have a limited timespan with most projects lasting 20-50 years, for indigenous peoples who have historical roots in the same area and have

therefore lived in the region through the millennia and will continue to stay at their homeland after the projects are over, time frames are different with even brief industrial intervention having devastating and long-term consequences (Foster, 2019). And while companies quit indigenous lands after completing a development project, indigenous peoples are left with extractive legacies on their territories that may persist for decades, including resettlement, homelessness, loss of identity, culture and income, disruption of social organizations and traditional knowledge, as well as exposure to impoverishment and diseases (Downing et al., 2002).

There are also immediate and delayed environmental risks that can threaten the future existence of indigenous communities. Loss of biodiversity, contamination of drinking water and fisheries; destruction of lands and forests upon which they depend on, can destroy indigenous means of existence (Foster, 2019). These aftereffects cannot always be predicted, are often cumulative, time-lagged and pose even more disastrous irremediable impact over the long-term. All in all, in clashes with extractive business, indigenous peoples seem to lose on all fronts: prior to the project, during and, not to mention the damages they are left to deal with after the project ends. Needless to say, due to the mistreatment of indigenous peoples, destroyed traditional structures, various human rights abuses, dispossession and degradation of land, relationships between indigenous communities and companies have been marked by a high sense of distrust (United Nations Global Compact, 2013).

#### **2.4. The International Labor Organization & the United Nations**

Throughout the world, indigenous peoples and their advocates often turn to international law for protection of their rights (Wiersma, 2005). Contemporary international law serves as an important guide for the development of domestic legislation in the field of indigenous peoples' rights. Throughout the previous decades essential terms necessary to foster indigenous protection's consolidation have been crafted; and today international organizations and

institutions continue to set up instruments able to reshape the concepts of governance and provide indigenous peoples with empowerment and the expertise they need.<sup>7</sup> By defining international and legal standards, international law has encouraged indigenous peoples to gain greater participation in decisions that affect their self-determination, land, communities, and cultures (Champagne, 2008).

The major intergovernmental organizations that adopted guidelines on indigenous peoples are the ILO and UN. For a long time, the only international body with specific focus on indigenous rights was the International Labor Organization. Its Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries represents the first example of the multiculturalist international norm in the post - war era (Kymlicka, 2007, p.30). It recognizes indigenous rights to own and control lands, to use and manage the natural resources (Articles 14 and 15), to meaningful participation in decisions that affect indigenous communities, to maintain their own cultural, social and political institutions and to equal protection of the law. ILO 169 requires consultation with land users before exploration or exploitation of the resources (Article 15) and states that resettlement should only be an exceptional measure and take place only with the “Free Prior and Informed Consent” (FPIC) of the people concerned and fair compensation for any damage resulting from exploration or exploitation of these resources (Article 16).<sup>8</sup> When

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**<sup>7</sup> DEDICATED INTERNATIONAL INSTRUMENTS ON INDIGENOUS PEOPLES**

- ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) — the only international treaty on indigenous peoples that is open to ratification. It has been ratified by 22 countries so far.
- ILO Indigenous and Tribal Populations Convention, 1957 (No. 107) — the older ILO instrument on the issue. Though no longer open to ratification, it remains in force for 17 countries.
- United Nations Declaration on the Rights of Indigenous Peoples, 2007 — the most recent expression of indigenous peoples’ aspirations at the international level.
- World Conference on Indigenous Peoples, 2014 — a forum at which States reaffirmed their commitment to respecting, promoting and protecting the rights of indigenous peoples.
- 2030 Agenda for Sustainable Development — adopted in 2015 with a pledge to leave no one behind, it called on indigenous peoples to engage actively in its implementation, follow-up and review.
- Paris Agreement — outcome of the 2015 summit on climate change, at which States highlighted the importance of indigenous peoples’ traditional knowledge in combating climate change.

<sup>8</sup> The consent of indigenous peoples is understood to be free when there is no coercion or manipulation involved in obtaining it. Prior consent exists when it has been requested by the potential user of these resources sufficiently in advance of the action and respects the requirements for indigenous people’s consultation processes. Finally, the consent is informed when sufficient information has been provided as to the nature, purpose, scope, duration, location, economic, social, cultural, and environmental impact of the project.

land is owned by indigenous people, the use of FPIC may allow indigenous communities to veto oil drilling if they face resettlement. More generally, FPIC calls for negotiations between companies and indigenous communities that would determine an appropriate compensation toward indigenous communities for land extraction and damage.

A crowning achievement of the indigenous peoples’ movement - the United Nations Declaration of Rights of Indigenous Peoples (UNDRIP) – was adopted by the General Assembly on 13 September 2007 after two decades of negotiations.

UNDRIP “constitutes the minimum standards for the survival and well-being of the indigenous peoples” (UNDRIP, Article 43) and is a vital element of the global indigenous praxis today. The Declaration is considered to be “the most complete and representative statement of principles for indigenous rights because of its broad consultation with indigenous leaders” and greater specificity of indigenous rights’ standards (Wilson and Swiderska, 2019, p.6). It includes the right to economic, social and cultural development (Article 3), right to autonomy or self-government (Article 4),

right to maintain and strengthen distinct political, legal, economic, social and cultural

**TABLE 1**  
**COUNTRIES RATIFIED THE ILO CONVENTION 169**

Country	Date	Status
Argentina	03 Jul 2000	In force
Bolivia	11 Dec 1991	In force
Brazil	25 Jul 2002	In force
Central African Republic	30 Aug 2010	In force
Chile	15 Sep 2008	In force
Colombia	07 Aug 1991	In force
Costa Rica	02 Apr 1993	In force
Denmark	22 Feb 1996	In force
Dominica	25 Jun 2002	In force
Ecuador	15 May 1998	In force
Fiji	03 Mar 1988	In force
Guatemala	05 Jun 1996	In force
Honduras	28 Mar 1995	In force
Luxemburg	05 Jun 2018	In force from 05 Jun 2019
Mexico	05 Sep 1990	In force
Nepal	14 Sep 2007	In force
Netherlands	02 Feb 1998	In force
Nicaragua	25 Aug 2010	In force
Norway	19 Jun 1990	In force
Paraguay	10 Aug 1993	In force
Peru	02 Feb 1994	In force
Spain	15 Feb 2007	In force
Venezuela	22 May 2002	In force

institutions (Article 5) and the right to the lands, territories and resources which indigenous peoples have traditionally occupied (Article 26). It highlights the need for states to ensure effective monitoring, maintenance and restoration of indigenous peoples' health (Article 38), and asserts indigenous peoples' right to fair procedures for conflict resolution and redress (Article 39). The principle of free prior and informed consent (Article 30) ensures indigenous participation in the decision-making process on matters affecting indigenous interests, particularly in relation to development and exploitation of natural resources on indigenous lands (Tulaeva and Tysiachniouk, 2017). The main difference between these two documents is that the ILO places binding obligations on the states that have ratified it (Table 1), while the UNDRIP is a soft law instrument and, therefore, has a mere recommendation character. The Russian Federation has not ratified ILO Convention and continues to abstain from the UNDRIP.

At the regional level, the Arctic Council sets the rules of engagement in the region and meets at the national and regional governmental levels; it has been frequently described as a largely positive model of governance where indigenous representatives are granted with equal rights together with the states. The Arctic Council is the pan-Arctic organization that includes the Arctic Eight, six indigenous organizations and over 30 non-Arctic observers. The Arctic Council.

## **2.5. Business & Indigenous Rights**

In recent decades, indigenous peoples' rights have become one of the core elements not only in the state's policy development, but in the corporate sector's strategies as well. Since large proportion of the world's natural resources — including minerals and energy sources — are located on indigenous lands, natural-resource extraction increasingly occurs in or near traditional indigenous areas. On the one hand, resource exploration brings opportunities for indigenous development through created employment or tax generation. Historically, however,

some businesses (especially extractive industry) have either directly or indirectly caused or contributed to adverse impacts on indigenous peoples and environment (United Nations Global Compact, 2013). Given the ethical, legal and political challenges, the idea to make both governments and corporations entering into such projects, accountable for their activities has emerged.

The issue of multinational company governance has been examined by the international community for almost 40 years. The growing influence of enterprises during the second half of the 20<sup>th</sup> century and increasing pressure to balance out the interests of all parties resulted in an international regulatory system designed to hold corporations to account by ensuring basic human rights and environmentally-responsible policies (Morgera, 2012). The ever-expanding role of transnational enterprises, coupled with incorporation of indigenous protections into international legislative framework, has had a revolutionary effect on both international law and conceptions of economic governance (Developments in the Law, 2016). Indigenous movement in particular was one of the driving forces behind the development of standards and measures designed to minimize and mitigate the negative impacts of their operations on local people and environments, and ensure that indigenous communities derive benefits from resource projects.

Institutionally, ILO and UN not only recognize indigenous rights but also provide guidelines and standards for corporate behavior and practices related to CSR applicable to all types of enterprises, either multinational, state or private ones. ILO Convention No. 169 has the only treaty-based reference to benefit-sharing in relation to indigenous peoples in international

human rights law.<sup>9</sup> These provisions are considered one of the “*most polemic*” in the negotiating history of the Convention and “*entirely new*” (Morgera, 2016, p. 9).

As it was mentioned in previous sub-chapter, both the ILO Convention 169 and the UNDRIP call for consultation and the use of the principle of FPIC. This effectively means that in case of initiation of industrial project, indigenous peoples’ participation in the decision-making process must be ensured; negotiations between companies and indigenous communities must be undertaken; adequate and fair compensation for land extraction and damage must be provided; measures to mitigate adverse environmental, economic, social, cultural or spiritual impact must be implemented, and, in cases of resettlement, indigenous communities have the right to veto industrial projects. Generally, UN and ILO codes present a co-management approach where the process of norms-setting, decision-making, implementation and responsibilities for industrial projects are shared between the national governments, corporations, and indigenous representatives.

Other critical instruments regulating business conduct in relation to indigenous peoples are the UN Guiding Principles on Business and Human Rights, UN Global Compact Principles, Global Reporting Initiative (GRI), the Equator Principles (EPs), Convention on Biological Diversity (CBD) of 1992 and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization of 2010 (Nagoya Protocol), Organization for Economic Cooperation and Development (OECD) and others. Of equal importance, financial actors (e.g., the World Bank and the International Finance Corporation (IFC), the European Bank of Reconstruction and Development) play significant roles by

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<sup>9</sup> Although the ILO Convention 169 does not employ directly the verb “to share” and uses the word “to participate” instead, it nevertheless implies the same idea of indigenous peoples’ right to benefit from resource exploitation as legitimate rightsholders (Morgera, 2016).

developing guidelines and encouraging their clients and partners to adhere to indigenous rights standards.<sup>10</sup>

### *2.5.1. CSR & Benefit-Sharing Agreements*

Based on the above-mentioned international standards companies adopt codes of conduct. These codes are self-regulatory instruments addressing companies' social, environmental and human rights responsibilities and are largely concentrated on sectors where brand reputation is important (Nasrullah and Rahim, 2013). In relation to indigenous groups, over the past decade, more and more companies declare policies aimed to assist indigenous communities and protect indigenous rights to land and traditional resources (Tulaeva and Tysiachniouk, 2017). As such, companies conclude benefit-sharing arrangements of various types with indigenous groups, designed to ensure indigenous peoples' participation in decision-making, whilst respecting and upholding their right to maintain and strengthen their institutions, cultures and traditions. Benefit-sharing arrangements are known by different names (e.g., co-management agreements, benefit-sharing agreements, community development agreements, partnership agreements, impact benefit agreements, benefits agreements, shared responsibility agreements, exploration agreements, power-sharing and profit-sharing agreements). According to the Convention on Biological Diversity (1992) and the Nagoya Protocol (2010), the concept of benefit-sharing entails an exchange between actors granting access to a particular resource, and actors providing compensation or reward for its use, and a share of the both monetary and non-monetary benefits derived from a resource-based project; or, to put it simply, defined as the process of sharing a part of profits generated by the use of resources, land, or traditional knowledge with the resource providers. The concept has been designed to balance the interests of different parties and mitigate the negative impacts of resource projects on indigenous communities (Tysiachniouk

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<sup>10</sup> Two key World Bank policies have particular relevance to indigenous peoples: the operational policy OP 4.10 'On indigenous peoples', which requires completion of an indigenous peoples' development plan, and OP 4.12 'On involuntary resettlement', whose objective is that involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

et al., 2018; Fjellheim and Henriksen, 2006). But most importantly, by giving indigenous peoples additional opportunities in recognition of their land rights and providing some sort of power and control over their territories, benefit-sharing agreements represent a new form of economic empowerment which, if properly implemented, can, therefore, play into hands of indigenous peoples (Kuokkanen, 2019).

The concept originated as a result of several international instruments, including the Universal Declaration of Human Rights, the Convention on Biological Diversity, International Labor Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, the International Treaty on Plant Genetic Resources for Food and Agriculture, and the Nagoya Protocol on Access and Benefit-Sharing to the CBD. Former UN Special Rapporteur on Indigenous Peoples' Rights James Anaya describes benefit-sharing as *“one of a set of inter-linked safeguards for the realization of substantive rights of indigenous peoples”* (Morgera, 2014). As such, benefit-sharing involves *“an inherent component of indigenous peoples' rights to land and natural resources”* (Morgera, 2014) in addition to *“broad international recognition of the right to indigenous communal ownership, which includes recognition of rights relating to the use, administration and conservation of the natural resources existing in indigenous territories, independent of private or State ownership of those resources”* (Anaya, 2010, p.17).

Benefits agreements have been an emerging trend in regions with sound indigenous legal frameworks since the 1990s. This especially includes North America and Australia where benefit agreements, negotiated between indigenous communities and companies are a standard practice today. Agreements concluded between industrial enterprises and indigenous peoples are becoming popular in Latin America as well, where indigenous people have been gaining specific land rights. While agreements between companies and indigenous populations are becoming a common practice throughout the world, they are especially crucial in the resource-

rich Arctic. Lying at a confluence of vast natural resources and the traditional habitats of indigenous communities (Tysiachniouk et al., 2018) and experiencing the fastest decrease of the ice cover that only plays into the hands of resource extraction industries, the region became arena for previously unavailable oil and gas reserves' race. The benefit-sharing, therefore, represents a meaningful entry point destined to reconcile resource logic and sustainable development of Arctic communities (Gritsenko, 2019).

### *2.5.2. What is Benefit-Sharing?*

Generally, commitment to respect indigenous rights falls under the CSR framework - the corporate parallel to an international regulatory and monitoring system developed within the private sector (Morgera, 2012). The very concept of social responsibility has come a long way from charity support to social investment and implies a wide range of issues, including responsibilities to consumers, partners, residents of the territory where the business operates, to ecology, interaction with non-profit organizations, etc. Recently, however, there has been a trend to draw a distinction line between CSR and benefit-sharing.

In comparison to the CSR concept, benefit-sharing claims to reduce the gap between local resource providers and beneficiaries (Schroeder, 2007). Its purpose is thus to ensure indigenous participation in the decision-making process while increasing well-being and providing local communities with the so-called fate control. Consequently, benefit-sharing may relate more closely to the needs and perspectives of indigenous peoples and be more advantageous than CSR (Tysiachniouk et al., 2018). Additionally, it is more empowering and enabling with respect to indigenous communities, as it also gives agency to the local actors in decision-making process (ibid.).

Benefit-sharing is often contrasted (and criticized for being limited to) to compensation for the resource use and land expropriation. Ideally, under the broader approach, benefit-sharing is seen

as an important mechanism for improving the economic status, capacity building of indigenous communities in the short and, more importantly, long-term (Brereton and Everingham, 2016). As such, the concept of benefit-sharing goes beyond compensations for loss and distribution of benefits aiming at full engagement and empowerment of indigenous peoples and forming the foundation for their future economic development (Mackie et al., 2006). In parallel, any potential environmental impact must be mitigated, and agreed-upon additional impetus for indigenous self-efficient development, such as social investments, input in institutional capacities and human capital should be made.

### *2.5.3. Types of Benefits & Participants*

Legal regimes governing relationships between indigenous peoples and business activities are extremely dense and complex. In the absence of universal model or form of benefit-sharing agreement, these arrangements are “*expected to be established on a case-by-case basis, taking into account the circumstances of the particular situation of the indigenous peoples concerned*”, thus allowing for variations among differing domestic legal systems (Morgera, 2016, p. 10). Different countries, therefore, have different regulations detailing the requirements for sharing of benefits between private entities and affected communities. These regulations define who needs to be compensated as well as the mechanism by which they need to be compensated (e.g., through the creation of funds; indirect transfers to indigenous peoples through company arrangements with government agencies, etc.) (The International Bank for Reconstruction and Development / The World Bank, 2009).

Negotiated benefits may take different forms as well. Usually, these are divided on monetary and non-monetary. The monetary benefits may direct payments through development and investment funds created for that purposes, or tax-sharing with governments. The non-monetary benefits may include construction of social infrastructure, employment, etc. (Tysiachniouk et al., 2018). Sometimes, in order to erase the fundamental economic, social and institutional

power imbalance between indigenous groups and business entities, arrangements include support for the development of indigenous entrepreneurship skills, training programs, formation of development foundations (both company-controlled and indigenous-controlled). This will ensure that benefit-sharing policies are nuanced, responsive, empowering, and contribute to sustainable development of Arctic communities in a just and equitable manner (ibid.). Differences in types of benefits usually depend on the type of granted rights. Inevitably, unresolved or competing claims to land rights and ownership complicates the negotiation and agreements process. Therefore, in negotiating equitable agreements, at a minimum, fundamental tenure issues need to be clarified and territorial claims to the land from which the resource is extracted, must have the legal grounding, i.e., be stipulated in national legislation (The International Bank for Reconstruction and Development / The World Bank, 2009).

Arrangements also include a variety of participants and scales of partnerships (ibid.). The main actors pursuing distinctive interest in extracting activities on lands of indigenous communities' residence are businesses (extractive companies themselves) and indigenous peoples. The first player, the industrial actor, is, arguably positioned to gain the most benefit from the extractive process, regardless of whether they include the indigenous partner in the process (Lerner et al., 2017). The second actor involved in extraction processes is the local community (may be composed of non-indigenous citizens as well), individual landholders or environmental, public, and indigenous peoples' organizations (ibid.). They usually occupy a less advantageous position in a bargaining agreement' process. Sometimes, negotiations include a third actor who is usually authorities (state, regional, and municipal) or, less frequently, an international mediator. Mediators, when monitoring negotiations in good faith, can play a largely positive role, by helping parties to find equal footing in agreement proceedings and conclude an equitable arrangement.

## CHAPTER III

### INDIGENOUS POLICY IN RUSSIA: A look back

#### 3.1. Russian Empire, Soviet Union & Russia: From discrimination to?

Based on report published by the Royal Commission on Aboriginal Peoples of Canada (1996), evolution of indigenous peoples' contacts with the colonizers can be summed up in three stages: cooperation, domination and assimilation, and partnership. This historical pattern can be applied to indigenous peoples worldwide. At the first stage, authorities recognize importance of traditional economic activities of indigenous nations, their right to land and customs. Often, it's the stage when the trade or military alliances with indigenous groups start. The second stage is characterized by assimilationist policies dictated by colonial logic of the state, immigration flows to indigenous lands and exploration of indigenous territories. As a result of the rise of economic interests and increased state control, indigenous nations lose their lands and resources, indigenous self-governance is replaced by the policy of paternalism. The main goal of the state became integration of backward population into the mainstream society. Finally, regime relaxation signals the beginning of the third stage and the rise of de-colonization movements.

The following chapter intends to place Russia's indigenous discourse within the colonial and post-colonial narrative. In order to do so, it examines indigenous peoples' claims and state's strategy of addressing indigenous issues in Russia and their historical development and critically evaluates in what ways their meanings, rhetoric and struggles have changed over time.

#### *3.1.1. Indirect Management and Cooperation*

The Russian Empire encountered the native tribes in the 16th century when it started expansion to the East. Territorial expansion resulted in a phenomenal growth rate: by 1914 Russia's

territory grew by 55% and encompassed 21.8 million square kilometers in comparison to 14.1 million square kilometers in 1646 (Mironov, 1998). Vakhtin (1992) argues that the conquest of Northern territories was achieved primarily through infiltration rather than militarization. Although some indigenous groups did not have a distinct administrative structure with social networks limited to families, tribal or clan communities, they pursued specially-adapted livelihoods based on a nomadic or semi-nomadic way of life, fishing, hunting, and/or reindeer herding and traditional forms of social organization and governance to regulate their societies. First 200 years of Russian conquest did not result in a sharp decrease in indigenous population (ibid.). In this period, state policy was not to interfere with these systems; native tribes were free to pursue traditional economic activities, preserve traditional law system, self-governance and distinct cultures (The International Bank for Reconstruction and Development/ The World Bank, 2014). Key strategy used to deal with indigenous peoples was the introduction of a natural tax ‘yasak’ – a tribute paid as a symbol of obedience to Russia.<sup>11</sup>

The 19th century saw an active exploration of Northern territories and consequent examination of indigenous population. As a result, in 1822 the first legal act to define the status of indigenous people, their traditional administration - a very progressive for its time Statute “On the Administration of Natives” emerged (The Native Statute, 1822).<sup>12</sup> While its final goal was to integrate indigenous nationals into society, authors of the Statute acknowledged that survival of indigenous communities depends on preservation of their life environment. And to reach the

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<sup>11</sup> *yasak* was in essence a levy and consisted of obligatoric payments. The *yasak* was adopted mainly in furs or sables. As the livestock of sable and other fur animals was gradually destroyed, the *yasak* was to be paid in money.

<sup>12</sup> Until the Revolution the Statute remained the most important document relating to the northern indigenous peoples. The Statute divided peoples of Siberia into three groups: the wondering (changing places of living depending on hunting or fishing possibilities), the nomadic (changing places of living in accordance with seasons), and the settled. Each group was entitled to certain rights and privileges. The settled one has the same rights as mainland population. Additionally, the right to self-government was confirmed. Equal rights to the settled indigenous peoples with the Russians were envisaged. With respect to the nomadic and the wondering aboriginals, the task was to advance their transfer to a settled way of life. Nomadic groups were referred to as a special group whose traditional activity should be preserved, had the right to their land. Nomadic tribes received patrimonial estate, the right to open schools and to be educated in Soviet schools. The wondering nations has in principle the same rights as the nomadic one but their right to land and self-government were limited. (Verniaev, 2017).

goal, first they should be given more autonomy. Reforms were implemented by the author of the Charter, Speransky, the Governor of Siberia, who introduced the self-governance for indigenous peoples and policy of non-interference. Indigenous groups were entitled to have their own traditions, exclusive right to land, not to serve in the army, free from certain types of taxes, freedom of religion. It sought to preserve the traditional administration and economy of indigenous populations, while prohibiting Russians from settling in areas of clan communities without asking their permission (The International Bank for Reconstruction and Development/ The World Bank, 2014). The document represented a unique set of rules for relationship between the state and the communities that took into account historic, legal, cultural, socio-economic peculiarities of indigenous development and specific bond of indigenous communities with nature.

Despite rather “liberal” strategies towards its indigenous peoples, it should not be misleading that Russian Empire pursued colonial policies towards its peripheries who were subordinated and governed on behalf of the imperial core (Kuzio, 2002). Already in the 1830s, Russian imperial authorities started promoting the concept of a unified ‘Russian’ national identity. Since 1897 all aboriginals were to have passports. Efforts to convert minority religious groups to Orthodoxy were made as well. This initial drive for ‘Russification’ led to civil unrest and was subsequently moderated.

After the fall of empire in 1917, Russia has preserved its giant settler colony where ethnicity became a central political issue. The Soviet Union formally established in 1922 attempted to create something different from its imperial predecessor - a multilayered “voluntary” union of republics (Moore, 2001). Cemented the concept of “nationalities,” the Union of Soviet Socialist Republics (USSR, also ‘Soviet Union’) was as a federation of nationalities within the boundaries of the former Russian Empire. The old imperial legacy blended with the new ruling

ideology consisted of Marxism–Leninism, with each dominating in different periods (Inozemtsev, 2017).

The early Soviet policy towards its ethnic population was influenced by Lenin’s ideas of equality of all the nations and their right to self-determination. The 1917 Declaration of the Peoples of Russia proclaimed the right of all national minorities and ethnic groups to independent development that was later confirmed by the Constitution of 1918. Thus, the indigenous peoples acquired equal rights with other ethnic groups of Russia. Also worth noting is the ‘Decree of the Government On the Preliminary Protection of Indigenous Tribes’ of 1923, which established a category of people, “natives of the North,” who were in need of special state protection, banned the import of alcohol to areas of permanent inhabitation by indigenous peoples, and introduced a state monopoly on the fur trade, along with other measures. In other words, policy followed a nation-building line that focused on assisting the indigenous peoples into becoming modern Soviet nations. In other words, the state priority was to liquidate economic backwardness of aboriginal communities as well as economic and cultural inequality and unite all nations under the socialist state.

During this period, scholars and politicians proposed two alternative schools of thought or approaches to indigenous policy:

- The Traditionalist or Conservative approach emphasized the importance of limited partnership and slow-paced reform. The main goals were preservation of indigenous cultures and minimized contacts with aboriginal population.
- The Innovative, Integrative or Radical approach argued for the rapid and radical integration of the indigenous communities into the culture of other peoples of Russia and adoption of socialist values (The International Bank for Reconstruction and Development/ The World Bank, 2014; Vakhtin, 1992).

At first, for a brief period the ‘traditionalist’ policy was pursued. Some argue that traditionalist approach toward indigenous population had ideological and political reasoning. It has been described as a socialist experiment with the aim to demonstrate advantage of socialism in liquidation of backwardness of indigenous groups and their interrogation into Soviet society (Turaev, 1998). Some would argue, that adherence to conservative approach and its relatively successful results at the initial stage were “*only possible while the new Communist power was still weak*” (Vakhtin, 1992, p.11). Promoted ideas of equality and right to self-determination, in turn, had only one purpose - “*to recruit ethnic support for the revolution, not to provide a model for the governing of a multiethnic state*” (Martin, 2001, p.2).

During the period from 1924 to 1932 more than 50 normative acts on indigenous issues were enacted (Varfolomeeva, 2012) that determined the direction of national policy. The term “indigenous people” first appeared in the legal documents and 26 Indigenous Peoples were identified. In 1924 a special governing body (the Committee for Assisting the peoples of the Far North) was established consisting of government officials and scholars. It coordinated all work among the indigenous peoples and developed measure on social, economic and cultural aspects of indigenous lives (Vakhtin, 1992).

The support of “*national forms of minorities rather than majorities*”, therefore, became a distinctive feature of the newly created Soviet Union (Martin, 2001, p.15). In return for their support, these minorities were promised territorial advantages by Bolsheviks who put a lot of effort into creating administrative structure distinct from imperial order (Minority Rights Group International, 2014).<sup>13</sup> Bolsheviks’ “*decolonizing rhetoric*” implied the support of national territories, languages, elites and cultures (Martin, 2001). Under the policy of *korenizatsiya*

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<sup>13</sup> the principle of territorial autonomies was outlined later in the USSR Constitution of 1936, most of the rights (excluding the right for education in native language) were guaranteed to national minorities through their autonomy. The autonomous districts however have very weak jurisdictional power compared to any regular Russian province, although they have their own parliaments. The army, national transport, and all other major social infrastructures were totally under central government, the Soviet authority.

(“indigenization”), national minorities were appointed to senior posts in government, industry and the educational establishment in the ethnically non-Russian areas and harmonizing the relationship between the nations of the Soviet Union. Policy implied the introduction of the local languages into all spheres of public life and usage of the local languages in official structures, particularly, in education, publishing, culture, and, most importantly, government institutions. Most indigenous peoples received written languages, education in native languages started in schools. The distinctive national identities were also systematically promoted through the advertisement of symbolic markers of national cultures: folklore, costumes, food, etc. (ibid.).

Newspapers were issued, national theatres were opened, indigenous literature began to develop. Exemptions from taxation and conscription were codified (The International Bank for Reconstruction and Development/ The World Bank, 2014). Important results were achieved in territorial autonomy of the peoples of the North. In 1929-1930, forms of nationhood such as national okrugs were created, as well as executive bodies with functions to protect the national and cultural interests of the indigenous population.

### *3.1.2. Domination & Assimilation*

Scholars observe that many of the Soviet policies initiated in the 1930s were similar in nature to those imposed by European imperial powers in the colonies (Kuzio, 2002). Assimilationist policies of the Soviet Union constituted through the following processes, typical for imperial colonization projects: imposition of colonial ideology, economic exploitation, linguistic and cultural domination as well as psychic subjugation (Oleszczynski, 2016).

Already in the second half of the 1930s there was a distinct shift from a moderate ethnic discourse to a repressive policy (Martin, 2001). In the late 1920s and early 1930s, supporters of

conservative approach to indigenous policy had lost their influence on state institutions and political sentiment shifted in support of the radical approach (Vakhtin, 1992). The earlier toleration of the Russian state for the quasi-independence of indigenous societies was replaced with forced integration. State control and regulation were introduced into all aspects of the economic, social and political lives of indigenous peoples. The priority became an unconditional submission of the interests of individual nations to the overall governmental tasks. Governed by the concept of socialism as the most progressive ideological system that also “*highly resembled the Western European quest of Modernity*” (Oleszczynski, 2016, p.12), Soviet political discourse revolved around the notion that the whole society had to move quicker along the road to “true” socialism and eventual communism. Ideology of socialism and Soviet patriotism was further reinforced by the USSR victory in the Second World War that was seen as a victory of socialism over capitalism. From that moment socialism and its ideas became major point of reference in national policy. Developed slogan “ethnic in form, socialist in content” implied eventual merge of all nationalities into a single Soviet nation and “*brotherly family,*” that offered an alternative to “*the world’s prior imperial, colonial, caste-based, universalist, and melting-pot ideologies*” (Moore, 2001, p.27). This Soviet identity meant to prevail over a narrower ethnic one (Kuzio, 2002). Official Soviet narratives celebrated ethnic differences through aggressive promotion of colorful folkloristic aspects of culture that emphasized the existing unity and friendship of the peoples of the USSR but—at the same time—concealed any forms of cultural difference that would threaten the state dominant discourse (The International Bank for Reconstruction and Development/ The World Bank, 2014).

Assimilationist policies were presented as a nations-bonding based on voluntary, equality and brotherhood. Yet, while the USSR was conceived as a union of distinct nations, in reality it represented a multi-layered hierarchy with Russian ethnicity at the top (The International Bank

for Reconstruction and Development/ The World Bank, 2014). Within this discourse, Russians were attributed the status of the “elder brother” and the “leading nation” of the Soviet multinational state. Scholars tend to identify similarities between the term “elder brother” and depiction of Western colonisers as more civilized and advanced. Superiority of Russians was also mentioned in the 1945 Stalin’s speech, where Russian people were cited as “*the most outstanding of all the nations forming the Soviet Union*” (Kohn, 1971, p.59). Next in line were the family of Slavic nationalities: the Ukrainians and Belarusians, followed by other ethnic Europeans inside Russia: the Baltic peoples, the Moldavians and Greeks, etc. The last group attributed with the least political power was the indigenous communities (Gretchen, 1994). The leading role in building socialism was, surely, given to Russian people.

Another aspect of Soviet colonial policy that can also be applied to other colonized regions, is a rewrite of Soviet historiography in the early 1950s aimed at promotion of Russian superiority, Soviet nations’ equality and absence of ethnic hostility between Russians and non-Russians. As such, the indigenous population did not have the privilege of possessing a separate history: “*By a kind of perverted logic, it turns to the past of the oppressed people, and distorts, disfigures, and destroys it ... The total result looked for by colonial domination was indeed to convince the natives that colonialism came to lighten their darkness*” (Kuzio, 2002, p.248). Absence of a national history, furthermore, turned indigenous peoples into passive subjects of history whose identity had been subject to drastic transformations imposed by the imperial rulers.

The linguistic, cultural and psychic domination presents itself in the policy of Russification implemented from the 1930s. Introduction of Russian as the official language across the country and promotion of the Soviet culture through state institutions, media and literature helped to consolidate the new national state. Many native languages disappeared from schools (The International Bank for Reconstruction and Development/ The World Bank, 2014). Indigenous children were removed from their families for residential school-based education (in Russian

language). In some regions it was forbidden to speak indigenous languages. Consequently, the loss of native languages and disappearance of ethnic culture advanced and gave rise to the so-called “*broken generation*” (Vakhtin, 1992, p.18).<sup>14</sup> This situation made possible the destruction of identities for various groups, especially those who did not have autonomous republics. The Committee of the North was dissolved in 1934.

The 1950s and 1960s saw mass relocation of indigenous people to larger, often multi-ethnic settlements (where the leadership was often non-native). Many Russians resettled to the territories which were traditionally inhabited by indigenous communities. Soon newcomers outnumbered the indigenous population; already by 1950s more than 50% of the northern residents consisted of recent migrants. The development strategy was the establishment of massive urban centers with extensive supply networks to support in-migrating populations (The International Bank for Reconstruction and Development/ The World Bank, 2014).

The 1930s signaled the beginning of industrialization programs through the USSR (Vakhtin, 1992). Collectivization policy introduced in 1928 became the major factor of reorganizing traditional economy with the aim to bring all Soviet colonies under a unified Soviet economic organism. The policy aimed to consolidate individual landholdings into co-operative farms. The main strategy was to transform traditional activities into production activities, and to remove aspects of the traditional lifestyle by introducing a settled lifestyle. Indigenous traditional enterprises and villages were liquidated under the pretext of being settlements “with no future.” Household-based family relations gave way to collective farms sustained by state subsidies. Policy reflected a common perception that native people were backward and had to be ‘saved’

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<sup>14</sup> The group of population between thirty and fifty years old, generation situated between the native-speaking elderly and Russian-speaking youth, who lost the native language at the time of the collapse of the Soviet Union

from their 'primitiveness.' (The International Bank for Reconstruction and Development/ The World Bank, 2014, p.6).

As such, the goal of national policy was to eliminate nomadic habits and traditional practices such as animism, shamanism, nomadism, rituals and ceremonies, native languages, etc.—were proclaimed harmful were to be reformed by socialist principles (ibid.). The transition to a settled way of life was a complicated and painful process, because it involved crucial changes of the whole lifestyle and the wholesale destruction of traditional values and erosion of indigenous lifestyle.

The economic exploitation hit indigenous lands in the 1950s. Development of the North that turned out to be rich in natural resources was accompanied by loss of traditional lands, migration and resettlement. Oil and gas deposits were discovered and developed, timber-cutting enterprises were created (Vakhtin, 1992).

The result of such drastic changes became the distrust of USSR among indigenous population, followed by anti-Soviet manifestations. Yet, due to their small numbers they could not resist the totalitarian policy. (If existed) conflicts were not strongly pronounced and veiled with the rhetoric of solidarity of the Soviet people. In a multi-ethnic state threatened by ethnic conflict, any display of national self-consciousness, any aspiration to sustain native languages and culture was met with deep suspicion and considered to be a demonstration of nationalism.<sup>15</sup> Despite emerging ethno-nationalist sentiments, indigenous groups and their supporters were "*fighting a losing battle*" (ibid., p.17). As a result, these policies made the opposition virtually impossible. At the same time anti-Soviet movements that begun to arise from the 1960s later

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<sup>15</sup> 1930s, the concept of "bourgeois nationalism" started being widely used as an accusation against national minorities' representatives ( anti-Soviet beliefs and dissemination of these beliefs, as well as the connection with the pre-Soviet bourgeois system or the support of capitalist Western countries).

contributed to the emergence of a reformist General Secretary, Mikhail Gorbachev (The International Bank for Reconstruction and Development/ The World Bank, 2014).

Between 1937 and 1957 no legislative acts aimed at the small- numbered peoples of the North were published. The policy of the Soviet Union had the most significant impact on indigenous lifestyles. It destroyed ecologically balanced environmental management systems that had prevailed for centuries. This was coupled with the reduction of accessible hunting, fishing and herding areas and the loss of opportunities to engage in traditional activities. Those trends led to a spiritual and economic crisis among indigenous peoples. From the 1970s, hidden unemployment, alcoholism, broken families and the undermining of traditional culture all continued to increase. These phenomena led to a decrease in rates of population growth and later to declining aboriginal populations (ibid.). For indigenous peoples of Russia, the period from the 1940s to 1980s came to be referred to as *the dark years* of indigenous history (Vakhtin, 1992).

### 3.1.3. Rupture?

Starting from 1985 the situation slowly started to change. What factors make it possible for indigenous peoples to gain the legal standing?

First and foremost, second half of the XX century marked the appearance of the so-called new social movements (feminism, environmentalism, indigenous peoples' rights movement),<sup>16</sup> mainly in Europe, North America and Australia. Russian indigenous movement arose in the late 1980s when the days of the Soviet Union were coming to an end. The period from 1980s until 1990s marked a regime relaxation and resulted in the rise of popular movements and the struggle for independence. Gorbachev's policies of perestroika ("*restructuring*") and glasnost'

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<sup>16</sup> Movements labeled as new social movements were not class-based or driven by economic inequalities. The advocates of this approach "tend to focus on cultural and symbolic issues that are linked with issues of identity rather than on economic grievances that characterized the working-class movement" (Melucci 1985, 1989).

(“*openness*”) paved the way to growing nationalist sentiments and strong movements for increased regional powers (Minority Rights Group International, 2014). The abrupt transition to a market economy and the collapse of the Soviet Union brought questions of ethnicity and nationality back into the center of Russian politics. Encouraged by international calling for recognition of ethnic and indigenous minorities, the policy of paternalism was finally replaced by the declared policy of partnership (The International Bank for Reconstruction and Development/ The World Bank, 2014).

The political struggles between Gorbachev and Eltsin provided further opportunities for increased regional autonomy with the latter using delegation of powers to regions as a means to undermine Gorbachev’s position (Minority Rights Group International, 2014). A crisis of the totalitarian system and the prominence of ethno-regionalism led predominantly by ethnic republics encouraged the revival of political freedoms for Russia’s indigenous population that was unavailable in earlier years.

The democratization of Russia and signs of “*a willingness to correct the mistakes of the previous assimilation policy*” also paved the way to the rise of self-consciousness among indigenous peoples (Østreng et al., 2013, p. 337). Notably, Imperial and Soviet policies quite unconsciously had a positive effect on indigenous identity rebirth that originally arose to combat it. In the 1990s, “*it suddenly turned out that Russian indigenous communities had not fallen asleep, forgotten their languages, lost their cultures, and even if something had happened, they nonetheless wanted to restore, reconstruct and use them in their contemporary life*” (Goble, 2016). In fact, notwithstanding assimilationist policies, the necessity to forget and break with old discourse and create the new narrative inflamed a lot of indigenous movements in 1980s-1990s.

Joined by those concerned about the ecological disaster zones into which Soviet industrial policy had turned much of Siberia and the Russian Far East, the first voices of emerging indigenous organizations were heard from the regions.<sup>17</sup> In 1990 the first Congress of indigenous peoples of the North of the Soviet Union was held in the presence of the then President Mikhail Gorbachev. The Congress established the “Association of Small-Numbered Peoples of the Soviet North” later renamed in the Russian Association of the Indigenous Small-Numbered Peoples of the North, Siberia and the Far East (RAIPON).<sup>18</sup> Later RAIPON will open regional branches and developed a coordinating structure comprised mainly of the leaders of these regional organizations.

The first leaders of the Russian indigenous movement were representatives of cultural intellectuals who initiated conversations surrounding indigenous culture and revival of traditions. Teamed up with local and regional indigenous associations, aboriginal leaders started to demand land rights, environmental protection of their homelands, language preservation, sufficient political power and improvement of the constitutional and legal status of aboriginal peoples at both the federal and regional levels. Under their influence, amendments to the USSR laws “On land,” “On free ethnic development of the citizens of the USSR who live outside their ethnic administrations or do not have administrations in the USSR,” “On languages of the peoples of the USSR” were initiated.

In 1992-1993, many Russian regions developed “Temporary Regulations” for territories of traditional land use. The new economic structure started to form - clan and family-based communities, farms, and ethnic enterprises. The transfer of land started as well. A number of regional authorities adopted laws and regulations that guaranteed the indigenous peoples the

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<sup>17</sup> voices were heard from many regions in the final days of the Soviet Union particularly from indigenous reindeer herders, whose lands had been devastated by the Soviet oil industry (Khanty and Nenets).

<sup>18</sup> Vladimir Sangi was elected its president. He was later succeeded by Yeremei Aipin, a Khanty from the Khanty-Mansi Autonomous Area, also a professional writer, who headed the organisation until 1997.

right to independent economic and cultural development. Discussion of new laws and the programs of revitalization of minority cultures were initiated (Berg-Nordlie, 2015). Russia's Constitution of 1993 was amended and included guarantees of indigenous rights. Violation of human rights was made public by both deputies and media (Vakhtin, 1992). In the 1990s the system of quotas ensured indigenous representation in the regional governments in a number of post-Soviet subjects: Khanty-Mansi Autonomous Okrug (herein KHMAO), the Sakha Republic, Nenets Autonomous Okrug, Yamalo-Nenets Autonomous Okrug, the Republic of Buryatia, the Altai Republic, and also in Dagestan.

To sum up, it has been argued that Soviet colonialism was differed from that of the Western powers and was based on proximity, rather than pursuit of colonies across the seas. A phenomenon that is sometimes labeled as "self-colonization" implies that Russia and its predecessor states were as much the conqueror and colonizer, as the conquered and colonized. It resulted (with much help from the Soviet policy) in a unique case of the periphery teaming up with the center and mergence of the Russian nation into some broader concept of national identity. Whereas European empires of the 20<sup>th</sup> century were geographically and politically separated from their "subjects", the Soviet Union was a politically unified and geographically contiguous country (Inozemtsev, 2017).

Yet, strong similarities between the Western and Soviet colonialism, illustrated by the imposed superior image of Soviet identity, use of socialist ideologies as a justification of the colonial project, economic exploitation, the spread of the colonial culture, rewrite of a national history and inducement of colonial political systems, have prompted scholars to see the demise of the Soviet Union in 1991 as de-colonization of the world's last remaining empire (Kuzio, 2002; Oleszczynski, 2016).

Based on these aspects, Soviet narrative fits the colonial logic of other colonizing states with indigenous policy typical for a colonizing mindset. On top of that, it further fits the post-colonial process of indigenous empowerment facilitated by international movement and weakness of the federal state. The aim of the chapter, however, was not to determine whether Russian Imperial and Soviet policies were colonial. Instead, the paper tries to examine overlooked blind spots left in the discourse, and attempts to solve the puzzle of how to approach current Russian development that contrary to the indigenous empowerment trend of post-colonial narrative, has been marked by unique characteristics.

### 3.2. Who are Russian Indigenous Peoples?

Russian indigenous peoples' movement represents 40 indigenous peoples of Russia who are also subjects of international law, endowed with the collective right to self-determination (Annex 3). Within the course of the Russian history there were different terms used to describe the definition of indigenous peoples. At a very early stage of discovering Siberia and the Asian North two terms *tuzemtsy* (“*those lands' people*”) and *inorodtsy* (“*people of another origin*”) were widely used. In the middle of the 1920s indigenous peoples were singled out in a list of 26 peoples, where they were first referred to as “the natives,” “peoples of the North,” “the tribes who live in the remote northern areas,” or “small nations and tribes of the northern borderlands.” Eventually, the term “small nationalities of the North” was used until the 1980s when it was replaced by the “small-numbered peoples of the North, Siberia and the Far East” (The International Bank for Reconstruction and Development/ The World Bank, 2014).

As such the concept of “indigenous peoples” is not included into the Russian legislation. Instead, the 1993 Constitution of the Russian Federation introduces the legal category of “small-numbered indigenous peoples”: “*indigenous peoples are peoples residing at the territories of traditional settlement of their ancestors, preserving traditional lifestyle and occupations,*

*consisting of less than 50 thousand people in the Russian Federation and perceiving themselves as self-sustaining ethnic communities*". Article 69 of the Russian Constitution also guarantees the rights of the indigenous peoples according to the norms of international law and international treaties of the Russian Federation.

In other words, status of indigeneity can be granted if a group meets specific official criteria:

- live in territories where their ancestors lived
- maintain a traditional way of life in independent ethnic communities
- number less than 50 thousand persons in Russia.
- the preservation of traditional systems of life support in, first of all, economic activity (reindeer herding, hunting, fishing and gathering).

The Russian law does not employ the definition of "indigenous" without the numerical limitation which is quite unique: the international documents dealing with indigenous people typically concentrate on their self- perception as well as historical and cultural backgrounds. In contrast, the categorization imposed by Russian law, does not consider all other ethnic contexts (Shnirelman, 1999). Therefore, some groups of peoples with a numerically large population are not recognized to be indigenous peoples, even though *"they meet all other criteria that need to be regarded as indigenous"* (Shnirelman, 1999, p.119).

The numerical threshold of 50,000 is inherited from the Soviet classification scheme (although the threshold in Soviet times was 30,000). Here, the specific 50,000 quantitative property was created using the figures from the 1989 census, when the largest recognized peoples, the Nenets, numbered around 35,000. The figure of 50,000 was determined to be high enough to allow the largest small-numbered peoples some possibility for growth (Nikolaeva, 2017). Based on the conclusions of Institute of Anthropology and Ethnography of the Russian Academy of Science – 50.000 is the most applicable one. Whereas nations with 50,000 population can't pass these

50000 criteria by natural reproduction, they are still considered safe from extinction (State Duma, 1996). In other words, the numerical strength is used to categorize indigenous small-numbered people and other nations whose population is higher, and is, therefore, capable of sustaining themselves and does not need the support and special protection of the state.

On the 24<sup>th</sup> March 2000, the Russian Government adopted an official unified list of the indigenous small-numbered peoples of the Russian Federation Decree of the Russian Government No. 255, 2000. The list includes 40 such indigenous peoples who, according to the last census of 2010, comprise 257,900 people (Russian Federal State Statistics Service, 2010). Though these groups only make up 0.2% of the total population, they inhabit huge territories covering around two-thirds of the Russian territory (Rohr, 2014). Today, traditional areas of residence/settlement (homelands) of the indigenous peoples are located in 28 constituent entities of the Russian Federation (Kryazhkov, 2013). The legislative norms of the Russian Federation towards indigenous peoples of the North are applied only to territories possessing such status (Government of the Russian Federation, 2009).

On a regional scale, Russia's Arctic indigenous groups have their particular characteristics which often differentiate to that of the national majority, which lives closer to the political and economic centers in the southern parts of the Russian state. Low population density, less developed infrastructure, higher dependence on non-marketed economic activities, diverging cultural traditions set unique features for the communities. After years of assimilation and discrimination, economic turmoil in post-Soviet years, the collapse and disintegration of state-owned farms produced social problems, such as high rates of infant mortality, homicide and suicide, and erosion of traditional cultures, unemployment, poverty and alcoholism. Most peoples of the North (about 75%) inhabit rural areas where they frequently constitute majorities, whereas Russians typically dominate in cities (Petrov, 2008). Their traditional economies and livelihoods are based on fishing, hunting, reindeer husbandry and gathering (Tomaselli and

Koch, 2014). Often, indigenous peoples inhabit lands rich in natural resources, including oil, gas and minerals and are, thus, heavily affected by large industrial projects such as hydroelectric dams, gold mining, pipelines' construction and other forms of resource extraction.

### *3.2.1. Russian legislation on Indigenous Peoples*

Formally, indigenous peoples in the Russian Federation have a wide range of special benefits and rights guaranteed to them. Indigenous peoples' issues are regulated by both federal and regional legislation. The legal context of indigenous peoples' rights in Russia consists of several levels, that contributed to labeling the Russian public law as “construction set” or “matryoshka”:

- First, of the Constitution of the Russian Federation – the basic law of the state: this is the first and the most important level.
- Federal laws, by-laws (presidential decrees, governmental orders and decisions, legal acts of relevant ministries, federal agencies and services making up the government) build up the second level.
- The regional laws represent the third level.
- Judicial practice (primarily, the Constitutional Court and Supreme Court) forms the fourth level.

In cases where policies and practices of the federal government and regional governments diverge, the legal weight of regulations introduced by regional administrations is often unclear (The International Bank for Reconstruction and Development/ The World Bank, 2014). This is especially the case when different regional and/or federal laws have conflicting provisions, and also because much of the land inhabited or used by indigenous peoples is under the jurisdiction of the federal government rather than the regional administration (ibid.).

The Russian Constitution encompasses fundamental principles of ethnic policy, on which the political and legal system is based. Constitutionally small-numbered indigenous peoples are granted safeguarded rights to their own language, culture, education, and participation in decision-making. The preamble of the Constitution contains the wording such as “*multi-ethnic people*”, “*recognized principles of equality and self-determination of peoples*”, in reference to the international law and, in particular, to the part 1, article 1 of the International Covenant on Civil and Political Rights.

Chapter 1, article 9 of the Constitution determines that “*land and other natural resources shall be utilized and protected in the Russian Federation as the basis of life and activity of the people living in corresponding territories*”. Chapter 3, article 68 of the Constitution determines, that “*the Russian Federation shall guarantee to all of its peoples the right to preserve their native language and to create conditions for its study and development*”.

Although the Constitution of the Russian Federation allows for varied forms of land and natural resources ownership (private, state, municipal and otherwise), most of the land and subsoil resources in Russia are the property of the state. Agricultural, forest, pasture and other land parcels utilized by private entities are primarily leased from the government. Indigenous rights to land and natural resources are consistent with this general framework; they are accorded rights to use the land and its resources while title ownership remains with the state.

In 2009 in order to form a priority system for government authorities to resolve the issues of social, economic and cultural development of the indigenous peoples of the North, the Government of the Russian Federation has introduced the Concept of Sustainable Development of the Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation for the period from 2009 to 2025 (On Concept of sustainable development of indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation). The said

Concept was seen as an important regulatory act for ensuring protection of indigenous rights and well-being (Sakhalin Energy Investment Company Ltd., 2016). Its major aims included preservation of indigenous livelihood and cultural heritage, development of traditional economic activities, improvement of living standards, etc. infrastructure, medical care, education, ethnotourism, etc. Priorities were given to socioeconomic and ecological development (Kuchinsky, 2016; Toriia and Gracheva, 2017). In recent years, however, a number of regulations that guarantees indigenous rights was withdrawn from the legislation, which is directly contrary to the aims and objectives of the Concept Paper. Most of the stipulated actions have never been implemented.

Indigenous peoples have been subject to state special benefits and subsidies such as easier university admission and access to medicine, earlier retirement, substitution of military service with an alternative civilian service, etc. (Protsyk and Harzl, 2013; Kuchinsky, 2016). Tax Code of Russian Federation, for instance, provides tax exemptions for legal entities of indigenous small-numbered peoples who lead a nomadic and semi-nomadic lifestyle.<sup>19</sup> Moreover, according to the Code, indigenous peoples are exempted from tax on certain natural resources used for personal use (biological resources, animals) and land tax if the territory is used for the preservation and development of their traditional ways of life, livelihoods and crafts (Sleptcov, 2017).

Today, the involvement of indigenous politicians in the management of indigenous issues is conducted primarily by means of advisory bodies, or councils on both federal and regional levels. The Advisory Councils on the Issues of Small-numbered Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation were established in the Ural, Far Est,

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<sup>19</sup> Thus, income received by members of tribal and family communities of small-numbered peoples of the North is not a subject to income taxation in case they meet the following criteria: being registered in the prescribed manners; being engaged in traditional activities (nevertheless salaries of employees are excluded).

Siberian, and recently in the Northwestern Federal Okrugs. The work of each council is overseen by a presidential envoy, who is nominated by the president. The other members of the council include members of regional indigenous organizations and the government, scholars, and federal inspectors to the region. These Councils are, however, only consultative bodies that coordinate the work of regional indigenous organizations and their relationships with regional and federal authorities. As for the state organ responsible for indigenous affairs, the Federal Agency for Ethnic Affairs is responsible at the national level for all indigenous issues (The International Bank for Reconstruction and Development/ The World Bank, 2014).

### *3.2.2. Federal Laws on Indigenous Peoples*

The creation of a legal environment that ensures full respect for indigenous traditional ownership, access and use rights has been the main aspiration of indigenous organizations since the birth of the Russian indigenous movement in the late 1980s.

The Russian Constitution of 1993 guaranteed the rights of indigenous peoples “in accordance with universally recognized principles and norms of international laws and treaties” (Article 69).

Three key federal laws on indigenous rights passed in 1999, 2000 and 2001 that included some exclusive rights of the indigenous people and were supposed to align the legal status of indigenous peoples with international standards.

The federal law “On guarantees of the rights of indigenous small-numbered peoples” was adopted on 30 April 1999:

- Articles 8.1.1. and 8.2.1. stipulate the right of indigenous communities to possess and use their lands, free of charge, in places of traditional residence and economic activities in the pursuit of traditional economic activities;

- Article 8.1.2. provides indigenous peoples with the right to monitor industrial development in places of their traditional residence and traditional economic activities;
- Article 8.1.3 allows indigenous groups to participate in control over land use by ensuring compliance with environmental protection legislation, and in decisions affecting their traditional lands and way of life, economy, and activities through implementation of ecological and ethnological expertise (expert review and impact assessments);
- Articles 8.1.8 and 8.2.3 stipulate the right of indigenous peoples to be compensated for damages to their traditional lands and original habitat as a result of economic activities;
- Article 8.2.4 provides indigenous peoples with the right to use quotas on land use and environmental management, established by legislation, both federal and regional, as necessary for the protection of indigenous habitat, traditional way of life, farming and fisheries.

The law also gave provinces the right to give indigenous peoples special representation in their parliaments (revoked in 2004) and to organize councils of representatives under provincial and local executive branches (Berg-Nordlie, 2015).

The law “On the general principles of the organisation of *obshchinas* of the indigenous, small-numbered peoples of the North” was adopted on 20 June 2000. It established *obshchina* (or *obshchinas* for plural) - a form of kinship or territory-based community organization of indigenous peoples modeled after the pre-Soviet form of socio-territorial organizations of traditional economies of most indigenous peoples of the North.

During Soviet times, traditional systems of fishing, trapping and reindeer-herding were nationalized as state farms, which implied the forced resettlement of dispersed peoples into collective farms. In the 1990s, state enterprises were dismantled and collective farms and centralized settlements have been thrown on to the market (Colchester, n.d.). Instead, small and

medium-size private and municipal enterprises and farms were formed (Osherenko, 1995; Uzin, 2005).

Obschina has become a new legal form for indigenous group organization usually formed around family and/or kin ties (neighboring communities), who wish to pursue traditional activities (reindeer herding, fishing and hunting activities) and need rights to territory to do so (Evengard, Nymand Larsen and Paasche, 2015). The initial idea behind the creation of obshchinas, was the protection of indigenous land, traditional activities and forms of subsistence from industrial encroachment (Stamatopoulou, 2017).

Importantly, according to the law, obshchinas can be granted an allotment of land to pursue traditional activities “in perpetuity” (with rights of inheritance by obshchina members) and without any charge, and are also provide with support for such activities, on their traditional territories of habitation and economic activity (Russian Federation 2000, Article 8.1. 4; Smith, 1997; Evengard, Nymand Larsen and Paasche, 2015). It does not however receive title to land; rather, it receives rights to use the resources related to traditional activities: the reindeer pasture, animals, fish, plants, etc. (Smith, 1997). According to the legislation, tribal commune is not a commercial enterprise and does not pay an income tax (Fondahl and Sirina, 2006; Vitebsky, 2005; Yakovleva, 2014).

In 2001, a year after the adoption of Obshchina Law, another land designation that is widely used in Russia - *Territories of Traditional Nature Use* (herein TTNU)- was created. TTNU provide a more comprehensive protection for traditional activities and specifically the land base which they require that do obshchina territories (Laletin, 2014). Obshchina territory in fact could be granted within these TTNU, providing additional protection for the traditional activities (Smith, 1997).

According to Law on “Territories of Traditional Nature Use of Indigenous Peoples of the North, Siberia and the Russian Far East”, *“Territories of Traditional Nature Use of Indigenous Small-Numbered peoples of the North, Siberia and the Far East of the Russian Federation [...] are specially protected environmental territories established for the pursuance of traditional nature use and traditional ways of life of indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation.”*

This law enables the creation of territories of traditional nature use as specially protected territories assigned to indigenous community. TTNU can be established at the federal, regional or local levels, depending on which administrative level is responsible for the land in question (IWGIA et al, 2017). The use of TTNU is free-of-charge; indigenous people receive these lands “in perpetuity.” Ownership of the lands and waters within TTNU is not given to the indigenous peoples; instead, they have the usufruct right to the lands within the TTNU (Laletin, 2014). The indigenous peoples have a special legal regime for using the environment, which excludes arbitrary seizure of land areas and other natural objects (that indigenous peoples use for their subsistence, such as wood or berries).

Indigenous peoples living in these territories are guaranteed with the right to participate in decision-making process on matters affecting them, including initiation of industrial development in the territory, and the right to receive compensation when the damage to the environment and traditional livelihoods occurs. The law stipulated that other residents, businesses and organizations could also use a TTNU. To do so, however, consultation and agreement with the indigenous communities living within designated traditional nature use territories must be held. Industrial activities also require specific impact assessments to be completed first, known as “ecological expertise” (described in further detail below; The International Bank for Reconstruction and Development/ The World Bank, 2014). In the cases of environmental damage resulting from the use of territories registered as TTNU, responsible

parties must pay compensation to the communities living on these territories. The borders of every TTNU must be determined by federal, regional and local state authorities. The original provisions seemingly provided for either community management of resources or co-management with regional authorities, depending on type of agreements reached with those governments. Although indigenous communes are allowed to use land resources for free, they need to register their claims (Yakovleva, 2011). The process of registration of land as territory of traditional natural resource use is, therefore, complex.

### *3.2.3. Sectoral Laws*

Indigenous peoples' rights are also stipulated in a number of sectoral laws governing access to and management of land, biological and natural resources. This includes Land, Water and Forest Codes, as well as laws on fishing and hunting.

The Land Code of 5 October 2001, the principal regulatory framework for land ownership, access to land and land tenure in the Russian Federation, originally allowed for indefinite use of land free of charge by indigenous peoples.

Similarly, according to the Forest Code (1997), while forest resources remained the property of the state, indigenous communities enjoyed preferential use rights (Miggelbrink, Habeck and Koch, 2016). Subsurface resources remained the property of the state as well, but the impact of their exploitation on indigenous activities had to be taken into account, and part of the income from extractive projects on indigenous land had to be directed on development of these people (Law on Subsurface resources, 1995). The same rules applied for resources if the continental shelf (Law on the Continental Shelf, 1995). The new federal Forest Code (2006) introduced the possibility of long-term rent of forest lands to both Russian and foreign private investors. Article 48 stipulates that indigenous peoples' rights set out in the law "On Guarantees" are to

be respected. Article 30 grants indigenous peoples the right to use timber free of charge for personal needs. Apart from this, it acknowledges neither the ownership or use rights of indigenous peoples, even though indigenous peoples' relationship with their forests has many more aspects, going far beyond its use as a source of timber.

The Water Code of 3 June 2006 specifies that indigenous peoples and their obshchinas have the right to use aquatic objects for their traditional nature use (Article 54). Article 29 provides for the formation of oversight bodies ("Basin Councils"), charged with ensuring the "rational use" and protection of rivers and it specifies that indigenous peoples are to be included in these bodies.

As for the fishing activity, indigenous peoples used their fishing grounds for long-term period (up to 49 years), free of charge, free of taxes and additional preferences (grants, investments, preferential credits) (Turaev, 2017). In recent years, these provisions have been changed. The amendments of these laws are discussed in detail in one of the following chapters.

#### *3.2.4. Law on Ecological Expertise*

Initially, two measures were created to ensure environmental safety of indigenous communities—one addressing ecological kinds of expertise and the other involving ethnological assessment.

First one, environmental impact assessment (EIA) has become a standard requirement before the initial stage or the project development. Typically, EIAs are carried out in collaboration by extractive companies and state agencies (Wilkins, 2003; Davidson and MacKendrick, 2004; O'Faircheallaigh, 2007; Lawrence and Larsen, 2017; Kuokkanen, 2019). The EIA' target is to ensure informed decision-making about the planned project, to minimize project impacts, explore alternatives (including 'no development') and, in the case of unavoidable impacts,

identify measures to mitigate the damages. Compensation is seen as a last resort, when negative impacts are unavoidable.

In Russia, ecological expertise is defined in the Federal Law N 174-FZ of 23 November 1995, which is mandatory when building industrial facilities. This legislation requires an industrial project developer to prepare a package of EIA documents (assessment of the impact on the natural environment – OVOS), incorporating the results of mandatory public consultation. These are then submitted to the State Environmental Expert Review Panel for review. This process is criticized for its subjectivity, a bias toward the proponents, the lack of provision for follow-up and long-term monitoring, and the potential for influence by pro-development lobbyists (Spiridonov 2006; Fondahl and Sirina 2006). Of particular note, although the law includes mandatory public consultation, and allows public groups to carry out their own public ecological expert review, an assessment must be financed by the company responsible for the project; this process is, thus, prone to bias (Tomaselli and Koch, 2014). In 2006, the law on ecologic expertise was amended and the definition of an environmental impact assessment no longer includes ‘related social, economic and other project impacts’ (Murashko, 2008).

Impact assessment of socio-economic and cultural impacts (or ethnological assessment) on communities is another way to address extractive advancement. This assessment, combined with environmental expertise, assesses the scale of potential damage that an industrial project potentially will inflict on the native habitats of indigenous peoples group and the compensation that should be paid for losses incurred (Gassiy and Potravny, 2017). This assessment estimates social, economic, cultural costs of development (impact on language, way of life), as well as environmental costs (Evengard, Nymand Larsen and Paasche, 2015).

The Russian law “On Guarantees” (1999) contains reference to the anthropological expert review (in referring to indigenous peoples’ right to take part in ecological and anthropological

expert reviews). However, this provides no legal obligation to carry out such reviews (Wilson and Swiderska,2009) but can be organized on the initiative of companies (Funk, 2015). As such, legislation regarding ethnological expertise has not been passed at the federal level. At present, the process of discussing a federal draft law on ethnological expertise is underway; in March 2018, the first readings were held (Maximova, 2018).

## CHAPTER IV

### METHODS: Case Studies

#### 4.1. Putting Arctic in the context

Over the past decades Arctic has gone through the most unprecedented transition in human history. Warming at twice the rate of the rest of the world, the northernmost region of the planet is increasingly perceived as environment at risk. Warming temperatures and melting glaciers have led to increased human activities such as tourism, increased commercial shipping and exploration of vast natural resources (Congressional Research Service, 2019).<sup>20</sup> These changes in turn increase the risk of pollution in the region that is more challenging to tackle with in the ice-covered environment than in other areas.

One of the most notable change became the wave of commercial interest in the Arctic triggered by the oil boom of the 1970s that enabled industrial enterprises to start their operations in region. The Arctic region has drawn the attention of the outside world as well; the persistent interest in its wealth attracts non-Arctic states eager to have a greater role in determining regional development. Additionally, the growing number of non-state actors expressed their interest in region's affairs.<sup>21</sup> As a result, under the conditions of rapid climate change and the race for earlier unavailable deposits of natural resources, Arctic is increasingly tied to economic and political interests outside it (Emmerson, 2011). Among recent events, Arctic dynamics has been affected by the Ukrainian crisis, that brought political tension to the region and put at risk economic cooperation in the Russian Arctic through the policy of sanctions, thus leading to worsening relations between the West and Russia (Käpylä and Mikkola, 2015).

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<sup>20</sup> potentially in coming years - two trans-Arctic sea routes—the Northern Sea Route and the Northwest Passage. Current international guidelines for ships operating in Arctic waters are being updated.

<sup>21</sup> Referes to the 2013 inclusion of five Asian states as Arctic Council Observers

The collision of two diametrically opposed narratives: development of industrial economy and the traditional indigenous lifestyle became one of the distinctive features of Arctic region. Until 1970s, Arctic states pursued the overarching paternalistic policy, intervened in the lives of the indigenous peoples and placed them under their jurisdiction. Policy of centralization was implemented through settlement of nomadic peoples and their assimilation into larger settlements. Indigenous traditions and livelihood (in particular nomadism) were considered “backward” and incompatible with the modern way of life (UArctic, n.d.). In recent years, however, empowerment of indigenous peoples has become a common trend in the region.<sup>22</sup>

The Arctic region historically has played a crucial role and continues to be the driver of the Russian economy: about 20% of Russia’s GDP and about one fifth of its exports are generated in the region; 60%-80% of country’s natural resources are produced in the North, including 93% of natural gas, 76 % of oil, 100 % of diamonds and platinum, 90 % of nickel, 63 % of gold, that only magnifies region’s critical significance to Kremlin (Stamatopoulou, 2017). As a result, analysts have described the Arctic as a “global energy corridor” and a “floating pipeline” of Russian oil and gas (Breyfogle and Dunifon, 2012). As such, Russian federal approach to Arctic development constructs the region as a vital resource base and emphasizes its crucial importance to energy security and state development.

Russia holds the biggest Arctic territory by far and occupies approximately 40% of the Arctic territory (Geopolitical Futures, 2017). Russian Arctic zone constitutes approximately 25% of

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<sup>22</sup> Arctic indigenous peoples include Aleut, Yupik and Inuit in Alaska, Inuit (Inuvialuit) in Canada and Inuit in Greenland (Annexes 4&5). Although political and legal systems vary significantly among the Arctic countries, a common trend in the region is the empowerment of indigenous peoples through new structures of governance as well as through devolution of legislative powers and control of resources from the metropolitan centers to Arctic regions. Territorial autonomy of Arctic indigenous peoples happened already in 1970s in Greenland, in 1990s Canada followed the trend. Today, Arctic states are shifting their management strategies in partnership with indigenous communities and perform advanced indigenous policy. As a result, indigenous peoples are increasingly involved in political and decision-making processes. Governments have also provided financial and institutional support to indigenous communities. Many of these national governments have specific ministries or departments that deal with northern and Arctic issues. Canada, for example, has the Department of Indian Affairs and Northern Development. Other countries spread responsibility for northern and Arctic affairs across a number of different ministries and government agencies (Koivurova, Tervo and Stepien, 2008).

the country's landmass and holds a disproportionately large part of the natural resources (UN, 2018; Breyfogle and Dunifon, 2012). In terms of demography, Russia comprises the biggest and most populated territory, which stretches along eight territorial districts. Out of the total regional population of 4 million people, approximately half of it lives in Russian Federation — a number that is not matched by Arctic neighbors. In other words, a large number of Russians have historical experience of living and attachment to the region (Fert-Malka, 2018).

Collapse of the USSR and economic turmoil of the 1990s sent Russia's aspirations in the North into a two-decades-long oblivion (Monteleone, 2016). The region was characterized by disinvestment by the state, massive out-migration, economic impoverishment and social and cultural disruptions (UArctic, n.d.). In the beginning of the 21<sup>st</sup> century, however, the Arctic has returned to the national focus again (Monteleone, 2016). Since 2000, Arctic enthusiasm has been sparked and further reinforced under the Putin' regime (Blakkisrud and Hønneland, 2006).

Russia became one of the first Arctic states to formulate an Arctic strategy, with only Norway outrunning Russia in shaping its official Arctic policy in 2006 (Heininen, Sergunin and Yarovoy, 2014). In 2008, Russia developed the Principles of the State policy of the Russian Federation in the Arctic for the period up to 2020 and beyond. Another fundamental documents on Russia's Arctic strategy include the Strategy for the Development of the Arctic Zone of the Russian Federation and Provision of National Security to 2020 (adopted in 2013) and the state program of "Socio-economic Development of the Arctic Zone of the Russian Federation for the period till 2025" (adopted in 2014). The importance of the region for the Russian state has repeatedly been reflected by several top officials as well.<sup>23</sup> Russia is a member of the Arctic

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<sup>23</sup> Chilingarov stated that Russia's future was inextricably linked with the fate of the polar regions, and their development should be a national priority. In A. Chilingarov's view, during the first two decades of the 21st century, Russia will primarily be associated with the development of the Arctic shelf in a similar way as the space exploration and large-scale infrastructure projects in Western and Eastern Siberia at the time of the Soviet Union (Rikin 2014).

Council, and, importantly, Russia received funding for a variety of industrial projects from several European banks (Nilsson and Filimonova, 2013).

Institutionally, in 2014 the Ministry of economic development was in charge of the Arctic issues. In 2015, a new governmental commission for the Arctic was established, whose commission chair - the notoriously anti-Western Deputy Prime Minister Dmitry Rogozin — became famous after stating that “*tanks don’t need visas.*” The new commission coordinates the Arctic work of four ministries including Ministry of Natural resources and Environment, Ministry of Economic Development, Ministry of Transport and Ministry of Energy, as well as Security Council of the Russian Federation (Conley and Rohloff, 2015). In February 2019, the Ministry for the Development of the Russian Far East was renamed into the Ministry for the Development of the Russian Far East and the Arctic; therefore, Ministry is now responsible for developing and enforcing government policy on the Arctic's socio-economic development.

#### 4.2. Sakha (Yakutia) & Komi Republics

On the territorial-administrative structure, cases were divided in two Republics (Komi and Sakha), two Autonomous regions (KHMAO and Chukotka AO) and two Oblasts (Murmansk and Sakhalin). These cases were selected to capture a range of indigenous rights that reflect broader patterns of indigenous disempowerment. The aim was to trace diverse dynamics around these rights, deliberately including multiple districts of the country. Regions are chosen based on their similarities such as Arctic territory, natural resources, and the characteristics of their indigenous populations, as well as differences in regional status and administrative autonomy,

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D. Rogozin has admitted that without the Arctic, Russia cannot maintain its status as a great power (Bolotin 2015). He even places the development of the Arctic into the context of the annexation of Crimea as a general strategic direction for Russia:

*Russia is beginning to feel the space and express the claims to the borders and its interests. Last year was a historic event – the restoration of the territorial integrity of Russia, a reunion with Sevastopol and the Crimea. This year there is a new look, a powerful new emphasis on the development of the Arctic. These are things of the same order (Staalesen 2015).*

demographic makeup. While there are some legal and socio-political differences, we argue that experience of assimilation and mistreatment, and conflicting issues related to resource extraction are problematic in similar ways in all cases. The regions are all inhabited by often remotely located, indigenous populations as well as non-indigenous groups, and possess vast natural resources, often located on indigenous lands, that attract both national and multinational extractive companies. Rapid development of the extractive sector, in turn, has brought large-scale socio-economic changes in the North, contributing to the marginalization of the indigenous peoples in the areas where they had previously been the majority.

Komi and Sakha regions enjoy the status of republic which gives them opportunities to pass their own laws. The Sakha Republic is Russia's largest administrative unit and the largest subnational governing body by area in the world (3,083,523 square kilometers). According to the census (Russian Federal State Statistics Service, 2010), it had a population of 958,528, consisted mainly of ethnic Sakha (or Yakuts) and Russians.

The Komi republic has a population of 901,189 (Russian Federal State Statistics Service, 2010), spreading across an area of 415,900 square kilometers. Purges of the Komi people who were accused of "bourgeois nationalism" by the Soviet government, decision to make remote region an ideal location for the Gulag prison camps, the subsequent influx of political prisoners and the rapid industrialization left the Komi a minority on their own lands (Minahan, 2002). The result of such changes was a sharp decline of local Komi population (from 92,25 % in 1926 to 23,7 % in 2010) and subsequent increase of Russian population (All-Union Census, 1926; Fedina, 2017). As the economy of the Komi republic depends on oil-producing industries, as a major side-effect, the district has long suffered from oil spills and disastrous environmental impacts. As a result, Komi region is one of the most polluted areas in Russia, where local people primarily bear the negative environmental impacts of oil operations. It has been reported that *"people in Komi Republic have to meet almost every spring with shovels and buckets ready to*

*clean oil with their own hands, as winter ice on the rivers turns black from new leaks. Here, accidents on rusty oil pipelines happen almost every day” (Greenpeace, 2014).*

#### *4.2.1. Indigenous peoples*

The Sakha Republic is populated by a large population of Yakut people, who have a strong sense of leadership and stewardship on their own land (Ivanova and Stammeler, 2016). Whereas during the Soviet period, Russian culture and language prevailed over Yakut traditions, today, the Sakha culture and language are gaining the upper hand (Kasten, 2005). According to the census of 2010, Yakuts accounted for almost 50% of the total population of republic (466,492) (Russian Federal State Statistics Service, 2010). In the early 1990s, Sakha language received the status of a national language and also attracted financial investment in Sakha language education. Today, the high status of the Sakha language is seen as a symbol of national identity and integrity (Ventsel and Struchkova, 2015). As of 2016, 450,140 of Yakuts speak Sakha language. Though the Yakut people are not considered indigenous according to Russian law because they number more than 50,000, they are indigenous according to many international standards. Considering themselves the defining group of the entire region, Sakha play an active role in republic’s management (Ivanova and Stammeler, 2017). They are dominant in the republican government, in almost all local administrations and municipalities, as well as in healthcare, culture, research, education and agriculture (ibid). Smaller indigenous nations residing in republic include Evenks, Evens, the Dolgan, the Yukaghir and the Chukchi. Their total number is 39,936 people (4.16% of the total population of the republic). They live in 21 out of 34 districts of the Republic (On Concept of sustainable development of Arctic regions and areas of compact settlements of indigenous small-numbered peoples of the North in Sakha (Yakutia) Republic until 2020, 2007). As of 2016, areas with the biggest indigenous population were Zhigansky (3420 people), Anabar (2343 people), Momsy (2275 people), Olenyoksky (2168 people), Eveno-Bytantaysky districts (1817 people) (Neustroeva and Semenova, 2018).

Inevitably, their voice in regional government is small and they must rely on support from the larger Sakha people.

The characteristics of Sakha indigenous groups are as follows (Ministry of Professional Education, Training and Placing of Personnel of the Republic of Sakha (Yakutia), 2014):

- **The Evenki**<sup>24</sup> reside in 10 districts of the republic: Neryungri, Aldan, Olenek, Zhigansk, Ust-Maya, Olekminsk, Anabar, Mirny, Bulunsky, and Khangalas. Over 60% of the Evenki live in rural areas. Traditionally the most important activities in the Evenki economy are reindeer herding and hunting.
- **The Evens** live in 13 regions of the republic (mostly in northeast parts, Eveno-Bytantaysky, Momsky, Allaiihovsky, Tomponsky, Kobyaisky, Srednekolymsky, Nizhnekolymsky, Oymyakonsky districts). 70% of the Evens live in villages. Reindeer herding has always been the main economic activity among the Evens. Another important source of livelihood is fishing and hunting.
- **The Dolgan** live in Anabar region. Around 80% of the Dolgan people live in villages. Reindeer herding is the principal economic activity of the Dolgan, however, fishing and hunting also play an important role.
- Most of **the Yukaghir** live in Verkhnekolymsk, Nizhnekolymsk, and Allaikhovsky regions. A significant number of Yukaghir live in the regional capital Yakutsk. Traditionally, hunting, fishing and reindeer herding have played an important role in the Yukaghir livelihood.
- **The Chukchi** live in Kolymskoe village of Nizhnekolymsk region. The Chukchi traditional economic activities are reindeer herding, fishing, hunting, and gathering.

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<sup>24</sup> The Evenki people are one of the largest and most geographically spread indigenous minorities of the North, their homeland stretches from the taiga-tundra transition zone in the north to beyond the Chinese border in the south, and from the Yenisei River in the west to Pacific Coast and Sakhalin Island in the east. Seventy six percent of the total 35,500 Evenki population in Russia live in rural areas. The majority reside in Yakutia (51%), the rest live in Krasnoyarskii Krai (23%) (including 10% residing in its Evenkiiskii Municipal District), Khabarovskii Krai (12%), Republic of Buryatiya (6%), Amur Oblast (4%), Irkutsk Oblast (3%) and Zabaikalskii Krai (1%) (Fondahl and Sirina, 2006).

Indigenous Komi constitute 23.7% (202, 348 people) of the region's population, while Russians constitute 65,1%. Komi people have traditionally engaged in fishing, reindeer herding, hunting and harvesting to sustain their livelihoods. The Komi people are divided into the Komi-Zyrians (residing in the Republic of Komi) and the Komi- Permyaks (settled in Perm Krai). Komi-Zyrians have the following subgroups (Fedina, 2017):

- Udorasayas (Udora Komi)
- Vylysezhvayas (Upper Vychegda Komi)
- Ezhvatas (Lower Vychega Komi)
- Emvatas (Vym' Komi)
- Izvatas (Izhma Komi)
- Pechorasa (Pechora Komi)
- Syktylsayas (Sysola Komi)
- Luzsayas (Luza Komi)

The designations of the Komi-Zyrians subgroups derive from the names of the rivers in the Komi republic, on the banks of which each subgroup resides. Each group has its own distinctive features mirrored in various aspects of life, including linguistic features, traditional activities and practices.

Majority of indigenous peoples live in five districts of Komi (ibid.):

- Urban okrugs of Vorkuta and Inta (excluding the cities of Usinsk and Inta; in Vorkuta okra less than 5%, in Inta okrug 7,4%)
- Urban okrug of Usinsk (excluding Usinsk city; 13,8%)
- Izhemsky (88,5%) and Ust-Tsilemsky (5%) municipal districts

Similar to Sakha people, none of the Komi groups are recognized as indigenous peoples with the Russian legal framework, which is a challenge when implementing international and

national standards for indigenous rights (ibid.). They have tried to obtain official status from the Russian Federation as an indigenous people, but without effect.

#### *4.2.2. Indigenous legislation*

Today Sakha is known for its advanced regional legislation, that put the region at the forefront of indigenous rights protection in Russia. Adopted legislation provided indigenous peoples of Yakutia with a legal basis for asserting their rights. As of today, regional laws recognize indigenous rights to land and natural resources and introduce Russia's first and only law on anthropological assessment of the socio-cultural and economic impacts on indigenous communities affected by industrial projects (On ethnological expertise in the areas of traditional residence and traditional economic activities of indigenous minorities of the Republic of Sakha Yakutia, 2010). Interestingly, Sakha republic adopted constitution of its own even before the Russian Federation (Constitution of the Republic of Sakha, 1992) which guarantees the right of indigenous peoples to possess and use lands and natural resources; preservation and protection from assimilation and encroachment to ethnic identity, historical and sacred places, culture, etc. (Article 42); compensation from damages caused to the environment and traditional ways of life from the use of natural resources located on TTNU (Article 104).

Additionally, republic's legislation on indigenous rights include:

- Russia's first law on indigenous obshchinas (On Nomadic Clan-Based Communities, 1992) specified the right of indigenous peoples to receive land titles on the basis of lifelong inheritance or perpetual use. This law, however, was subsequently changed. As a consequence, the categories of land rights that most people had obtained at the level of federal legislation (according to the Land Code 2001, Articles 20 and 21 and the Civil Code 1994, Article 267) were scrapped.

- Law On subsoil resources stipulates payments for socio-economic development derived from the use of subsoil resources in areas of indigenous peoples' residence (1998, Articles 39 and 40);
- Law On tribal, family, and nomadic community stipulates the rights for communities of indigenous peoples to participate in control over implementing environmental protection legislation, conducting ecological and ethnological expertise, and compensating losses caused to lands (2003, Articles 16 and 17);
- According to the law On territories of traditional nature use in Republic Sakha (Yakutia) (2006) land seizure within TTNU is permitted only with consent from indigenous people, and payment must be paid to compensate for inevitable damages.
- Russia's first law On reindeer herding states that the herders get a state salary for continuing a herding lifestyle regardless of reindeer meat production; provides special rules of protection for reindeer pastures (On northern reindeer herding, 1997, Article 23);
- Republic law On the social responsibility of business of 2010 and the law on Responsible Subsoil management adopted in 2018 stipulates responsibilities of the business to take into account indigenous interests (On the social responsibility of business, 2010; On responsible subsoil management on the territory of Sakha (Yakutia) Republic, 2018).
- Russia's first and only law on the ethnological impact assessment (On ethnological expertise in the areas of traditional residence and traditional economic activities of indigenous minorities of the Republic of Sakha Yakutia, 2010) and Regulation on the procedure of organizing and conducting the assessment (2011) is designed to protect the interests of indigenous peoples in conflict situations when "business entities" claim the right to use the resources located in these peoples' territories of traditional residence (Funk, 2015). Industrial use of lands and natural resources on the territories of traditional nature use is permitted in cases where ecological and ethnological expertise are conducted. Ethnological assessment is,

therefore, a compulsory requirement for getting a license for realization of industrial or other projects. According to the above-mentioned framework, dialogue and partnership are expected to be established between industrial companies and communities of indigenous peoples and with compensation of losses to corresponding entities; industrial activity can be stopped or prohibited if it harms the regime of these territories. Initiator of assessment is industrial actor who plans to pursue project on indigenous lands and pays for the assessment (to Republic authorities). Expert commission created for that purpose assess all negative impacts and write recommendations and conclusions that then have to be approved by the government and as such acquire the force of law (Funk, 2018). Conclusion made by the Expert Commission should include information about whether it is possible or not to pursue industrial activity on indigenous lands.

Contrary to Sakha republic, legislation of Komi region has been developed in a different direction. There are few legal acts on Komi people.

- Republic Constitution stipulates that establishment of the republic and its name are connected with the ancestral habitat of Komi people on its territory (Minchuk, 2016).
- In 1992 the law On official languages of republic was enacted granting Russian and Komi languages status of official languages of the region (Nazukina, n.d.).
- In 2011, the law On reindeer herding in Komi region was adopted.
- In 2015, the strategy of national policy in Komi republic for the period until 2025 was accepted with the aim to improve socio-economic development of republic's peoples, their cultures and traditions (Minchuk, 2016).

There is also a Congress of the Komi people created in 1991 as the supreme representative body of the Komi ethnos which is “dedicated to the defense of the cultural and ethnic rights of all Komi people” (Minority Rights Group, n.d.). The Executive Committee of the Congress consists of a chairman, a secretary and 37 members. There are representation offices of the

Executive Committee of the Congress of the Komi People in the republic's cities and districts. The executive representatives of the Congress of the Komi People participated in elaboration of laws on the Komi state languages, on education, on culture and other legislation (Republic of Komi, Official Portal, n.d.).

#### *4.2.3. Created TTNU & Obshchinas*

Indigenous communities across Sakha started forming their own registered indigenous obshchinas as early as in 1992 (On Nomadic Clan-Based Communities, 1992). Yakutia was the first region where clan-based communes were organized. Today, there are 59 TTNU in the region (Neustroeva and Semenova, 2018). In Republic of Komi, there are no indigenous groups recognized by the state; therefore, regulations to enable the federal law on TTNU or Obshchina have not been developed.

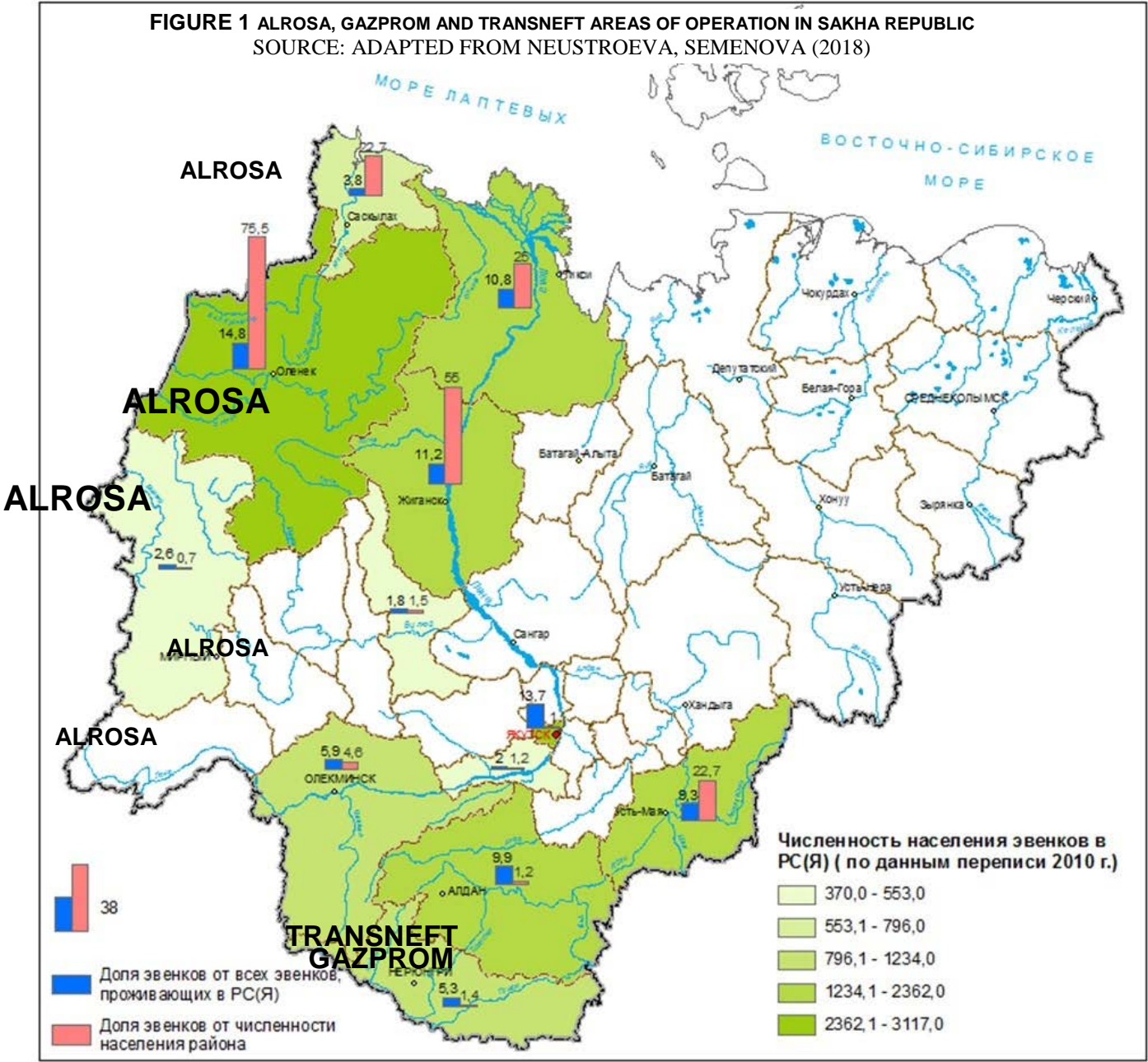
#### *4.2.4. Type of industry*

Large-scale industry came to Sakha region in Soviet times. Republic has an impressive list of mining and hydrocarbon resources and its lands are said to contain all the elements in Mendeleev's periodic table. In addition, the Elkon group of deposits contains the world's biggest uranium resource, with more than half a million tonnes. The region also has gold (20% of Russia's gold reserves), coal and timber reserves (Ventsel and Struchkova, 2015). Particularly important is diamond extraction, which counts for 99% of Russia's diamonds and a quarter of the world's entire diamond production (for which the region is known as a diamond colony of the Russian North) (Argunova-Low, 2004). Diamond mining industry has been developed in the republic since 1950s, and remains Yakutia's flagship industry today. Sakha's oil and gas resources are, however, rather small.

In contrast, the top sectors of the Komi Republic's economy are oil, gas and coal production and electric-power industry (Fedina, 2017). The very first oil field in the region was located on the bank of the Ukhta River, where oil extraction started in the 18th century (ibid.).

Nevertheless, beginning of consistent development of oil fields is associated with later years, starting from 1930s. In 2000s Komi's oil industry saw a solid rise with oil production increasing from 9 million tons in 2000 to 13.7 million in 2012 (Staatesen, 2014). Currently, the level of oil fields exploitation in Komi is extremely high, majority of oil fields have either reached their maximum extraction capacity and currently decreasing, or are on the top of production (ibid.).

**FIGURE 1 ALROSA, GAZPROM AND TRANSNEFT AREAS OF OPERATION IN SAKHA REPUBLIC**  
 SOURCE: ADAPTED FROM NEUSTROEVA, SEMENOVA (2018)



#### *4.2.5. Companies involved*

Russian companies, both state-owned and private, operate in two republics. Most of the diamond mining is located in northwest of Sakha republic. Biggest diamond company operating in the region is Alrosa and its subsidiaries (Yakovleva, 2017; Tedmanson, 2008). Company's input accounts for 40% of Sakha's budget (Rudakov and Piskuniv, 2015). Alrosa operates in Mirny, Olenek and Lensk Districts, as well as Anabar and Nyurba, where diamond field operations are carried out by its subsidiaries Almazy Anabara and Alrosa-Nyurba (Alrosa, 2013; Figure 1).

One of the distinct characteristics of Alrosa company is its shareholders' structure (Yakovleva, 2011, Figure 2). Key shareholders are the Federal government (33%), Republic (25%) and eight municipal districts known as diamond provinces (8%, Anabar, Lensk, Mirny, Nyurba, Olenek, Suntar, Verkhnevilyuysk and Vilyuysk), and other private entities (Sakha News, 2019). Inclusion of eight municipalities is considered as a big step towards acknowledging importance of local communities' voices. Local authorities of 8 provinces participate in decision-making of the company (each year a Head of administration of every province is elected as a member in the Supervisory Council - strategic organ of Alrosa) (Yakovleva, 2017). It has been observed, however, that while building strong relationships with local authorities, interests of communities and civil organizations are often neglected.

The southern part of Yakutia has been recently affected by the rapid advancement of extractive industries into region's territory. The impact and burden of extractive industries fall mostly on the republic's small indigenous groups - Evenki (Basov, 2017). Companies operating in southern parts of the region (Aldan and Neryungi districts) are Gazprom (a state-owned company with a near-monopoly position in the Russian gas market; the only gas company in

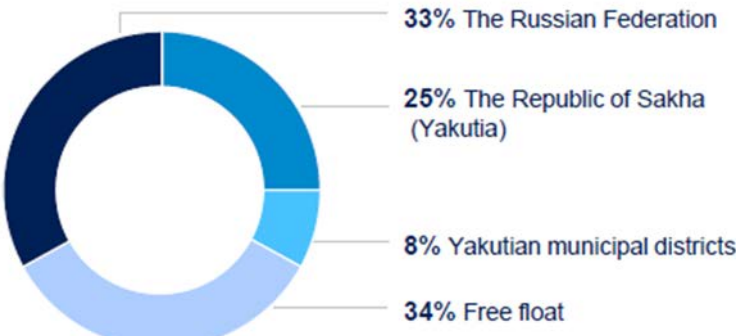
Sakha) and Transneft (a state-owned pipeline monopoly, which operates 90% of existing pipelines in Russia), whose industrial projects include:

- Gazprom gas pipeline “Power of Siberia” goes directly through the lands of traditional habitation of the Evenki people.
- The Eastern Siberia - Pacific Ocean (ESPO) oil pipeline (construction finished in 2012), a project to transport oil from deposits in Western and Eastern Siberia to the Pacific Ocean, goes through TTNU of the Evenki people. Both in the planning and implementation stages, conflicts arose between local population and the leading company of the project (Shadrin, 2015; Yakovleva, 2011). The project is overseen by the Transneft-Vostok, the daughter company of Transneft Company (Yakovleva, 2011). From 2008 to 2018 Transneft Vostok paid to the regional budget around 40 mlrd rubles of tax payments (Energy Base, 2018).

Lukoil is Russia's largest private company and the largest oil producer of the Northwest Russia. The main operating company in Komi region, which take almost 85 % of total share of oil extraction is its daughter company Lukoil-Komi, which has the biggest market share (78,3 %).

The main districts of the Komi Republic involved in oil extraction are Pechorsky, Usinsky, Ukhtinsky, Izhemsky, and Ust-Tsilemsky, all of them are located in the central, northern and north-western parts of Komi (ibid.).

**ALROSA's shareholder structure**



**FIGURE 2 ALROSA SHAREHOLDERS**  
SOURCE: HELMER, 2017

In 1999, Lukoil bought the old state enterprise Komineft, establishing the company Lukoil-Komi, and since then has been trying to sort out the legacy of the 1994 spill.<sup>25</sup> In its 2006 Sustainability Report, Lukoil reported that it had eradicated the inherited consequences of 1994, although the ageing pipeline facilities still needed to be replaced (Shadrin, 2015). After a large oil spill in the Usinsk district in April 2016, the indigenous peoples organized protests that intensified until Lukoil directed 20 billion rubles for replacing the old pipelines (Tysiachniouk et al., 2018). One of the reasons of Lukoil's reaction is company's increasing presence at several Western stock exchanges and the need to attract international investors. Since Lukoil has operations in environmentally sensitive markets in Europe and the United States, it needs to adhere to environmental responsibilities and, therefore, in comparison with other Russian companies, Lukoil appear to place a greater focus on meeting international and European norms (Martus, 2017). Lukoil-Komi has partly adapted to global standards on CSR and now publishes sustainability reports in Russian and English once every two years and is committed the Global Reporting Initiative standard and the environmental management system ISO 14001 (Lukoil 2017). Lukoil has also signed the Social Charter of Russian Business and one of the three oil company members of the UN Global Compact in Russia (Fondahl and Wilson, 2017).

From 2000 to 2007, Lukoil received five loans from the European Bank of Reconstruction and Development (EBRD) and declared commitment to “pollution cleanup, pipeline replacement, gas flaring reduction, health and safety measures, [and] social infrastructure” (Bacheva-McGrath, 2014). The EBRD loans have required Lukoil to “both anticipate and avoid adverse impacts of projects on the lives and livelihoods of indigenous peoples' communities, or when avoidance is not feasible, to minimize, mitigate or compensate for such impacts” (EBRD 2014,

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<sup>25</sup> The town of Usinsk in Komi became world-famous after the oil catastrophe in 1994 that was registered in the Guinness World Records as the biggest on land oil spill ever. Over 100,000 tons of oil-containing liquid leaked into the soil and water. The pollution was so extensive that it reached the Arctic Ocean traveling along the Pechora River, forming a 18-kilometer-long oil stain. (Greenpeace, 2014)

p.43). Lukoil's 2013–14 Sustainability Report addresses environmental protection and social programs in Northwest Russia, including in Komi. The report confirms that according to its Indigenous Minority Relations Policy, Lukoil “*has been building its relations with the local residents on the assumption that their cultural heritage and traditional lifestyles must be preserved*” (Lukoil, 2015, p.60). Company also states that “*In the Komi Republic the indigenous minority support is provided as part of the multitier social partnership system*” (ibid.).

#### *4.2.6. Agreements between indigenous peoples & companies: Sakha (Yakutia)*

In 2004, the federal government made the decision to construct a pipeline, currently known as the Eastern Siberia-Pacific Ocean pipeline (Pincus and Ali, 2015). The construction of ESPO primarily targets the growing Asia-Pacific energy market and plans to transport 80 million tons of oil per year from oil fields in Siberia to the Pacific Coast. The pipeline is hoped to increase development of eastern hydrocarbon deposits instead of traditional Russian oil and gas producing areas in the northwest of the country, which are rapidly deteriorating (Yakovleva, 2011). Originally, the ESPO route was planned within 800 meters of Lake Baikal and traveled through four Russian regions: Irkutsk Oblast, Amur Oblast, Khabarovskii Krai and Primorskii Krai (Yakovleva, 2011). In 2004 significant concerns erupted regarding the risk of pipeline fractures and subsequent ecological disaster for the Lake Baikal (Fondahl, 2018). Regional and national civil society activists, supported by WWF and Greenpeace, voiced concerns over potential risks to the natural environment (Yakovleva, 2011). Following extensive environmental protests and campaigns, the government proposed to shift the pipeline northwards from the Lake. As a result, the pipeline route was moved 400 km northwards into the territory of Yakutia, making Sakha the latest region to join the ESPO project (Figure 3 and Annex 6, Yakovleva, 2014). The pipeline stretches for over 1,400 km, passes through Aldan, Lensk, Olekminsk and Neryungri districts of Yakutia and crosses traditional settlements of

indigenous Evenki, their reindeer pastures and hunting lands, territories of the unique breed of Yakut horse, mustel vegetable and non-timber natural resources, grasslands, and 240 rivers and streams with valuable species of fish (Funk, 2015; Yakovleva, 2014). The region is also characterized by the permafrost areas, seismic activities (5-7), collapsible soil, 160 water hazards (Regnum, 2006).

Transneft describes the project as having “a high level of reliability and minimal impact on the environment” (as described on ESPO website). However, there have been several accidents at ESPO: one accident near town of Lensk, where the spill of 450m<sup>3</sup> of crude oil occurred in the Nyuya watershed, another accidents took place on the territory of the Amur region, near the Skovorodino railway station and near Olyokminsk located on the left bank of the Lena River (Shadrin, 2015).

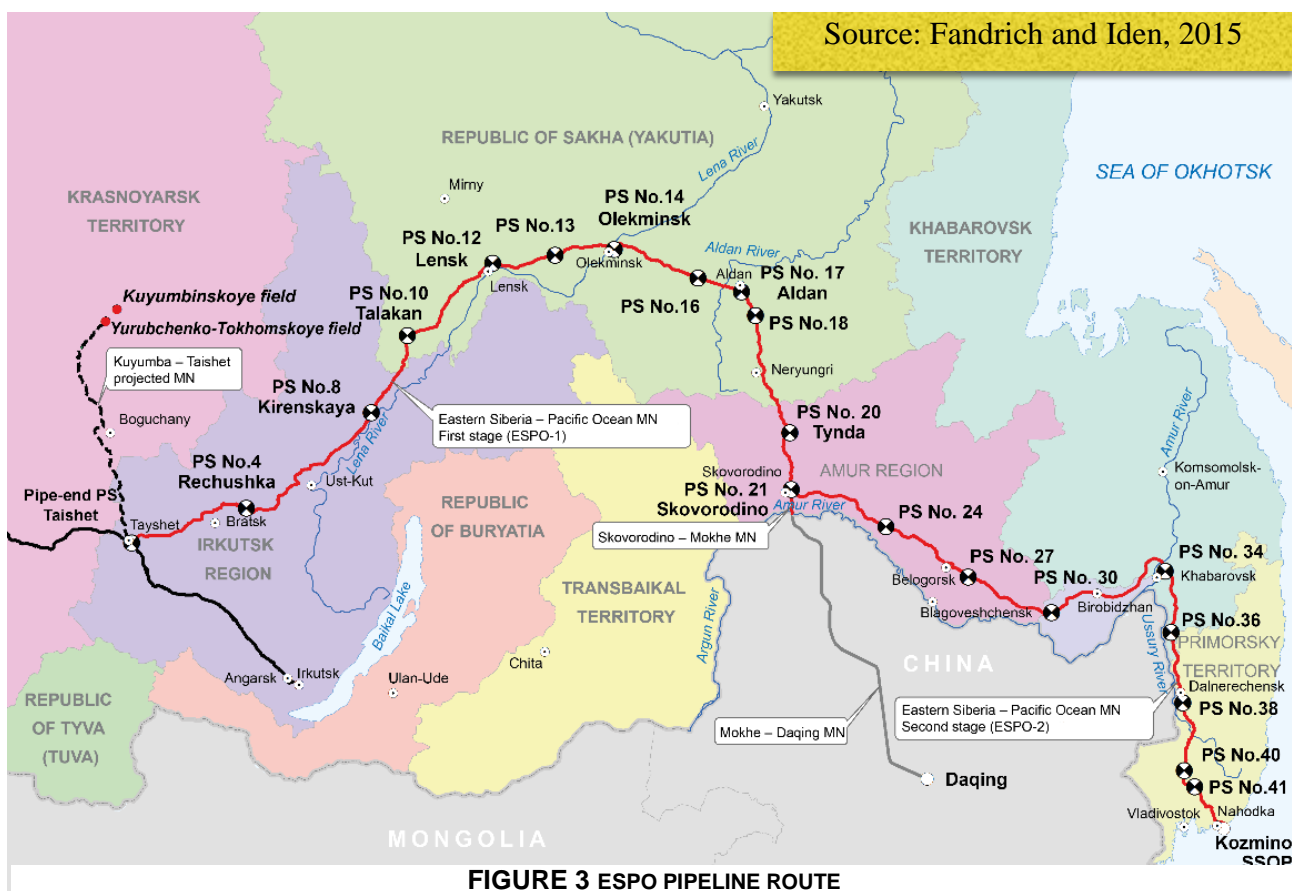
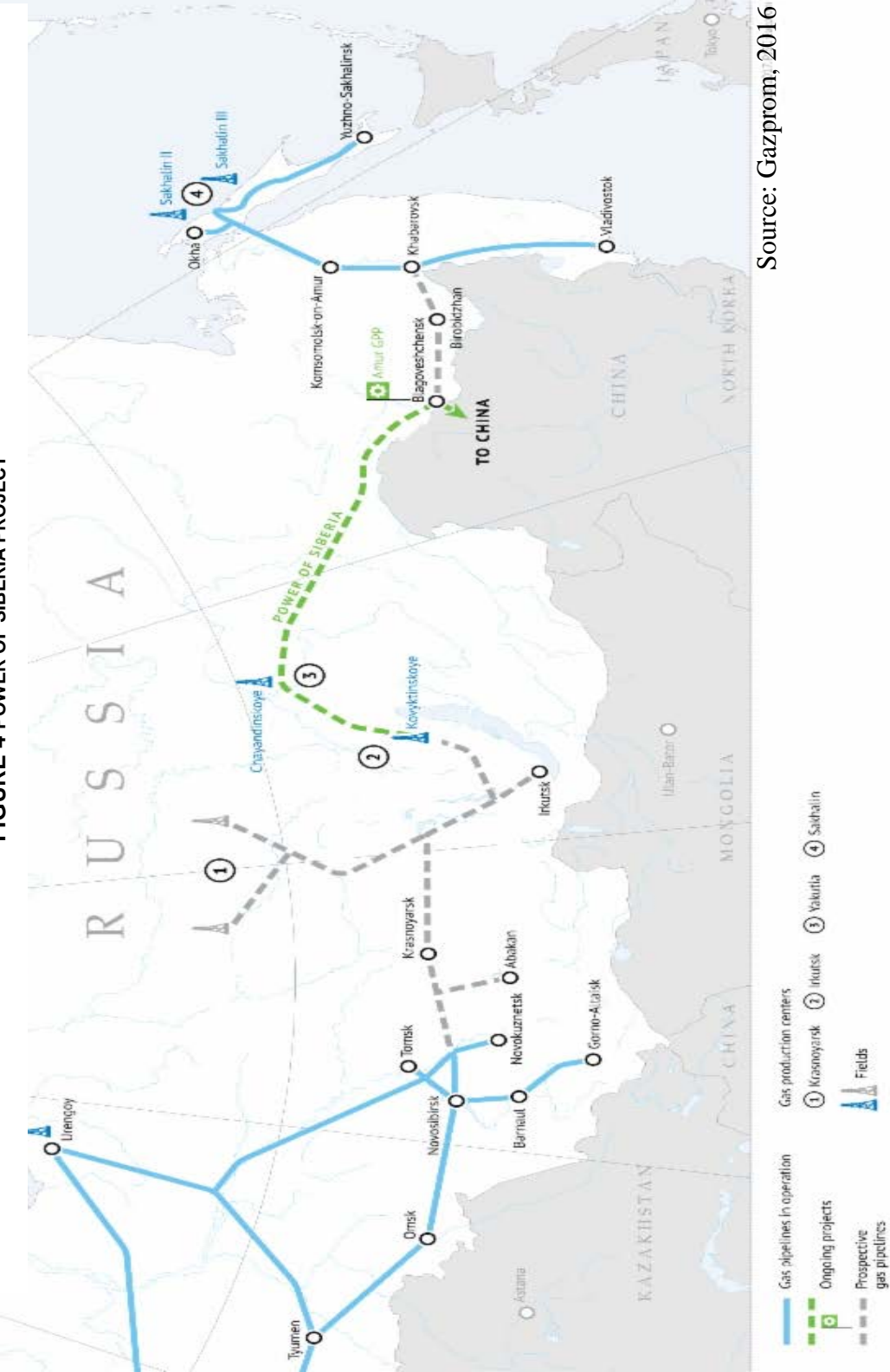


FIGURE 3 ESPO PIPELINE ROUTE

The decision-making process over the pipeline’s route has been criticized for the lack of transparency. The project has been negotiated by two parties – the Russian federal government and the state-controlled pipeline monopoly Transneft (Yakovleva, 2011). Indigenous peoples and the state-controlled pipeline monopoly Transneft (Yakovleva, 2011). Indigenous peoples

FIGURE 4 POWER OF SIBERIA PROJECT



Source: Gazprom, 2016

whose lands the pipeline crosses, were not consulted over location of industrial facilities and the pipeline itself (ibid.). Pincus and Ali (2015, p.205) pointed out that *“the system governing access to the state’s crude oil pipeline monopoly Transneft is non-transparent. At one time such access was controlled by an inter-ministerial government committee that allowed pipeline capacity without transparent criteria. Today, the government still controls how much crude oil can be exported by any one company and access to pipelines remains in the hands of Transneft”*.

Involvement of indigenous Evenki communities in the process of pipeline construction has been implemented through several stages (Yakovleva, 2011). First of all, during direct meeting with the pipeline developers they were informed of the pipeline development. Secondly, they were able to participate in consultations over environmental impacts of the pipeline construction during the public hearing meetings on Environmental Impact Assessment (EIA). However, the consultations were not held in their rural settlements, but in urban centers of Aldan and Neryungri (Murashko, 2006). As a result, due to the lack of prior notification and no transport provision for consultees, none of the directly affected communities attended the public hearings (Vintageblogger, 2019).

As the beginning of ESPO construction, a law on ethnological assessment did not yet exist. As such, no ethnological expert review had been conducted albeit requested by civil activists (Yakovleva, 2011). However, based on the 1999 law on Guarantees of the Rights of small-numbered indigenous peoples that called for such assessment, a compensation of four million rubles was paid (Sleptsov, 2013). Transneft arranged for indigenous population who had official land entitlements to sign consent agreements for the pipeline construction on their land plots and awarded them compensation *“for temporary disruption to land use”* (Yakovleva, 2011). To the discontentment of regional civil activists, Transneft led these negotiations directly with the indigenous population, excluding the indigenous peoples’ NGOs and the wider indigenous

Evenki community. The amount of compensation and methodology for calculation were not discussed (ibid.). While the pipeline passed through 18 communities, the sum was paid only to six of them and only following intervention by the Republic President (EYGE, 2015). The compensation went to the budget of the Aldan region.

Transneft negotiated with the rest of communities privately behind closed doors. After private talks, some families received apartment in the city, some families took five barrels of gasoline from the company, while others received one (ibid.). In sum, certain families had made a better deal with industry for compensation over loss of their land. Transneft engaged only with indigenous population that has land allocations directly on the pipeline's route. Other communities, who have land plots adjacent to the pipeline area and may experience negative effects from the construction, were excluded from compensation negotiations (Yakovleva, 2011).

Additionally, one-time payment for losses of biological resources in the Aldan region and 250 km stretch of pipelines were evaluated at only 150,000 rubles (Evengard, Larsen and Paasche, 2015). Similarly, the payment was made to the Aidan region's budget, not to the indigenous villages and obshchinas (ibid.).

According to the information of Transneft in ESPO facilities of Sakha Republic 2,500 local people work, with more than half are representatives of indigenous peoples (Transneft, 2018). Company also sponsors cultural events, housing, health, transportation vehicles, etc. (ibid.) The company gives a right to four communes who live near the ESPO construction to use transportation in construction areas for free (State Assembly (Il Tumen), 2015). Also, Evenki were offered temporary jobs for wood-clearing prior to pipeline construction (Yakovleva, 2011).

Parallel with the ESPO pipeline, Gazprom is currently building the "Power of Siberia" gas pipeline (Figure 4). In 2014 Gazprom and China National Petroleum Corporation concluded

the contract that would connect Irkutsk (Kovyktinskoye field) and Yakutia (Chayandinskoye field) gas resources to foreign Asian markets (Aksenova, Voroshilina and Ponomarev, 2017). In February 2019 Gazprom has announced that construction of its gas pipeline to China is 99% finished (RT, 2019).

The company indicates that *“Before starting a project involving operations, the Group teams up with the local authorities at its design stage to conduct public discussion with representatives of indigenous small-numbered peoples of the North. This procedure enables the Group to consult the interests of local communities. For instance, a roundtable discussion on “Implementation of Operating Programs in Cooperation with Indigenous Small-numbered Peoples of the North: Rights, Obligations, Key Issues and Regulations” was held in the city of Mirny in Sakha (Yakutia) in 2016. At the event organized by Sakha’s authorities, Gazprom Geologorazvedka LLC presented a report on its operating principles in the region. The meeting also focused on ethnological studies conducted by the Sakha Academy of Sciences at the request of Gazprom Geologorazvedka LLC to explore the impact from the company’s exploration activities on the environment of indigenous communities.”* (Gazprom, 2016) Gazprom paid 53 mln rubles to six communities affected by the construction of Power of Siberia (EYGE, 2015).

The biggest diamond extraction company Alrosa was created in 1992. It succeeded the state-owned diamond company Yakutalmaz Corporation, originally established in 1957 (Jamali, Karam and Blowfield, 2015). The company was in the center of disputes between the federal and regional governments concerning property, land and mineral resources rights, but was ultimately kept under republican control. In recent years, however, the clash over Alrosa control driven by the federal authorities has been intensified (Ross, 2016). In the 1990s, Alrosa was the main contributor to the regional economy and continues to significantly contribute to region’s well-being today.

After creation, the company concluded the Lease agreement with the Republic (“Lease of land sites, diamond deposits, other natural resources and fixed and current assets of Yakutalmaz Corporation”), according to which Alrosa leased diamond deposits for a 50-year period and paid 2% of its revenues to a specially created environmental fund - Sakha Diamond Province Investment company known as the SAPI Foundation (originally state-owned, in 1995 reorganized in NGO) - for socioeconomic programs and rehabilitation of environmental damage in 8 districts of Sakha republic. In 2000, following several inspections revealing finances’ misuse, the SAPI was replaced by the Target Budget Fund under the management of the Ministry of Finance of the Republic which continued to deliver environmental and socioeconomic programs (Marsden, 2008). 2% of Alrosa revenue was transferred to the republican budget (Burtceva, 2009). As such, the Target Fund has been increasingly dominated by the state control instead of evolving into a partnership between the state, private sector and civic interests (Tedmanson, 2008).

Alrosa has a long history of CSR, starting from the Soviet tradition of social responsibilities in the form of support for hospitals, housing, culture, employment, etc. According to the company policy (Alrosa, 2018), it supports local communities by:

- improving social infrastructure;
- promoting programs for development of science, education, culture, sports and medicine;
- carrying out actions to reduce negative impact on environment and protect it;
- charity and sponsorship.

It concludes agreements with administrations of provinces it operates in and annually funds the development programs in 9 districts (8 diamond provinces and Kobyai province) under cooperation agreements. In 2017, the Company appropriated 83 mn rub for these purposes (Alrosa, 2017). The nine districts receive financial assistance in agricultural and traditional activities; Alrosa sponsors charity events, support for reindeer herdsman and fishermen kinship

communities, with financial assistance provided for the promotion of agriculture, traditional economic activities, the purchase of all-terrain vehicles, fishing and hunting gear (Alrosa, 2013). The company promotes employment of the population and contributes to income growth, thus making considerable contribution to the social stability of the whole diamond mining region (Alrosa, 2013). In 2017, the company’s subdivisions employed 2,703 indigenous workers (approximately 7% of all employees) and 501 were employed in shifts (Alrosa, 2017). Despite criticism and weaknesses (Table 2), Alrosa’s contribution to the development of the republic as a whole is widely acknowledged by the population. For instance, under Agreement on Social and Economic Development with the Republic of Sakha, which is valid until December 31, 2020, Alrosa has implemented corporate programs such as the Recreation and Rest of Employees and their Children, Healthcare, Culture and Sports, and Housing (Alrosa, 2017). Regionally, in 2017, Alrosa transferred RUB 700 mln to the non-profit Special-Purpose Fund for the Future Generations of the Republic of Sakha. The money went to construct educational, healthcare, cultural, and recreational projects in different districts. Alrosa also donated funds to build the republican rehabilitation center for children.

**TABLE 2**  
**STRENGTHS AND WEAKNESSES OF COMMUNITY RELATIONS IN ALROSA**

Strengths	Weaknesses
Inclusion of the local community in decision-making via shareholding	No corporate community policies
Substantial contribution to community development	No environment and social reports
Training and recruitment of local community members and indigenous people	Neglect of NGOs in stakeholder dialogue
Support of community projects within the indigenous communities	No discussion on land issues with local communities
Cooperation with local and regional authorities on social projects	
Negotiation of community needs via annual <b>agreement</b> with local authorities	

Source : Marsden, 2008

#### *4.2.7. Agreements between indigenous peoples & companies: Komi Republic*

Although Komi residents receive financial support from socioeconomic agreements with Lukoil-Komi, state misrecognition of Komi as indigenous limits their chances to negotiate direct agreements with the companies, operating on their lands.

Usually, Lukoil-Komi concludes agreements at two levels, none of which includes direct participation of indigenous Komi. The first level comprises the so-called socioeconomic agreements, signed between the company and regional authorities. These agreements are concluded every four years and target the development of the whole region. As part of the agreement obligations, Lukoil builds and renovate infrastructure facilities, including schools, kindergartens, cultural and sports objects, etc. (Lukoil, n.d.). For instance, in 2016, Lukoil signed an Agreement of Cooperation with the Komi governor, in which the company agreed to construct residential housing in Usinsk and the village of Yarenga, improve road infrastructure and fund charity projects (Lukoil, 2016). In 2016, Lukoil contributed 8,012 million rubles in tax revenue to the region (Ministry of Finance Komi Republic, 2017). In addition, between 2003 and 2015, Lukoil provided more than 3 billion rubles for infrastructure in Komi municipalities as part of socioeconomic agreements (Tysiachniouk et al., 2017).

The second level is the agreements with regional municipalities. In 2015, the company signed cooperation agreements with heads of administrations of the six municipalities of the republic: Usinsky, Ust-Tsilemsky, Izhemsky, Ukhtinsky, Pechorsky and Sosnogorsky (UTime News, 2015). Majority of indigenous Komi live in three of these municipal districts: Usinsky (13,8%), Izhemsky (88,5%) and Ust-Tsilemsky (5%) (Fedina, 2017). In 2017, Lukoil-Komi concluded the renewed agreements with Izhemsky district, according to which it provides 25 million rubles (about 380,000 euros) to Izhemsky district for the renovation of a sports hall, a museum and a hospital canteen and purchase of a first aid vehicle for the hospital and a bus for the children's activity center. Moreover, Lukoil-Komi has engaged in various initiatives related to education,

culture, environment, health, agriculture, and small business development in the Komi Republic and has sponsored cultural and sport events (Lukoil, n.d.).

These socioeconomic agreements in the Komi Republic generally are not open to public input or scrutiny. Indigenous peoples are typically not informed about Lukoil-Komi's exploitation work. Komi indigenous activists also complain that their communities do not receive funding directly, and that the distribution of funding is not transparent.

Notwithstanding, through membership in the Russian indigenous peoples' association RAIPON, Izvatas, the Izhma Komi indigenous association, has gained access to global institutions, such as the UN, the Arctic Council, the International Work Group for Indigenous Affairs (IWGIA), and the Institute for Ecology and Action Anthropology (INFOE), a German NGO. Thanks to its activism, in 2015 in Izhma, Lukoil-Komi negotiated a direct socioeconomic agreement with Izvatas. The agreement focuses on social concerns, such as scholarships for students, but, more significantly, for the first time in Komi, environmental problems were stipulated in the agreement's agenda. In response to environmental and indigenous activism, the company accepted to consult with the Izvatas before launching new projects in the area and to timely inform the indigenous population about oil spills. Lukoil referred to its responsible CSR policy in its press release on the 2015 agreement with Izvatas (Center for Assistance to Indigenous Peoples of the North, 2015). Since the agreement, Lukoil-Komi has become more transparent about oil spills in the Izhemsky district, where the Izvatas office is located. However, respondents accuse Lukoil-Komi of continuing to conceal oil spills in the Usinsk district. The agreement also expanded Lukoil-Komi's plan to renovate pipelines, but has not satisfied environmentalists (Djavrshyan, 2018). After a large oil spill in the Usinsk district in April 2016, regional environmental organization Save Pechora Committee (SPC), formed in the late 1980s, organized protests that forced Lukoil to allocate 20 billion rubles for replacing its pipelines (Tysiachniouk et al., 2017).

### 4.3. Khanty-Mansi & Chukotka Autonomous Okrugs

During the Soviet period, both Khanty and Chukchi were one of the few indigenous minorities of Siberia to be granted autonomy in the form of an autonomous district. One of the distinctive features of KHMAO is the region's extractive sector, that makes the KHMAO one of the wealthiest districts in Russia (Kostyuchenko and Kozirev, 2016; Makliuk, 2014; Chizhikova, 2016).

Historically, indigenous Chukchi are known for their rebelliousness and for being "*the only Siberian ethnos never conquered by Imperial Russia*" (Russia Beyond, 2018). Before the Soviet era, Chukotka's indigenous peoples maintained their independence from the Russian empire and traded freely with Russians, Americans and each other. At the time of Russians' arrival in XVII century, Chukchi did not have a well-defined system of social hierarchy (Zuev, 2002) and, as such, each Chukchi community made all decisions independently. An attempt to subordinate and control populations in Chukotka and exact tribute as it was done in other territories annexed by Russia, was unsuccessful. While the region's other nations such as Yukagirs, Chuvans, part of the Koryaks and Evens obeyed the Russian authorities and accepted Christianity, the Chukchi showed resistance. Chukchi have never recognized their allegiance to the Russian empire and never paid yasak to the state. As a result, Russians could not conquer Chukchi people for 150 years (Podrazhansky, 2015). Only at the end of the 18<sup>th</sup> century Chukchi were finally integrated into the Russian empire. However, they did not pay any contributions to the Russian tsar and were labelled instead as "not totally dependent on government" (Abryutina, 2007). In fact:

*"the Chukchi tribesmen were the only native Siberian tribe violent and warlike enough ever to fight the Russian invaders to a negotiated peace, concluded in 1778. Even after the Russian withdrawal from the ostrog of Anadyrsk under the terms of the treaty, the Chukchi remained notorious raiders of Russian settlements and caravans"* (Wilson and Kormos, 2015).

Originally, Chukotka was administratively subordinated to Magadan Oblast. In 1991, the region declared autonomy and became the only autonomous okrug to formally separate from its “host” region and administratively unsubordinated to a krai or an oblast (ibid.). After the collapse of the USSR, the region faced an extremely difficult political, economic and demographic collapse. By 2000, it was the most socio-economically depressed of Russia’s 89 regions. At the beginning of the new millennium, almost half of the Chukotka’s population left the region (from 160,000 residents in the 1980s to 70,000 people). Politically, the 1990s were dominated by the “iron” rule of Aleksandr Nazarov, Chukotka’s first post- Soviet governor (ibid.). Eventually, Nazarov and his administration were accused of embezzling budget funds (Thompson, 2003). Nazarov was followed by Roman Abramovich who was appointed by the Kremlin as governor of Chukotka in 2001. Abramovich, the owner of Sibneft Oil Company and Chelsea Football Club in England, was one of Russia's richest and powerful oligarchs with close connections to both Boris Yeltsin and Vladimir Putin. When Abramovich arrived, Chukotka’s regional treasury “was bankrupt with huge external debts equivalent to 4 times its annual budgets, and state employees’ salaries had not been paid for half a year” (Dudarev, Chupakhin and Øyvind Odland, 2013, p.3). Abramovich organized humanitarian help, invited workers from Turkey and Canada to the region and large-scale construction began across Chukotka – building and renovation of houses, schools, roads, heating systems, etc. (ibid.). Simply by registering three branches of Sibneft Company in Chukotka, Abramovich moved tens of millions of dollars in tax revenues to the regional budget.

Niobe Thompson writes about Avramovich’s ambitious program: “Abramovich’s



**FIGURE 5 CHUKOTKA AO DISTRICTS**

*modernization is driven by imported specialists, most originating from within his company's or partners' corporate structures... Abramovich's komanda {"team", rus.} is intentionally comprised of people too young to have personally experienced Soviet life. The current regional administration is much like a branch office of Sibneft headquarters in Moscow. Employees shuttle between Moscow and Anadyr' on chartered jets, spending two or three weeks in the North at a time, and a large proportion of administration business is in fact conducted from a suite of offices on Kursovoy pereulok in central Moscow. Administration staff are employees not of the regional government, but of Sibneft. The intention is to subordinate pre-existing power structures, particularly at the level of regional administration, to specialists embodying the values and habits of Abramovich's new-model business culture." (Thompson, 2003, p.144).*

Abramovich served two terms as governor, during which time he transformed the economy and infrastructure of the region. It was rumored that he invested \$2.5 billion of his own money in the region and, as a result, was very popular among locals (Wilson and Kormos, 2015). It has been stated that *"for the first time in the recent history of Russia, money had come to the region instead of leaving"* (ibid, p.3). Notably, during his term (2001-2008) the GRP increased in 9 times (Dorofeev and Kostyleva, 2012).

#### *4.3.1. Indigenous peoples*

In 1939, indigenous peoples in Chukotka comprised 75.4% of the total population of the region. By 1989, the region's indigenous population had shrunk to only 30.8% (Abryutina 2007a). Today Chukchi form the largest indigenous community of Chukotka (12,772 or 26.7% of the total population, 2010; Table 3). Other indigenous groups include Yupik (1,529 or 3.2%), Evens (1,392 or 2.9%), Chuvans (1.9%) and Yukagir (0.4%) (Russian Federal State Statistics Service, 2010). Areas of indigenous residence in Chukotka include Anadyr town, Pevek town, Egvekinot town, Providence district, Anadyr district, Bilibino district, Chukotka district (Figure 5; The list of traditional places of residence and economic activity of indigenous small-

numbered peoples of the Russian Federation, 2009). They are engaged in traditional natural resource management related to utilization of renewable biological resources. The biggest indigenous population (over 80%) lives in Chukotka municipal district (Litvinenko and Kumo, 2017).

**TABLE 3 INDIGENOUS PEOPLES IN CHUKOTKA DISTRICTS**

Chukotka Autonomous Okrug Municipal Districts	Number of northern indigenous minorities (NIM) (persons)	Share in the total number of NIM in Chukotka (%)
Anadyr Municipal District	4,183	25
Bilibino Municipal District	1,805	11
Iultinsky Municipal District	1,840	11
Providence Municipal District	1,920	11
Chaun Municipal District	874	5
Chukotka Municipal District	4,237	25

Source: Kinross, 2013.

Indigenous peoples are represented by the Chukotka Regional Association of Indigenous Peoples of the North, Siberia and Far East (RAIPON) and its local affiliates. Since 1989, the republic's Association of Indigenous Small-numbered Indigenous peoples of the North has been able to influence local laws on local protection, hunting, reindeer breeding, etc. (Tidwell and Zellen, 2015). Other institutions representing indigenous interests in the region are Elder's council as an advisory and consultative organ to the Association, the Chukotka Union of reindeer herders, the Association of traditional marine mammal hunters of Chukotka.

The population of KHMAO is estimated to be 1,626,755 people as of 2016, of which less than 2% (30,000) account for indigenous peoples—Khanty, Mansi, and Nenets (Figure 6). Many of them have preserved their traditional lifestyle (IWGIA et al, 2017). Indigenous peoples live predominantly in Beloyarsk municipality (2,777 or 9,24%), Berezovsky municipality (6,138), Kondinsky municipality, Nefteyugansk municipality, Nizhnevartovsk municipality (2,000), Oktyabrsk municipality, Sovetsk municipality, Surgut municipality (2,896 or 2,55%) and Khanty-Mansi municipality. An important role in indigenous movement of the Khanty is played

by public organizations, such as Salvation of Yugra, the Union of Private Reindeer Herders, etc. (Sulyandziga, Kudryashova and Sulyandziga, 2003).

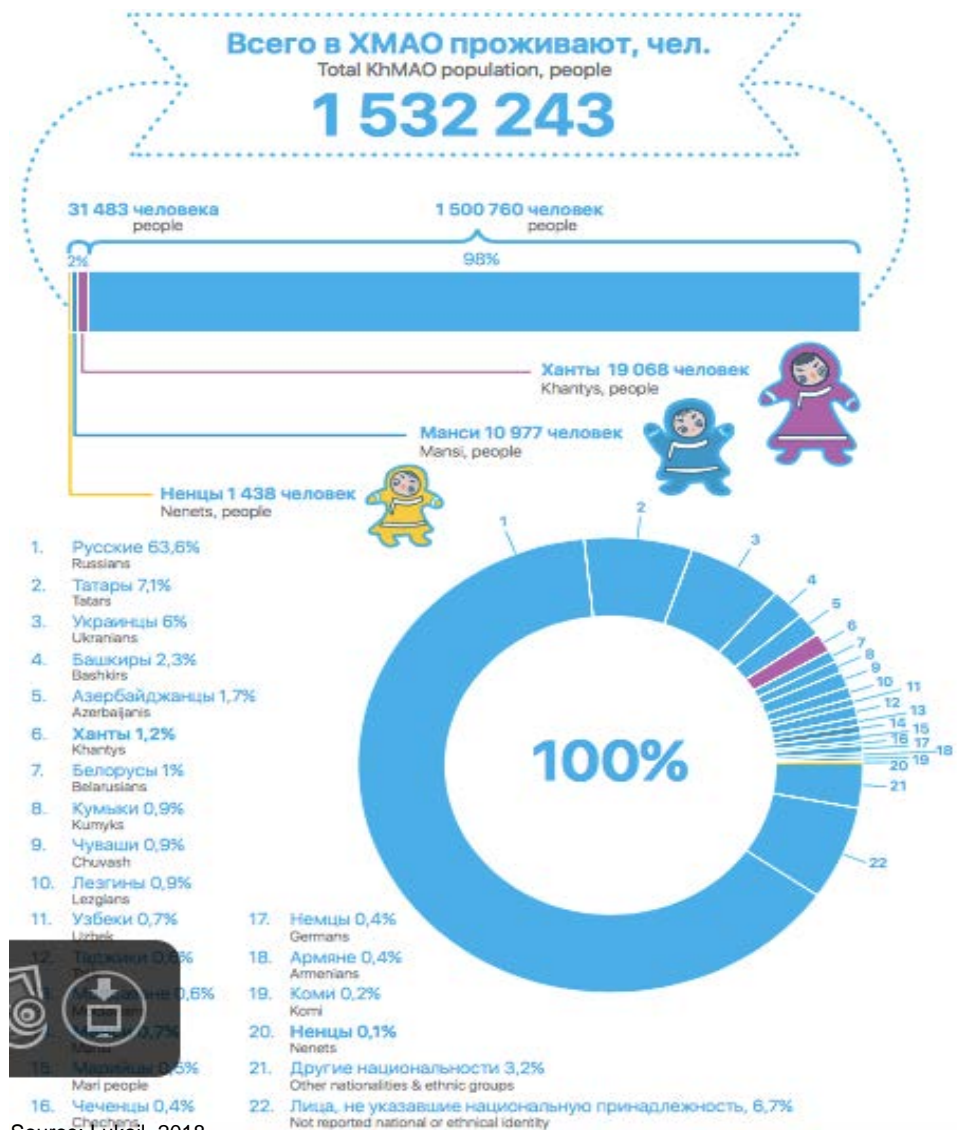
### 4.3.2. Regional legislation

The KHMAO is considered one of the leaders amongst the Russian regions with respect to development of regional legislation on indigenous peoples, protection of their cultures, their languages, education, and relationships with oil and gas companies (Alferova, 2006; Yakovleva, 2011).

Indigenous rights are recognized by the regional charter that guarantees:

- the development of indigenous traditional economy and benefits from land and nature use;
- the creation of TTNU (Article 63);
- the use of natural resources on the territory of the autonomous district, taking into consideration the interests of these peoples (Article 64).

FIGURE 6 INDIGENOUS PEOPLES IN KHMAO



Adopted legislation provides for indigenous representation in the regional parliament, where they constitute a so-called Assembly of Small-Numbered Indigenous Peoples of the North, and support of traditional indigenous activities (Lerner et al., 2017). Assembly represents the indigenous peoples' rights in the parliament, and is perceived as “*an ability to find compromises and consideration of their opinion during relevant decision-making*” (Kryazhkov, 2013, p.145). The law On territories of traditional nature use in KHMAO (2006) regulates in detail the implementation of activity within borders of TTNU by industrial actors. The law requires companies operating in the area to obtain the consent from indigenous population prior to the project and pay fair compensation for any damages affecting indigenous lands (Tulaeva, Tysiachniouk, 2017). Mining or oil and gas companies have an obligation to coordinate construction of industrial facilities and transport ways within the borders of TTNU with regards to the requirements of nature protection legislation; to exclude fights over reindeer calving and herding habitat; to set fences around industrial and related objects; to present plans of nature protection arrangements and information about its use and to pay compensation for losses caused to the environment and to peoples with designated TTNU (Article 12). In 2009, KHMAO issued a model agreement regulating relationships between TTNU and companies (Toriiã and Gracheva, 2017). Also, the law “On subsoil resource use” (1996) obliges the regional government to submit proposals about the conditions of competition, auctions, and licenses for using subsoil resources to the federal department for management of public subsoil funds. The proposal must contain information about the location of TTNU, the area of subsoil resources and provision for the protection of the native habitat and the traditional way of life, economy, and activity of indigenous peoples, including information on the compensation of losses to indigenous peoples caused by the use and development of subsoil resources in connection with impacts to, or the limits of, the traditional economy of indigenous peoples (Articles 27 and 28). Disputes arising from these matters are considered by the Committee on

Questions of Territories of Traditional Nature Use (Article 42), created in 2002 to deal with conflict situations between indigenous peoples and companies (Shtirov, 2013). Similar conditions, aimed at protecting the rights of indigenous peoples in relation with users of subsoil resources, are contained in the law On the participation of KHMAO in agreements (2005, Articles 3 and 5), and the law On the use of subsoil resources in KHMAO (2005, Articles 9, 13, and 17).

In Chukotka, the regional Charter establishes the obligation of the state authorities to carry out measures “to revive, preserve the identity and free development of the indigenous” (Article 19). According to the Charter (Article 62): “Laws directly affecting the rights and interests of the indigenous peoples are adopted by the Duma of the Autonomous Okrug with the participation of the Association of Indigenous Minorities of the North, Siberia and the Far East of the Russian Federation.” The Law of the Chukotka Autonomous Region of June 8, 2007 No. 57-OZ On State Regulation and State Support for the Development of Northern Reindeer Husbandry in the Chukotka Autonomous Region was adopted by the Duma of Chukotka in 2007.

The Law of the Chukotka Autonomous Region of June 8, 2007 No. 57-OZ On the State Regulation of the Development of Sea Hunting industry in the Chukotka Autonomous Region allows all residents of the villages of Eastern Chukotka to receive state support for the development of sea hunting, preservation of the natural environment, the traditional culture and social protection of workers engaged in sea hunting.

On May 19, 2014, the decree No203-rp approved the Concept for the development of the native languages of the indigenous peoples of Chukotka (Eskimo, Evenk) for the period 2014–2025 in which the priorities were given to the development of areas such as media, culture, art, book publishing, information and communication technologies. The district has developed a draft law On the native languages of the indigenous peoples of the North, Siberia and the Far East of the Russian Federation living in the Chukotka Autonomous Region in 2017. Government

programs associated with indigenous peoples, including reindeer herding in the areas surrounding the mines, are overseen by the Department of Indigenous Affairs.

#### *4.3.3. Created TTNU & Obschinas*

According to regional legislation, around 500 TTNU have been designated in KHMAO. Yet, although many territories have been marked for traditional natural resources use of indigenous groups, in recent years, 56% of these territories were withdrawn for extraction of mineral resources, with hundreds of extraction licenses issued to dozens of companies (Alferova, 2006). No TTNU were created in the Chukotka region. 51 out of 60 obchshinas in Chukotka region formed the basis of reindeer herding (Debri, 2018). Most indigenous peoples are united in territorial-neighborly and tribal communities that have a status of non-profit associations and are engaged in traditional environmental management. A distinguishing feature of such associations is that when they have a permit to fish, hunt or collect wild plants, they do not have a right to surpluses.

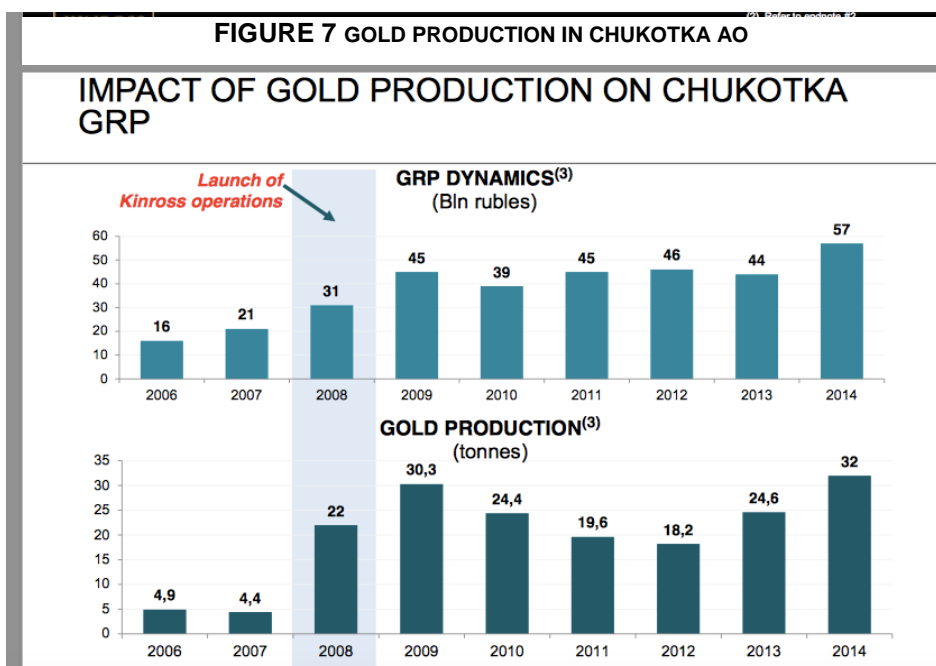
For decades in the 20th century in the Chukotka Autonomous Region, the number of reindeers stably remained at the level of half a million heads. The number of domestic reindeers in Chukotka decreased by five times so that in 2002, the total number of reindeers was 94,600 thousand heads. In many farms, reindeer herding was lost entirely. In 2015, the total number of reindeers was 185,000 heads. However, it continued to decrease again. In 2017, their number decreased to 155,000 heads (EastRussia, 2017). This caused the regional authorities to seek better ways to bring the animals to international markets. Facilities for production of canned meat (mostly reindeer) have been commissioned in three municipal districts. (Northern Gold LLC, 2013) Mammal hunting is another traditional activity of the Chukchi with 9 obshchinas engaged in whale hunt. In Russia whale hunt is pursued exclusively by Chukchi. Joint quotas for whale hunt permitted for both Russian and USA are 744 grey whales and 336 Greenland whales (Interfax, 2018).

#### 4.3.4. Type of industry

KHMAO is one of the most developed regions in the Russian Federation. The welfare of the KHMAO is based on resource extraction with the regional budget dependent on oil production. In 1960, the first oil field in Siberia—the Shaimskoye field— was opened here. The city of Urai is considered to be the first oil city of Siberia (Energy Global News, 2018). Development of oil and gas has shaped the region’s way of life and economic activity and today the region is a leading oil-producing region (60-70% of Russia’s developed oil field) (UArctic, n.d.) and the main source of gas (ibid.). The KHMAO accounts for about 4.8 million b/d of liquids production, nearly 45% of Russia’s total production in 2016 (U.S. Energy Information Administration, 2017). Contrary, Chukotka has been known for its gold reserves (Figure 7). The birth of the gold mining industry in Chukotka Autonomous District dates back to the discovery of rich placer gold deposits in the early 1960s.

#### 4.3.5. Companies Involved

Largest companies operating in the KHMAO region are Russian companies Rosneft, Surgutneftegaz, and Lukoil (producing 40.1%, 21.2% and 18.6% of the total oil extracted) (Tysiachniouk and Olimpieva, 2019). Surgutneftegaz is one of Russia’s largest private



companies and is the only oil company registered in the region. It is the region’s biggest taxpayer, accounting for 40% of revenues in

the regional budget. These companies operate in Beloyarsk, Kondinsky, Nefteyugansk, Nizhnevartovsk, Oktyabrsk, Surgut and Khanty-Mansi municipalities.

Chukotka has become Russia's biggest gold-producing region, supplying a fifth of national output, since Canadian miner Kinross Gold Corporation launched its Kupol mine in mid-2008 and thus marked the beginning of the development of gold and silver deposits. The company input account for 30 % of the regional budget of Chukotka (Borodyuk, 2012; Morley-Jepson, 2011) Company has two gold mines Kupol and Dvoynoye in Chukotka region. Initially, Kupol was 75% owned by the Kinross and 25% by the Chukotka government. In 2009, the Canadian company purchased full ownership. In 2010, Kinross acquired a 100% interest in the Dvoynoye gold mine as well (Kinross Gold Corporation, 2017).

#### *4.3.6. Agreements between indigenous peoples & companies: KHMAO*

In 2005, the government of KHMAO and Lukoil signed their first agreement on social and economic cooperation. Since then, Lukoil concludes agreements with regional authorities in spheres such as housing, medical and social facilities and preservation of indigenous cultures (Lukoil, 2018). Through these agreements, funds usually go to large-scale projects –housing construction, building of social facilities in indigenous settings, support of education and medical care institutions. In 2013, Cooperation Agreement for 2014 — 2018 was signed. In accordance with the document, projects to be implemented include financial support to deal with social issues, improve infrastructure of cities and settlements, and implement educational, cultural and sports projects (Lukoil.com, n.d.). Total sum in 2017 within these agreements comprised 2 bn rub. with part of this funding allocated to support indigenous communities (Lukoil, 2018).

Since 1993 the company concludes agreements with communities and leaders of TTNU as well. 50 TTNU (approximately 1 228 people) are located in Lukoil operation areas. In 2017 in Lukoil signed 350 economic agreements with TTNU (compare to 50 in 1993). Under these agreements,

a total of 291.2 mln rub was provided for the support of indigenous peoples. The average support per family member in 2017 reached 237,100 rub (Lukoil, 2018; Lukoil.com, n.d.). According to some observers, Lukoil pays quarterly approximately 120\$ per person (Kuvadin, 2018). Company makes payments for compensation, medical care, and provides payments for petrol, transportation, housing, medical care and education etc. (Lukoil, 2018). Also, the Khanty and Mansi receive food for reindeers, transport vehicles (boats, snowmobiles etc.), equipment, construction materials, etc. (ibid.). Company also allocates fund for traditional festivals (ibid.). Lukoil partners with the community-based organisation Salvation of Yugra. In 2017 Lukoil spent 311 mln rubles for social and cultural projects in KHMAO (Lukoil, 2017).

Surgutneftegaz positions itself as an environmentally and socially responsible company, and it is highly rated by WWF-Russia (Tysiachniouk and Olimpieva, 2019). Company also declared its commitment to global standards on indigenous rights (e.g., through the ILO Convention, United Nations guidelines, and World Bank) while operating in the region. At the regional level, Surgutneftegaz provides economic assistance to the region through socio-economic agreements and implementing social programs. The company provides a level of material and financial aid in keeping with the amount of oil extracted in a particular territory. Since 2003, such agreements have been signed on a yearly basis between the region's governor and the head of the company (ibid.). According to these agreements, there are public discussions of the Company's operation plans (Corporate Human Rights Benchmark, 2017). Funds are channeled through the district administration, which makes decisions on distributing funds to local communities throughout the district (Tysiachniouk and Olimpieva, 2019).

Social programs and its support of local communities is viewed by Surgutneftegaz as a part of its corporate strategy. As such, the company targets not only the region as a whole, but also the specific territories where oil extraction takes place (ibid.), including indigenous peoples residing in traditional nature management areas where the Company carries out its operations.

The Company states that every business unit has special departments dealing with the indigenous population, who are responsible for collecting information about the arrangement of indigenous housekeeping, archaeological and sacred places, deer pastures and calving grounds with participation of indigenous people. The Company specialists carry on negotiations with the representatives of indigenous people about the subsoil use facilities layout in the territories of their residence and guarantee the execution of the reached agreements. The location of Surgutneftegas industrial facilities within the territories of indigenous people is planned, based on places of their residence and household outbuildings (Corporate Human Rights Benchmark, 2017).

If local residents have no formally designated TTNU, the company simply allotted by companies to local administration that, in turn, distributes it with only few consultations with the locals and little transparency.<sup>26</sup> For instance, in Beloyarsky District in KHMAO there are only a few recognized TTNU and no opportunities to use legal instruments to pay compensation money to specific households. The company allocates a certain sum to the local administration which then distributes it at its sole discretion. The amount of material aid and the procedures of distribution are not open to the public.

In comparison, indigenous people with registered TTNUs receive compensation for loss of use on the basis of individual standard agreements. The peculiarity of this case is that impacts are not measured, therefore compensation does not depend on how much loss of use has incurred; severely and lightly affected indigenous households receive the same amount of goods (Tysiachniouk and Olimpieva, 2019). In 2017, 1,235 representatives of the indigenous peoples residing in 106 TTNU concluded economic agreements with the Company. Under the agreements Surgutneftegaz granted over 166 million rubles (in 2016 – over 127 million, in 2015 – over 148 million) to indigenous peoples in Surgutsky, Beloyarsky, Oktyabrsky,

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<sup>26</sup> In regard to lands designated for reindeer herding in KHMAO, the major drivers for direct benefit-sharing arrangements between companies and indigenous peoples are determined by legislation.

Nefteyugansky and Khanty-Mansiysky districts where the Company carries out its operations. According to information provided by the Company, this sum includes “*quarterly and lump-sum compensation payments to the families, accommodation fees, costs of medical services, education (university and college education) and transportation, funds for the purchase of prizes and gifts for the celebration of traditional festivals of the indigenous people, and costs of materials and equipment acquisition (fuels and lubricants, working clothes, building materials, etc.)*” («Surgutneftegas» PJSC, n.d.). Additionally, in 2017, under these agreements, the Company provided the indigenous peoples with: 68 chainsaws, 61 snowmobiles, 25 motorboats, 87 boat engines, 48 power plants, over 697 tons of gasoline, over 27 tons of engine oil. Surgutneftegaz also provides employment for indigenous people at the company. Each year, the company reserves five pipeline monitoring positions for indigenous inhabitants of the district. In 2014, three indigenous people from Numto worked at the company. Additionally, the company provides all means of transport and roads in the territory. As part of company’s policy to preserve cultural traditions of local communities, Surgutneftegas sponsors national holidays and meetings of herders, fishermen and hunters, festivals and competitions organized annually on Reindeer Herders’ Day, provides support and transportation in extreme situations and subsidizes the traditional village economy, for example, by purchasing reindeer meat, berries and mushrooms from villagers as a form of income generation (Tysiachniouk and Olimpieva, 2019).

#### *4.3.6.1. Numto case: “Sacred Oil”*

The most resonance case of indigenous opposition to oil expansion in KHMAO is Numto park case. A discussion between the Surgutneftegas oil company and local indigenous communities around Numto has been on-going for almost two decades.

Numto Nature Park totals more than half a million hectares (about 7,218 square km). It is situated in the Beloyarsky district of KHMAO. In 1997, local activists initiated the foundation

of a nature park, “Numto,” to preserve the unique natural complex of local wetlands lake (endangered cranes and valuable wetlands) and protect the traditional way of life and culture of the Forest Nenets and Khanty peoples, who account for the largest proportion of the indigenous population in the park. The settlement’s residents are spread around the park’s territory: Khanty live in the western part; forest Nenets live in the eastern part of the park. The sacred Numto lake is worshiped by local people as the place of the earthly incarnation of the supreme god Num, who created the earth and the people; the village’s main religious ceremonies take place there as well.<sup>27</sup> With a population of 212, the village of Numto, the central reindeer herding settlement in the park, is located near the sacred Lake Numto. According to the local people and experts, the Numto settlement is the last remaining bulwark of the authentic Nenets culture in KHMAO. The Numto settlement’s economy is traditional, indigenous people are involved in reindeer herding, fishing, hunting and gathering (Tishkov, 2016; Potravny and Gassiy, 2016). Shortly after its creation, oil deposits were discovered at the territory of this nature park and became of high interest for oil or gas companies (Laletin, 2014). According to Russian legislation land use patterns without negative environmental impact are possible in nature parks. In other words, this “gap” in park’s regulations allows oil extraction activity, if it would be organized in line with “environmentally safe” technologies. In 1999, Surgutneftegaz acquired a license for the geological study and assessment of fossil fuel reserves in an area that overlapped with the Numto Nature Park. The company’s desire for rezoning and the administration’s interest in further production sparked a conflict between Surgutneftegaz and the both Khanty and Nenets living in the park.

According to zoning laws approved by the regional government in 2001, the park was divided into four functional zones and several protected areas to regulate different activities: natural ecosystems protection, subsistence activities (e.g. reindeer herding, hunting and fishing),

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<sup>27</sup> Generally, sacred places have a very low level of judicial protection and are not properly secured in Russian legislation.

tourism, and oil extraction. Since then, Surgutneftegaz has intensively developed oil fields and demanded to expand its areas of eight concessions in Numto Park (almost 63% of the park's territory). The most recent zoning attempt endorsed by the oil company occurred in 2014-2015, when the company initiated a process of rezoning of the park's territory to gain access to the wetlands, which previously were included in the park's wildlife zone and in the zone of indigenous peoples' traditional livelihood. The indigenous people living in the Park's territory were unanimous in their opposition to the change in boundaries and refused to give the company their consent for the new rezoning of the park (IWGIA et al, 2017). The concerns of the indigenous representatives have, however, been ignored (ibid.). On 28 October 2016, after several months of negotiations, the government of KHMAO approved new rezoning scheme of Numto National Park and granted the right to drill for oil in the area. The licenses for their exploitation were issued by regional administration. Due to the decline in oil revenues over the previous five years, regional administration is interested in expanding oil production. The company's growing influence on the region's economy and the national park's administration dependence on Surgutneftegaz's money for park maintenance and infrastructure exacerbates the existent inequality of power relations between the three actors (Tysiachniouk and Olimpieva, 2019). As a result, the nature reserve's borders were redrawn by the regional government to make way for new operations for Surgutneftegas. Wildlife zone and the zone of indigenous peoples' traditional livelihood within the park were crosscut by wide corridors of an oil-processing zone.

In February 2015, Russians across the country joined a call to protect Numto from the oil industry's advances. In 2016, EIA was conducted by the firm Ecomax, and public hearings were held in the city of Beloyarsk. Simultaneously, Greenpeace started a worldwide campaign to save Numto Nature Park from industrial development and challenged the quality of the EIA.

The Khanty people living in Numto have six registered TTNU around their reindeer herding and fishing grounds. They have standard agreements with Surgutneftegaz on socio-economic cooperation and compensation for damage. Forest Nenets people have neither formal registration of their land nor a standard agreement with the oil company. They receive financial aid through the Beloyarsky district (to which the Numto Park belongs) administration. In 2003-2004 first agreements about socio-economic cooperation and compensations to indigenous population were concluded between the company and local authorities; since that time the attitudes towards the company in the region has been improving. Every year the company provides about 20 million rubles to administration of the Beloyarsk district. Two-thirds of this money goes to the Numto residents. Within 13 years, under socio-economic agreements with Beloyarsk District and Administration of the Budgetary Institution of KHMAO – Yugra «Numto nature park», the company allocated more than 215 million rub. for “*construction of village hall, chapel, pre-fabricated residential houses, post office, village first-aid station, construction and furnishing of Park’s visitor center, delivery of building materials, fuels and lubricants aviation and motor transportation to the residents of Numto village, as well as financial support for the education of the children from indigenous families (via the state programs), support of the cultural events, such as reindeer festivals etc.*” The company also provides 7 working places per year for local citizens.

Rosneft has an agreement with KHMAO government as well (Rosneft, 2017). In 2018 Rosneft concluded 68 agreements with indigenous communities whose TTNU are located near or on company’s operation sites. According to those agreements, indigenous communities participate in coordination of company’s facilities building. The company pays compensation for traditional lands use and also provides support. Currently 558 indigenous representatives (162 families) receive financial support from the company. Rosneft provides families with gasoline, quarterly compensations, equipment needed for traditional economic activities of indigenous

communities (snowmobiles, boats, etc.), medical and transportation expenses (Rosneft, 2015). Also, one-time payment for the use of TTNU is paid by the company (Arhipov, 2018). According to Rosneft, it has a charity program to support indigenous peoples in the region. In 2017 Rosneft was recognized as the leader in accidents on its operation sites (10 accidents per day) (Znak, 2018).

#### *4.3.7. Agreements between indigenous peoples & companies: Chukotka AO*

Kinross currently has operations in its two mines: Kupol and Dvoynoye (Figure 8). Relationships between indigenous peoples and Kinross started in 2005, at the preparation stage of the Kupol mine. Open public hearings and regular meetings - at the mine site, in the communities, at important civic events were held every year beginning in 2006. In 2009, in seeking to comply with corporate and international standards on working with indigenous peoples, Kinross has created the Kupol Foundation - a formal and participatory program for socio-economic development of the Chukotka region. The main objective of the Foundation is to promote and support the sustainable socio-economic development of the Chukotka Region through four program areas: health, education, business development and indigenous peoples traditions. While the Kupol Foundation is not solely aimed at indigenous groups, it works directly with the indigenous peoples communities to encourage their self-determination and development of their traditional livelihoods.

Management is organized in three primary entities, the Board of Trustees, an Executive Director and a Commission for Competition related to projects and other initiatives. The organizational structure allows for participation and oversight from government and civil society members. Importantly, there are positions filled by leaders of from indigenous peoples communities and the major organizations representing their interests in the region. As such, under the Kupol Foundation governance structure, a representative of the Chukotka Regional Association of Indigenous Peoples of the North, Siberia and Far East along with seven indigenous persons are

included in the Commission for Competition (Kinross, 2016). In 2008, an agreement between the Company and the Chukotka Regional Association of Indigenous Peoples of the North, Siberia and Far East was concluded to help ensure that the benefits arising from Kupol-Dvoinoye operations reach the region's indigenous peoples. In 2013, the agreement was

**FIGURE 8 KUPOL AND DVOINOYE MINING SITES**



renewed with continuing prioritization of local employment, training, and support for traditional livelihoods, and adding focus areas such as community involvement in environmental monitoring, capacity building through local business, and active engagement with youth.

In December 2013, Kinross increased presence in the region following the opening of Dvoinoeye mine. A formal agreement was signed with the Association of the Indigenous Peoples of Chukotka and Northern Gold, subsidiary operating Dvoinoeye, as a Foundation co-sponsor. An environmental impact assessment for the Dvoinoeye mine was implemented in 2013. Since 2015, Northern Gold has contributed \$150,000 to the Foundation annually as well (Kinross, 2013). Together, Dvoinoeye and Kupol operations contribute \$400,000 annually to support the Foundation. Since it was established in 2009, more than 120 projects have received Foundation support and, by 2020, Kinross will have contributed about \$4 million to support the Foundation (from 2009-2015: 50,5 mln rubles) (Naumovski, 2016). Foundation managers conduct at least one formal public hearing a year to talk about its performance and build capacity and encourage community ownership. All disclosure meetings include information on the grievance mechanism and clear details of key managers responsible for the acceptance and processing of grievances (Northern Gold LLC, 2013). Development assistance is provided through competitive grants for financial support. Information on how the competitions are conducted is also publicly disclosed. Recommendations on funding are proposed by the board of regional stakeholders, with one-third of the \$250,000 annual budget directed to indigenous people's initiatives. Priorities include local employment, training and support for traditional livelihoods, environmental monitoring, capacity building through local business, and active engagement with youth (Association of Indigenous Small-Numbered Peoples of the North, Siberia and Far East, 2015):

- Kinross provides support to the indigenous peoples of the region (including Chukchi, Eskimo, Even, and others) through employment and training. In 2008 an on-site training center was created to help locals to acquire the skills to work at mining sites, after completion of which workers receive professional certifications from Chukotka's Department of Education. Additionally, every year, the North-Eastern Federal University sends students to Kupol and Dvoynoye for job training. In 2013, 39% of Kinross employees were indigenous representatives (Kolomiets, 2016). Kinross employment practices and results of local hiring are regularly reported through annual consultation. As of early 2018, about 120 of our employees in Russia are from indigenous peoples of the northeast and they are present at all levels of the operation (Kinross, 2017).
- In 2013 the School of Young Business leaders project was implemented. The project aims to encourage youth to develop managerial and leadership skills, promote culture and traditions of Chukotka's indigenous peoples, and support a healthy lifestyle. The YLS is an ongoing initiative and sessions will be held annually.
- Company also holds training and monitoring of ecological situation in the region. It has trained 26 community members, representing eight cities and settlements of Chukotka, to participate in our Environmental Awareness and Monitoring Program.
- The company supported the 2017 Indigenous Peoples Games at Kupol and instituted programs focused specifically on indigenous languages (Kinross, 2017). Other projects include the "All Together" project of the Chukotka Association of Indigenous Peoples, designed to transfer indigenous heritage to the next generation, and a coaching program for herders in the areas of Anadyr and Bilibino (Kinross, 2013).
- Reporting on all projects is provided online. Online reporting includes a list of projects, financial information and long- form version of activities for the year.

Kinross has claimed to have contributed about \$105.5 million in taxes, royalties and payments to governments within Chukotka (Kinross, 2013). In 2017 payments to the federal government, including royalties (6% for gold and 6.5% for silver), MET, income taxes and etc. were \$160,6 mln, (Kinross, 2017) while to Chukotka government \$590,000, to town of Pevek \$160,000 (Kinross, 2018). From 2008 to 2017 1 mlrd dollar was transferred from the company (tax, other payments) to federal and regional budgets (FIAC, 2018). \$217 mln in regional budget (105,5 mln in 2013) (Kinross, 2013) and 580,000 \$ to were transferred social initiatives in 2015 (Shimper, 2016).

Kinross highlights adherence to standards of World Bank, IFC and Federal OVOS Guidelines - specific guideline that defines the environmental impact assessment process in Russia, introduced by the State Committee of Environmental Protection through the Executive Order No. 372 (May 2000).

#### **4.4. Murmansk & Sakhalin Oblasts**

Contrary to Sakha and Komi republics and Khanty-Mansi and Chukotka autonomous regions, Murmansk and Sakhalin oblasts were not created as forms of ethnic nationhood, being administratively framed instead as common regions of Russia. Murmansk is one of the largest ice-free ports in Russia and has been the primary port city in the Russian Arctic since it was established in 1916. Region's development took place under an expansion of the industrial resource base. The USSR's northwestern border with NATO became one of the most militarized areas in the world (Berg-Nordlie, 2015). In 1987 Mikhail Gorbachev put the city on the world stage when he appealed for making the Arctic a zone of peace in his Murmansk speech (Gorbachev, 1996). With the population of 836,374, Murmansk region is one of the most densely populated areas in the Russian North. During intensive development in 1930s-1950s, the region saw a growth of population due to the inflow of migrants from other regions of the USSR. As such, the majority of the province's nearly 800,000 citizens are descendants

of Soviet-Era migrants from the south (Berg-Nordlie, 2015). Region's proximity to Western border and direct and convenient access to the ocean routes, contributed to the construction of region's image as a strategic "northern portal for transportation of Russian resources to Europe and America." (Mitrofanov et al., 2003).

Sakhalin oblast is Russia's largest island with a total population of 497,973 (Russian Federal State Statistics Service, 2010). Throughout history, Sakhalin and its residents had been within the Chinese, Russian and Japanese spheres of influence. In the seventeenth century Japan began to actively colonize the island, officially proclaiming sovereignty in 1807. Russian settlers ignored the claims and began to establish coal mines and other industry on the island. The Treaty of Shimoda (1855) forced the two countries to "share," and the Treaty of St. Petersburg (1875) gave Russia full control over the island. After the completion of the Portsmouth Treaty in 1905, the southern part of Sakhalin became Japanese territory. Japan maintained her ownership of this island for 40 years. When World War II ended in 1945, Russia dominated the island. A large number of Russians moved onto this island while most Japanese residents returned to Japan (Asahi, 2007).

#### *4.4.1. Indigenous Peoples*

The Russian Sámi are the indigenous people of Murmansk oblast. With population of 1890 people (Russian Federal State Statistics Service, 2010) Sámi represent one of the most small-numbered indigenous peoples of Russia (0.2% of the total regional population; *ibid.*).

Traditional types of farming of indigenous peoples are reindeer herding, fishing and hunting. As a result of Soviet policy towards indigenous peoples, the Sámi were forced into collectivization and transferred to sedentary life and relocated to larger settlements (Berg-Nordlie, 2015).

Distinguished feature of Murmansk's indigenous peoples is Sámi cross-borders cooperation. Russian Sámi form part of a larger nation whose traditional homeland – Sápmi – is also divided

between Finland, Norway and Sweden. A large majority of the Sámi live in these Nordic countries. The border-transcending nature of the Sámi has repeatedly caused security structures to take an interest in them. Since the Russian Sámi inhabit an area bordering Western powers and form part of a nation that transcends this border, they have been repeatedly accused of separatism (the most dramatic example being accusations of separatism during the Stalinist terror).<sup>28</sup>

According to the Russian legislation territories of traditional residence of indigenous peoples of the Murmansk region include three municipal areas: Lovozero (1079 people), Kola (243) and Terskiy districts and urban district Kovdor (147) (Figure 9, The list of traditional places of residence and economic activity of indigenous small-numbered peoples of the Russian Federation). These areas cover 70% of the Kola Peninsula (Koivurova et al., 2015). The



**FIGURE 9 MURMANSK DISTRICTS**

<sup>28</sup> This is not an entirely unique feature of the Sámi case, though. During the Stalinist terror, ethnic minorities were targeted all over Russia. The specific accusation of pro-Finnish activity was also used against Finnish-Karelian activists. <sup>28</sup> the consequences of Arctic natural resource development on Murmanskaya oblast (Gerashenko 2011).

majority of the Kola Sámi live in the Lovozero district of the Murmansk region (55% of the total amount and 70% of the rural Sámi).

Main groups of indigenous peoples of Sakhalin are Nivkh, Uilta (Oroks), Evenki, Nanai with a population of 4,034 (0.6% of the total population of Sakhalin, 2014) (Sakhalin Energy Investment Company Ltd., 2016).<sup>29</sup> The traditional economy of the regional indigenous peoples, as well as a large part of the regional economy in general, depends on salmon fisheries.

- The Nivkh are the most numerous of Sakhalin's recognized indigenous groups (at present numbering 3,086 people). Majority of Nivkh live in Okha and Nogliki Districts. Fishing and hunting were the main traditional occupations of the Nivkh.
- The Uilta (or Orok) are currently one of the smallest groups of indigenous peoples in the Russian Federation, the Uilta currently number 427 people. Prior to the Soviet period, the Uilta' economy was based on hunting, fishing and reindeer herding. Under the pressure from authorities, in the 20th century the reindeer herding became the primary subsistence activity. Uilta are concentrated in the village of Val and towns of Nogliki and Poronaisk.
- The Evenki are a small branch (numbering 314) of the Evenki who are also found in Siberia, Mongolia and China. They are engaged in reindeer herding. Most of them reside in the Alexandrovsk-Sakhalinsky, Nogliki and Okha districts of Sakhalin.
- Small-numbered Nanai migrated to Sakhalin in the wake of World War II. 207 Nanai live predominantly in Poronaisk district (Simdp.ru, n.d.).

Figure 10 conveys the location of the seven officially recognized areas of traditional indigenous residence on the island:

- Alexandrovsk-Sakhalinsky District
- Nogliki District
- Okha District

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<sup>29</sup> and other ethnic groups—80 people

FIGURE 10 SAKHALIN ISLAND DISTRICTS AND PIPELINES ROUTES



- Poronaisk District
- Smirnykh District
- Tymovsk District
- City of Yuzhno-Sakhalinsk

Alongside Sakhalin's indigenous communities, Ainu - Japanese indigenous people - were the oldest residents of the island. It has been reported that at the end of the 19th century, approximately 1500 Ainu lived in Russia (Goble, 2011). Since the Japanese officials claimed that all territory inhabited by the Ainu was a part of Japan, the Russian Ainu were forbidden from identifying themselves as such by the Tsarist authorities. During the Soviet regime, persons with Ainu surnames were often mistaken for the Japanese and sent to labor camps. As a result, large number of Ainu had to take Slavic family names. In order to eradicate the Ainu identity completely, the Soviet government removed the ethnic group from the list of Russian ethnic nationalities. After the Second World War, being caught up in a territorial conflict between Russia and Japan, most of the Ainu living in Sakhalin were deported to Japan. Many of those who preferred to stay have been consequently assimilated to the population of the Russian Far East. Since the Ainu are not included in the official list of indigenous peoples of Russia, some of them are counted as ethnic Kamchadals.

#### *4.4.2. Regional legislation*

Regional legislation of Murmansk oblast fixes the status of Sámi as indigenous peoples and confirms mechanisms of state support and protection for their livelihood (Koivurova et al., 2015). Charter of Murmansk Oblast supports indigenous Sámi in realisation and protection of their rights (Amirova et al., 2017). Regional legislation on indigenous peoples of the Murmansk region is represented by the following laws:

- “On State support for Numerically Small-Numbered Indigenous Peoples of the North, conducting traditional economic activities and crafts in the Murmansk region,” adopted in 2008;
- “On Reindeer herding in the Murmansk region” adopted in 2003 regulates the activity of large enterprises and provides for the state support and protection for reindeer herding (Koivurova et al., 2015).
- “On List of remote regions and territories of traditional residence of indigenous peoples of Murmansk oblast” adopted in 2003 (Murmansk Regional Government, n.d.)

Funding of state support programs cover various issues of social, economic, and cultural development of the indigenous peoples: regional festivals, measures to ensure the preservation of traditional ways of life and traditional economic activities, to organize a series of ethnic and cultural events and revive sacral holidays, social support of the indigenous population of the island region.

With the exception of those living in Russian North, all of the Sámi have their own Parliaments. In 2008 the first Congress of Sámi of Kola Peninsula elected the representative body of Sámi people of Murmansk oblast – the Council of authorized representatives (dissolved in 2018). The provincial authorities did not recognize the election of the Council as valid and created the “equipoise” - Council of Indigenous Small-Numbered Peoples of the North under the regional government. The Council of representatives was formed by authorities for legitimization of the government decisions on indigenous issues. This Council consisted of representatives of Sámi obshchinas, a representative and a member of district’s government, one Sámi member of provincial Public Chamber (Berg-Nordlie, 2015; Murmansk Regional Government, 2009). In 2010 pro-Parliament activism came to a peak as a congress of Sámi activists launched a self-declared Sámi Parliament (dissolved in 2018) (Gerlach and Kinossian, 2017). In 2014 the Sámi Assembly of Kola Sámi was established (Sam’ Sobbar) by region’s indigenous peoples (Kropp

et al., 2017; Assembly of Kola Sámi, 2018). Additionally, there are two regional organizations who represent Sámi people in the region and are recognized by the Russian state: Association of Kola Sámi and Sámi Civil Society Organization.

In the meantime, Sakhalin is one of the constituent entities of the Russian Federation, where, in addition to federal laws, the local legal framework is actively developed and largely put into practice relating to the indigenous peoples of the North (Funk, 2015). The regulatory legal acts issued by the Sakhalin Oblast cover the issues of social, economic and ethnocultural development of indigenous ethnic groups. The charter of the Sakhalin Oblast specifies that state authorities need to provide protection to the homeland and traditional way of life of indigenous communities, and need to make decisions on the creation of territories of traditional nature use and on benefits from the use of natural resources (Articles 12 and 73).

The main regional law on indigenous peoples is On Legal Guarantees of Protection for Sakhalin Indigenous Minorities of the North's Primordial Habitat, Traditional Lifestyle, Economic Activities and Crafts (Law No. 72-ZO, 2006). It proclaims principles of this protection, including admissions of potential danger of any planned economic or other activity for the traditional lands and way of life of indigenous peoples; responsibility for ecological, social, economic, and other negative consequences from economic and managerial decisions in cases of activity connected with the use of nature resources; achievement of conscious and voluntary consent from indigenous peoples for the use of lands of traditional habitat and traditional economic activity; the obligation to conduct impact assessment and corresponding assessment of compensation for losses to the native homeland and traditional way of life of indigenous peoples; the provision of state support for recovery, preservation, and development of traditional way of life and economy, traditions, customs, cultures, and languages of indigenous peoples; and the creation of conditions for the study of native languages in education institutions (Article 4).

Importantly, industrial development on the traditional lands of indigenous peoples is permitted in cases where impact assessments and ethnological expertise (expert reviews) on the traditional lands have been conducted, and where final agreements have been reached with indigenous peoples about appropriate compensation and provision of participation from indigenous representatives in the monitoring of the industrial activity. These agreements can contain conditions to pay a certain portion of the profits from the development to indigenous peoples (Article 8). Other legislative acts regarding indigenous rights include (Sakhalin Energy Investment Company Ltd., 2010):

- Decree of Sakhalin Oblast On organization and implementation of Ethnological Expertise in the Places of Traditional Residence of indigenous peoples of the North of Sakhalin Oblast (No. 45-pa of 14 March 2007)
- Law On Preservation and Development of Traditional Crafts of Indigenous Minorities Residing in the Sakhalin Oblast (No. 207-ZO of 12 September 2000)
- Law On a Representative of Indigenous Minorities at the Sakhalin Oblast Duma (No. 463 of 31 December 2003)
- Law On Languages of Indigenous Minorities Residing in the Sakhalin Oblast (No. 91-ZO of 16 November 2007)
- Law On Education in the Sakhalin Oblast (No. 75-ZO of 01 August 2008)
- Law On Delegation of State Powers of Sakhalin Oblast to Local Self-Government Authorities in the Area of Protection for Sakhalin Indigenous Minorities of the North's Original Habitat, Traditional Life Style, Economic Activities and Crafts (No. 31-ZO of May 2015)
- In accordance with Regulation of the Sakhalin Oblast Government No.57 dated 03 July 2015 On Establishing Limits for Catching Aquatic Biological Resources to Meet the Personal Needs of the Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation and Persons not Belonging to Indigenous Peoples but Residing in the Areas of

Traditional Residence and Traditional Economic Activities, for Whom Fishing is the Basis of Subsistence, the limits for catching aquatic biological resources to meet the personal needs of SIM have increased (salmon species—300 kg per person) (Sakhalin Energy Investment Company Ltd., 2016).

The protection of indigenous rights and interests are implemented through the Regional Council of the Authorized Representatives of the Indigenous Minorities of the North of Sakhalin and by an Indigenous Minorities' representative in the Sakhalin Oblast Duma. The Council is representative body of Sakhalin indigenous peoples. It helps to build cooperation between public authorities, municipal district governments and indigenous peoples' non-governmental organizations for the protection of indigenous constitutional rights, habitats and traditional lifestyles. It is particularly important that local councils of authorized representatives of indigenous peoples were established and now operate in all municipalities.

#### *4.4.3. Created TTNU & Obschinas*

In Sakhalin and Murmansk regions TTNU are not designated. This means that no compensation is required on the side of the companies.

There are 37 communes in Murmansk (Murmansk Regional Government, n.d.). Unfortunately, even though obschinas are actively created, they are poorly developed. The reindeer herding industry of the Kola Peninsula is localized to Lovozero district. Main pastures and two large herding cooperatives created in Soviet era “Tundra” and “Olenevod” are located here (Kuchinskiy, 2011). Out of 58,000 reindeers these enterprises own 49,300. The rest 8,000 belong to indigenous obshchinas, private entities, etc. (Sami are forced to pay for reindeer pasture, 2012). The majority of Sámi people work at these enterprises as employees, where they constitute only 17% of the total staff (all indigenous people, including Komi and Nenets constitute 35%)(Koivurova et al., 2015). In 2018 the Ministry of Natural Resources and Ecology of Murmansk region opened an auction for hunting area in Lovozero district covering

the reindeer pastures. As a result, 72,715,66 ha was given to the hunt club “Bezrk” who won the rent contract for the term of 30 years (Arctic Consult, 2019).

Amongst all the obschinas in Murmansk only 6 deal with reindeer herding (Murmansk Regional Government, n.d.), however these do not play an important role in the regional reindeer herding activities, as they have small herds and use only 4,5% of the total pasture (Koivurova et al., 2015). As shown by Vladimirova (2006, 2009), obshchinas in the region have turned into tourist or other entrepreneurial ventures, bearing little connection to herding.

In Sakhalin grant funding from international companies has assisted in the institutionalization of social organizations, tribal communities and enterprises. Starting in the early 2000s, many indigenous groups legally registered and began to receive financial support. In 2015 there 73 indigenous communes registered in Sakhalin, including 19 communities registered in Nekrasovka, 18 in Okha, 8 in Nogliki, and 23 in Poronaisk (Guldin, Valdu and Kon'kov, 2015). Corporate funding enhances the indigenous people possibilities to perform traditional activities, and is especially helpful to older residents who do not possess alternate means of earning an income (Tysiachniouk et al., 2018).

#### *4.4.4. Type of industry*

While Murmansk region is characterized by a powerful mining and chemical complex, which includes ferrous and non-ferrous industries, in Sakhalin extraction of oil and natural gas drives island's economy.

There are 60 big deposits on Kola Peninsula with different types of minerals (copper-nickel, iron, apatite and nepheline ores and ores of rare metals). All of the mining enterprises of the Kola mining complex were founded in the 1930s–1950s. The enterprises focus on extraction and processing of mineral resources, industrial production of copper, nickel, cobalt, semi-precious metals, primary aluminum, electricity and chemical products, fishing and fish processing (Trubkina, 2011).

The Shtokman gas field - one of the world's largest natural gas fields - is located in the Barents Sea 600 km north of the shores of the Kola Peninsula. It is strategically significant not only in the regional scale but also in the national one. The prospect of developing the Shtokman field was first pursued in the early and the mid-1990s. In 2005, Russia-Norway and Russia-France cooperation agreements were signed to develop this field with Gazprom as the main operator. Eventually, Statoil and the French company Total joined a consortium with Gazprom, called the Shtokman Development AG, in 2008. Yet, exploration never took off after the 'shale revolution' in the US drove down gas prices in what had been a target market for liquefied natural gas from the Shtokman field. The shareholder agreement expired in July 2012, and the costly and challenging nature of the project makes Shtokman a daunting prospect for any company operating in today's gas markets.

Sakhalin has long been a resource periphery for Russia. For most of the twentieth century, industries based on the extraction of forest, fish, and onshore oil resources dominated local production (Sakhalin Energy, 2006). The oil and gas industry is one of the oldest in the Sakhalin Region. Oil exploration on Sakhalin island started in 1920; major reserves were discovered in the early 1990s. In 1999, primarily due to the offshore oil and gas development, the Sakhalin economy began to improve (*ibid.*). The offshore area to the east of Sakhalin Island is home to a number of large oil and natural gas fields that have received significant attention and investment from international companies. Currently, over 95% of proven oil reserves are being developed on Sakhalin island while the majority of oil fields are in the final stage of development. Fifteen oil and gas fields were discovered on Sakhalin island's continental shelf (Federation Council of the Federal Assembly of the Russian Federation, n.d.).

#### *4.4.5. Companies Involved*

Main companies located in areas of traditional Sámi residence in Murmansk are Russian enterprises: Lovozero Mining and Processing Plant, Kola Mining and Metallurgical Company, a subsidiary of Norilsk Nickel, Kovdor Mining and Processing plant.

Lovozero mining and processing plant is situated in Lovozero district and is mainly involved in production of loparites. In recent years, due to the low demand for the production, the enterprise is in difficult economic situation. The Kovdor mining and processing plant, the second largest producer of apatite concentrate in Russia, has been operating since 1952 and is an important economic backbone for the whole district. The enterprise includes two operating mines and an industrial site for ore dressing. Moreover, there are rich reserves of minerals including rare metals and alumina in the district (Eurochemgroup.com, n.d.). Kola Mining and Metallurgical Company, a subsidiary of Norilsk Nickel is located in Murmansk's Pechenga district, Kola MMC develops copper-nickel sulphide deposits at the Zhdanovskoye, Zapolyarnoye, Tundrovoye, Kotselvaara-Kammikivi and Semiletka Fields as part of Pechenga ore fields. In addition to those, Pechenga ore fields include the Sputnik, Bystrinskoye and Verkhneye Fields, and Kola MMC also holds an exploration and mining licence for them (PJSC "MMC "Norilsk Nickel", 2017).

After experiencing an oil-boom in the post-Soviet years, Sakhalin has seen an influx of companies who were hot on the heels of oil discovery in the region (Federation Council of the Federal Assembly of the Russian Federation, n.d.). Sakhalin is unique in Russia's oil and gas landscape because of the presence of multinational joint-ventures (Graybill, 2009). The leading companies are represented by two large private, transnational oil consortia – Sakhalin-1 and Sakhalin-2 operate in the region in since 1996 and 1994 respectively. Both consortia involve transnational corporations and Russian companies, operating in the same local context and involved in offshore oil development, including exploration and production (Annex 7).

Sakhalin-1 is one of the largest oil and gas projects in Russia, measured by level of foreign investment. The consortium operator is ENL, a subsidiary of the US company Exxon Mobil, which owns 30% of the shares. The Russian company Rosneft is represented in the consortium through two subsidiaries: RN-Astra (8,5%) and Sakhalinmorneftegas-Shelf (11,5%). In addition, the consortium includes the Japanese company SODECO (30%) and the Indian state oil company ONGC Videsh Ltd (20%).

Sakhalin-2 is a consortium led by the operator Sakhalin Energy founded in 1994 by three companies – Royal Dutch Shell, Mitsui Co. Ltd, and Mitsubishi Corporation.

The Sakhalin-1 project develops three oil and gas fields offshore in the northeastern coast of Sakhalin Island. Sakhalin-2 project, also includes three offshore oil and gas platforms, 15 kilometers off the Russian island of Sakhalin, in the North Pacific Ocean, located just north of Japan, off the east coast of Russia. Both groups have associated infrastructure on the island as well. Unique aspect of Sakhalin-2 is that, until December 2006, it was the only large-scale energy project in Russia operating without a Russian partner (U.S. Energy Information Administration, 2017). In late 2006, the federal government issued an injunction against the company. Sakhalin Energy ceded majority interest in Sakhalin-2 to Gazprom, Russia's state-owned gas company, on December 21, 2006 (Gazprom (50%), Shell (27.5%), Mitsui (12.5%) and Mitsubishi (10%)(Graybill, 2009).

#### *4.4.6. Agreements between Indigenous peoples & Companies: Murmansk*

##### *Oblast*

According to the general view, the mining sector does not have an impact on the Sámi in Russia, as mining activities are conducted elsewhere (Vinogradova and Masloboev, 2018). As such, the existing literature emphasizes the existing enterprises do not do any harm to the Sámi. The resettlement and loss of territories are perceived by Sámi and other informants to be a result of

the Soviet policy in general, and not the development of mining in the region. On the whole, the interaction of the company and the Sámi comes down to sponsorship of various cultural affairs.

Lovozero Mining and Processing plant is located far from the areas used by the Sámi. According to the company representatives, the mining sector does not influence either the Sámi livelihood in general, or reindeer husbandry in particular, because their territories do not overlap. The mines are located in the mountains which are not suitable for being pastures. Lovozero Mining and Processing plant have only underground mines, which typically have a small spatial extent can be used even in nature reserves and parks (Horowitz et al., 2018).

Due to the fact that the Russian mining legislation does not include any provisions related to indigenous peoples, the enterprises do not bear any responsibility towards them and relations with the Sámi are not stipulated in mining companies' policies; and, thus, have minimum communication. The local administration provides a request for financing to the company. Lovozero supports indigenous cultural events such as the North Festival, and cooperates with the "Tundra" farm.

Kovdor company does not mention indigenous peoples in their policy. As part of its sustainability initiatives, the company provides support for spheres such as health care, education, sports and culture development; aid to public organizations, veterans of war and labor, retirees and disabled, orphanages, sponsorship of youth events and local and regional initiatives (Eurochemgroup.com, n.d.).

Nornickel subsidiary, Kola Mining and Metallurgical Company does not operate on indigenous lands. However, it is reported that its effect on region's environment is disastrous (Ministry of natural resources and ecology of Murmansk, 2015). In fact, Nornickel is the world's biggest nickel producer and historically one of the country's biggest polluters (Digges, 2019). Its main operation sites are located in Krasnoyarsk krai. In 2016 the company was recognized

responsible for a spill at one of its plants that turned a river in the Russian Arctic blood-red (Figure 11).

Nornickel has introduced its Indigenous Rights Policy on February, 2, 2018, that was cited as an important event by indigenous representatives (Norilsk Nickel, 2018 (Todishev, 2018)).

**FIGURE 11 RIVER WATERS IN NORILSK TURNED BRIGHT RED**



In case of international companies, one of the successful examples of indigenous participation in industrial operations was the project of “Fedorova Tundra” in the Lovozero district. The Fedorova Tundra is a complex deposit of copper, nickel and platinum-group elements. The exploration and production license currently belong to Fedorovo Resources ZAO, established by the Canadian gold mining company Barrick Gold (one of the largest gold mining companies in the world), and to the Russian geological prospecting enterprise Pana JSC. The project had active interaction between a mining company and the Sámi. The project implies the deposit development by two mines with a total annual capacity of no less than 12 million tons of ore. The construction of a processing plant was planned to produce ore concentrate. At present however, the project is frozen due to economic circumstances.

Nevertheless, the company performed some intensive work and research in the deposit area between 2007 and 2008, including coordination with indigenous population. There were consultations and an agreement with the local administration and public organizations. A support fund was established with the aim to finance publication of materials and support other related activities (Koivurova et al., 2015). Community liaison offices had been working for two

years and the local population could receive information about the projects and share its suggestions and views. Several open public discussions were organized. Special attention was paid to the sphere of reindeer herding and in particular, an agreement with reindeer farmers was achieved in relation to the construction of barriers around the pastures. Training courses for the representatives of the indigenous peoples in order to teach indigenous communities how to make applications for the financing of socially oriented projects and how to further compete in such projects. On the initiative of the local population, the construction of a playground and repairs to a local school were also financed. According to the representatives of the mining complex, Fedorova Tundra was a unique and untypical project for the Murmansk region. The increased attention paid to the local community is explained, expectedly, as being the initiative of the Canadian project partners.

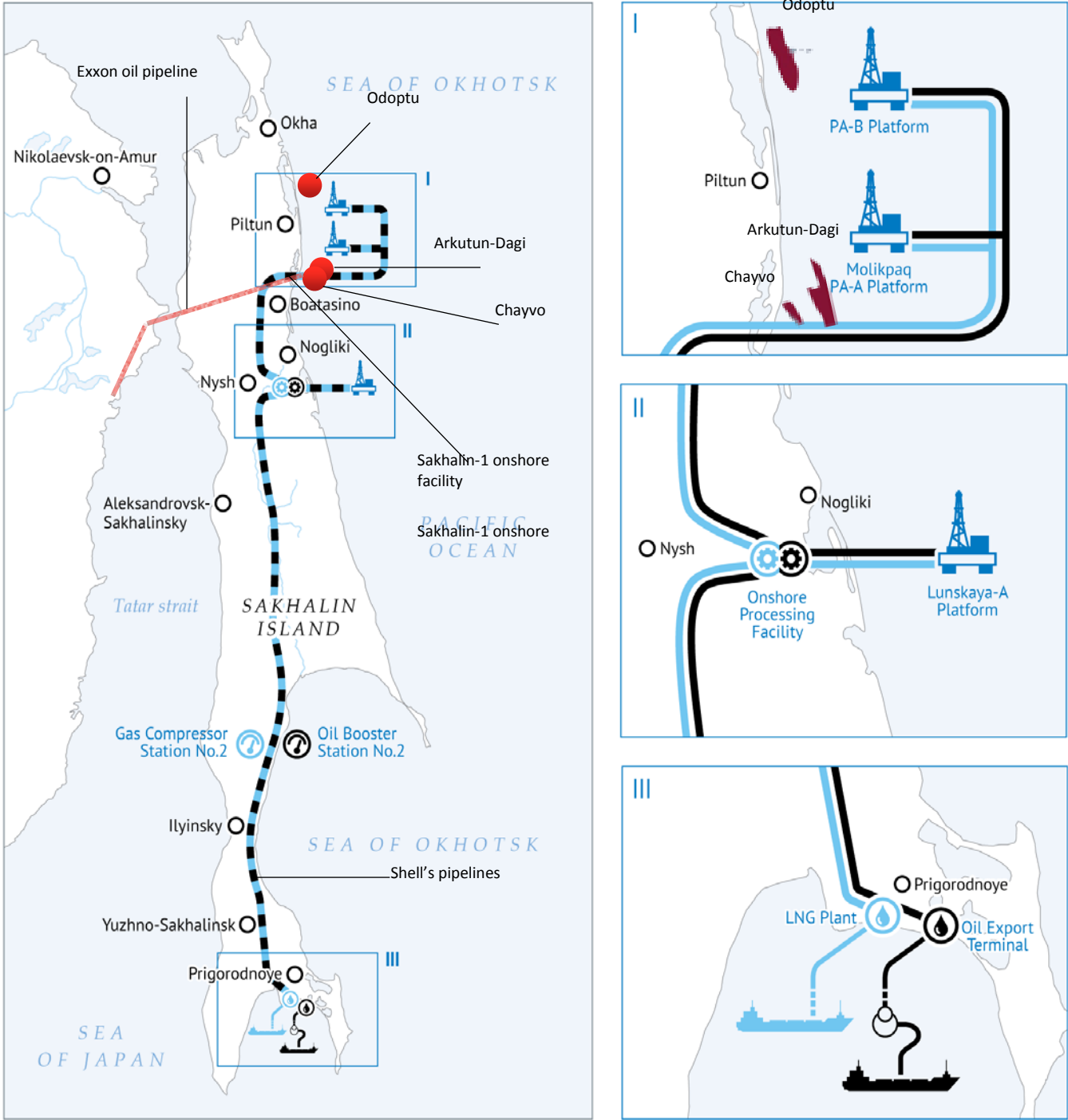
#### *4.4.7. Agreements between Indigenous peoples & Companies: Sakhalin*

##### *Oblast*

In the case of Sakhalin (Figure 12), the partnership agreements concluded by regional indigenous groups and Sakhalin Energy are considered one of the Russian most successful practice of indigenous peoples participation in extractive projects. The case has contributed to the development of the UN Guiding Principles on Business and Human Rights. In addition, in 2007, the IFC included the outcomes of Sakhalin Indigenous Minorities Development Plan -1 into its edition “Stakeholders Engagement: a Guide of Successful Practices.”

Sakhalin Energy, the joint venture initially led by the Anglo-Dutch Shell, was the first to conclude an agreement with indigenous population. In 2005, the company designed the Sakhalin Indigenous Minorities Development Plan (SIMDP), a tripartite partnership agreement

FIGURE 12 SAKHALIN-I AND SAKHALIN-II OPERATION SITES



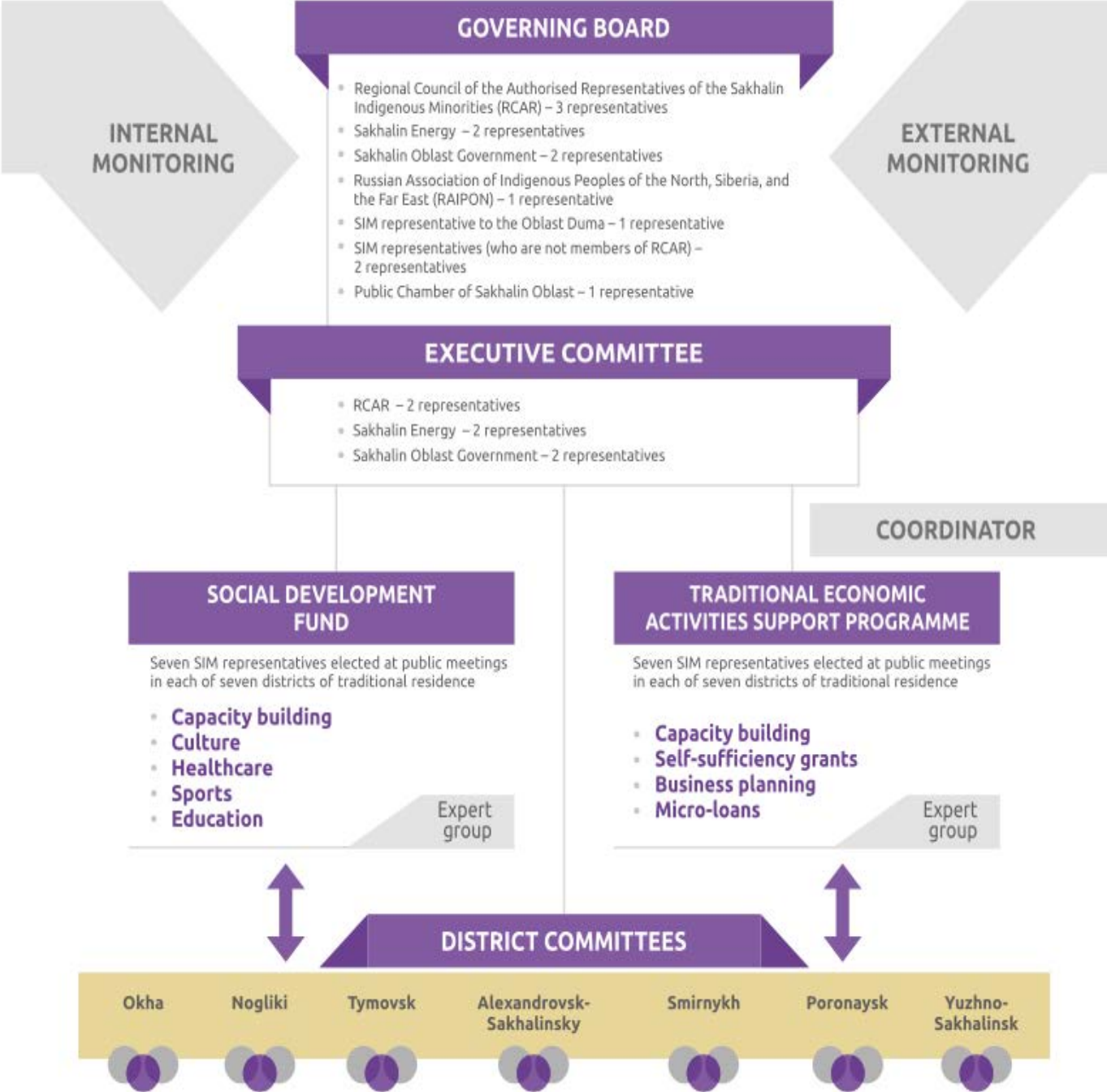
Gas pipelines (Sakhalin-2)  
Oil pipelines

Source: Gazprom, 2016

between Sakhalin Energy, the Sakhalin regional government, and the Regional Council of Authorized Representatives of the Sakhalin Indigenous Minorities.

SIMDPs have become the main venue for the delivery of benefit-sharing arrangements to indigenous people by Sakhalin Energy (Figure 13). Company officials and the authorities

**FIGURE 13 SAKHALIN-II SIMDP STRUCTURE**



- Local Councils of Authorised SIM Representatives - 2 SIM representatives
- District Administration – 1 representative (assigned by Head of Local Administration)

Source: Sakhalin Energy Investment Company Ltd., 2016

cooperated in the plan development. But the main management role (the right to choose which social projects get implemented, distribution of funds) has been delegated to representatives of the indigenous people. Therefore, indigenous peoples received an opportunity to decide how their social-cultural development would take place. The plan includes local residents in discussing issues, determining the priorities and distributing the funds, and makes sure that their interests and needs are taken into account. Markedly, the plan applies to all regional territories populated by indigenous peoples, even to areas where Sakhalin-2 does not operate.

Each development plan covers a period of five years and every regulator body includes representatives from each of three partners – the company, the state and indigenous peoples (Sakhalin Energy Investment Company Ltd., 2016).

- SIMDP1 (2006-2010): Funding was set at US\$300,000 per year.
- SIMDP2 (2011-2015): Funding was set at US\$312,000 per year.
- SIMDP3 (2016-2020): Funding was set at US\$320,000 per year.

The SIMDP prioritizes socioeconomic development of region's peoples with the Social Development Fund and the Traditional Economic Activities Support Program responsible for each domain. Each program has its own managing committee consisting of seven indigenous representatives (Tysiachniouk et al., 2018). Additionally, two Experts Groups were instituted to advise the Social Development Fund and the Traditional Economic Activities Support Program (Sakhalin Energy Investment Company Ltd., 2016). Also, seven District Committees have been created as locally grounded representative bodies (Tysiachniouk et al., 2018).

The Social Development Fund is designed to assist with healthcare (such as denture treatment, eye treatment and emergency hospitalization), cultural, and educational projects (including payments for education and accommodation), as well as capacity-building. Traditional Economic Activities Support Program, in turn, provides financial support for the development of traditional business activities and indigenous family enterprises, capacity-building. Notably,

international companies also try to stimulate the local residents to realize their own projects as a part of Mini-Grant Fund. Within this program, the Company approve grants to support dog breeding, purchasing processing equipment, and the revival of national languages, financial support to buy necessary equipment, such as motors, machine tools, boats, and other equipment (Tulaeva and Tysiachniouk, 2017).

As part of the plan, a grievance mechanism was established to ensure transparency and accountability, that is exceptionally rare in contemporary Russia. Sakhalin Energy Grievance Procedure for indigenous people regulates the process of receiving and submitting their complaints and resolving grievances related to the implementation of the Sakhalin Indigenous Minorities Development Plan 3. There is regular dialogue with the indigenous residents on the social and ecological aspects of the companies' activities. Companies actively inform the population about their extraction efforts and monitors the mood of the population. As a result, indigenous peoples are well informed about future projects of the companies. At the same time, although they participate in companies' developments through the complaint procedure, they do not have a right to veto (ibid.).

The agreement also launched a community development and assistance plan for the indigenous peoples of Sakhalin region, which still operates today, and devised several social programs that serve not only indigenous people, but all residents of Sakhalin, such as the Fund of Social Initiatives 'Energiya', a competitive grant program to support local projects led by NGOs (Tysiachniouk et al., 2018)

Because of its reliance on investment from international banks, Sakhalin Energy is subject to annual third-party evaluations. Alongside internal expert groups, external monitoring is reported to include social science professional with extensive international experience and expertise in indigenous peoples' program development and supervision, and implementation of international social development standards (Sakhalin Energy Investment Company Ltd., 2016).

In these evaluations, international and local experts as well as indigenous people have an opportunity to express their opinion and comment on how benefits are allocated and distributed (Tulaeva and Tysiachniouk, 2017). Sakhalin II also initiated the ethnological assessment of its project on indigenous groups of the region by engaging both Russian and international experts. All methodology has been published on the company's website (Funk, 2018).

Contrary to Sakhalin Energy, other major companies operating on Sakhalin, such as Rosneft and Exxon Neftegaz Ltd, followed different path. The operator of Sakhalin-1, ENL, developed its tripartite partnership significantly later than Sakhalin Energy. In 2012, the company concluded a tripartite agreement with the Sakhalin regional government and the Regional Council of Authorized Representatives of the Sakhalin Indigenous Minorities. ENL has not taken any loans from international banks, and, therefore, was not influenced by risks to lose investment. Instead, the Sakhalin-1 consortium came under pressure to engage in a tripartite agreement from the achieved success of the Sakhalin-2 model and regional state officials who wished to have more influence in grant funding. Following this agreement, the three parties became partners on the Advisory Committee that allocates grants (Tysiachniouk et al., 2018). However, decisions on grant recipients are made by representatives of the company, the state and indigenous peoples collectively, therefore, indigenous preferences can be overridden by state and company representatives (ibid.).

Exxon's zone of support for social programs for the indigenous peoples is narrower than the area that Sakhalin Energy addresses. Exxon provides financial support for fewer focus areas, which are education, culture, and healthcare. It distributed grants only in the regional territories where it operates – in Nogliki and Okha, thus the benefit-sharing arrangement incorporated grant funding available to communities where companies' operations are in place, excluding other island communities. From 2002 to 2015 the company funded over 4000 charitable programs with total funding of charity projects, preservation of indigenous cultures and national

languages, educational training was 2 million US dollars (Exxon Neftegas Limited,n.d.). In 2016 alone, ENL sponsored 74 projects on indigenous peoples cultural projects, development of health, sport and education systems with a total amount of 23, 7 mln rubles (Agnyun, 2017). Additionally, about 300 social initiatives in education, health, arts, and children athletics worth approximately 3 million US dollars were funded in the areas of compact settlement of the island's indigenous peoples in Okha, Nogliki, and Ulchi districts.

Also, in accordance with its corporate standards, Exxon distributed funds only to organizations, not individual households, for educational, cultural and social projects (schools, libraries, recreation centers, tribes, and so on). No grants to support traditional economic activities have been developed by the consortium.

In order to receive grants, indigenous peoples must submit application to the company. ENL organizes trainings to demonstrate indigenous people the procedure of filling the application and other formalities. In relation to communication with indigenous peoples, Exxon has a network of coordinators - a team of six indigenous public relations specialists, from Yuzhno-Sakhalinsk and neighboring villages (Nogliki, Val, Okha, Nekrasovka) and company representatives who interact with the residents at the local level. They are responsible for holding meetings with local people and providing regular reports on the events held in the towns and villages (Tulaeva and Tysiachniouk, 2017). According to local people, support of Exxon is limited to sponsorship of cultural events and reindeer herding (Funk, 2015).

As recent news headlines about Sakhalin suggest, controversy over Sakhalin-2 continues and indigenous peoples are largely concerned with the prospect to lose the progress achieved during their 2005 protests. This particularly concerns construction of facilities by Exxon in Piltun Bay and absence of mandatory ethnological expert review (IWGIA, 2014b). Indigenous groups together with environmentalists are extremely concerned with the salmon fishing, the condition of the region's rivers and streams, and poaching (Pereltsvaig, 2014). The recent case happened

in early June 2018 when 450 tons of dead herring which covered about 40 km of the shoreland were found in the Sakhalin Piltun Bay. The responsibility for the accident was put on Exxon, (Funk, 2015).

Separately, Russian companies operating in Sakhalin, usually participate in support and developing of infrastructure on Sakhalin, such as, in case of Gazprom, roads, hospitals, bridges, airports and seaports. A deputy director of the Department of Indigenous Affairs states: “We contact Gazprom as the occasion requires. In other words, we contact them only when we need a certain sum for certain purposes.” Company does not give money directly to indigenous groups, but instead responds only to requests from government bodies. According to Gazprom, it *“feels responsible for the future of the Northern indigenous small-numbered peoples in areas where the Group pursues projects as part of its core activities. In particular, Gazprom runs a wide range of initiatives to protect the national identity, cultural heritage and traditional activities of indigenous communities, and is committed to protecting their rights”* (Gazprom, 2016).

In the annual report of Rosneft which has been operating in Sakhalin since the 1960s, support for indigenous peoples is cited under the charitable support section and includes: social infrastructure expansion, aid for veterans, disabled people, and company’s employees; healthcare and disease prevention; schools, vocational schools, and universities. In the sustainability report 2017 it states that support for indigenous peoples is one of its traditional charity focuses, and describes some of the activities promoted. However, although it describes initiatives in economic, educational and other improvements, no evidence found in relation to the specific processes to identify and recognize potentially affected indigenous peoples (Rosneft, 2017). In contrast to ENL, Rosneft provides funds only through local and regional authorities It also builds relations with local governments at sites where Rosneft is in charge of operations through socioeconomic cooperation agreements. Usually, priority in the

implementation of programs goes to social investments, the construction or repair of social infrastructure, such as sports and education facilities, and the resolution of ecological problems. In the absence of a regular monitoring system for public opinion, indigenous communities do not have the opportunity to complain directly to the company.

All in all, for Russian companies working in the region, it is more important to build personal relations with authorities than directly addressing local population. There is, therefore, less stability in relations with communities, and funding is often intermittent. Decisions about social investments are made by the leadership of the company based on the results of discussions with representatives of the regional and municipal authorities. As a result, there are no clear and transparent procedures for decision-making in relation to the development and implementation of companies' programs. As such, indigenous residents practically do not participate in discussion of any activities of the company.

## CHAPTER V

### FINDINGS & DATA ANALYSIS: Trends & Countertrends

The previous chapter has explored indigenous peoples' rights in six regions of the Russian North. Drawing upon analysis, several forms of indigenous disempowerment initiated and implemented by federal, regional governments and companies and major set of strategies pursued by different actors to regulate relations between indigenous people and national and regional legislation, corporate policies of companies have been identified.

Firstly, federal laws laid the foundation for indigenous rights and sets the tone for all country via three indigenous laws, specially targeted programs, etc. In particular, in order to accommodate indigenous claims on land and traditional economy, special measures such as TTNU and Obshchinas were created. Secondly, territorial-administrative structure created as the forms of nationhood also influences implementation of indigenous rights and sets conditions for indigenous rights' realization in the region. And finally, the most recent form of indigenous participation in economic development that can either facilitate indigenous participation in decision-making processes or contribute to their marginalization is negotiating agreements with resource companies and participating in environmental impact assessment processes. Given these points, some nuances and exceptions that can be explained by the status of the indigenous nation, historical background, protests and movements, presence of strong local leader, international companies operating in the region and transcending nature of indigenous groups have been observed.

Additionally, the chapter is supported by the analysis of questionnaires results. In total, 71 indigenous representatives have been surveyed (Annex 8). All of the respondents live in six examined regions. Part (23%) of respondents are students, retired, and citizens engaged in traditional economic activities (hunting, fishing, reindeer herding), while the majority (77%) is,

to different extent, engaged with indigenous or other activism work (regional indigenous and ecologic organizations, obshchinas, cultural organizations, research institutes, etc.).

### **5.1. Republics & Autonomous Okrugs: Bigger population, Better legislation?**

It is evident that regional variations of indigenous rights are developing across the Russian North. This variation partially stems from the territorial division of the country. *The question is, have the Republics and Autonomous okrugs provided better conditions than other regions of the Russian Federation, for their indigenous population?*

A large number of autonomous okrugs and national republics were created during the Soviet period (Miggelbrink, Habeck and Koch, 2016). The USSR encompassed 15 national territories, each assigned to a Union-level republic status. The largest of these republics was the Russian Soviet Federative Socialist Republic (RSFSR), whose population, although predominantly comprised of ethnic Russians, was also ethnically the most diverse (The International Bank for Reconstruction and Development/ The World Bank, 2014). In the early 1920s, the RSFSR created autonomous ethnic territories labelled as Autonomous Soviet Socialist Republics and Autonomous Oblasts - many of which exist to this day as ethnic republics within the Russian Federation (Miggelbrink, Habeck and Koch, 2016). Republics, as has been already mentioned, were the largest of territorial units. The main features that differ republics from the other administrative entities, is, first of all, their de jure autonomous status, i.e. quasi-statehood, and secondly, the right to pass their own constitutions and legislation (The Constitution of the Russian Federation, 1993). Nominally, the other features of the republics are the presence of the so-called “titular nations” - the dominant ethnic group in the given territories, after whom the republics are usually named, and institution of their own state languages (Fedina, 2017). Given the attributed powers, republican legislation might develop more promptly than its federal counterpart and, therefore provide a quicker response to indigenous peoples’ needs.

Despite the general policy of allotting national territories to ethnic groups, several smaller nationalities initially remained without their own administrative units. Indigenous groups, who were particularly vulnerable due to their small size and dependency on traditional economic activities, had been granted neither republics nor autonomous oblasts. This situation began to change in 1929-1930 when regions with relatively large indigenous population were recognized as 'national okrugs' (now 'autonomous okrugs'), representing lower-level of territorial administrative divisions. Seven autonomous indigenous areas, including Chukotka AO, Evenk AO, Koryak AO, KHMAO, Nenets AO, Taimyr or Dolgan and Nenets AO, Yamalo-Nenetsk AO were created alongside with executive bodies aimed at protection of national interests of the indigenous population (The International Bank for Reconstruction and Development/ The World Bank, 2014). These ethnic territories were seen as potential sites of increased political power as they provided some forms of territoriality and representation (ibid.). Having been granted with relatively considerable power, indigenous peoples received a chance to pursue agendas protecting their rights (Alcorn, 2013).

In republics and autonomous areas, indigenous representation in legislative and executive organs was seen as a method to fight indigenous backwardness and indication of democratic character of the Soviet electoral system (Turaev, 2018). In the 1980s-1990s political activism of indigenous peoples flourished. In 1990, 10 indigenous deputies were elected in the Supreme Soviet - the RSFSR supreme government institution (ibid.). From that time, indigenous leaders began to actively advocate for introducing quotas for indigenous representation in higher organs of government. Later, the Law on Guarantees (1999, Article 13) provided for representation quotas for indigenous population to be established within legislative bodies (Miggelbrink, Habeck and Koch, 2016). The right was vested in the hands of federal subjects. In 2004, however, such quota system was revoked; as a result, no permanent seats for indigenous representatives are guaranteed at regional and local levels (Chyebotaryev et al., 2015).

### *5.1.1. Levels of Indigenous Representation*

The highest level of indigenous participation in decision-making processes is representation at legislative branch. The first region with indigenous representation in its regional Parliament (Duma) became KHMAO that established an Assembly of Representatives of Northern Indigenous peoples, a special body within Duma (Wessendorf, 2005). Its members and the Assembly's chair are deputies of the regional. Since its creation in 1995, the Assembly of the Northern Indigenous Peoples, responsible for legislation on indigenous peoples' rights, has created the big portion of the regional indigenous laws. Due to the low population of indigenous peoples in the region, a multi-member electoral district was created to guarantee indigenous representation and provide indigenous population with better chances to be elected in the Assembly. In 1996 six out of 26 deputies were of indigenous origin, in 2001 the number of indigenous deputies reduces to five (Stamatopoulou, 2017).

Nevertheless, the Assembly has not avoided sweeping changes of the state policy that has become increasingly centralized since the 2000s. In 2016, a multi-member electoral district was abolished. Three areas of indigenous residence were united in one electoral district, chances of indigenous representatives to receive more mandates, therefore, significantly diminished. All candidates (including non-indigenous population) who wish to become Assembly members may belong to any nationality. This change has been explained by the adherence to a non-discrimination principle of the federal legislation (Zav'yalova, 2015; Wessendorf, 2005). As of today, the Assembly continues to work and currently three seats are allocated to indigenous peoples. Although due to recent trends there is a risk of future abolishment of this representation policy in KHMAO, the Assembly is considered as a unique example of direct indigenous peoples' participation in parliamentary system and the reason why KHMAO has one of the most developed indigenous peoples rights' legislation (Berezhkov, 2012; Turaev, 2018).

The legislative branch in the Sakha Republic is represented by the State Assembly (Il Tumen), which is the body of legislative authority in the republic (i.e. regional Parliament). Notwithstanding their nonrecognition as indigenous in Russian legislation, Sakha's presence at political arena of their region makes them very different from other indigenous peoples across the Arctic people. First, since its creation, the post of the Il Tumen chairman has always been allocated to representative of Yakut people. Particularly, since the 1990s, according to an informal rule of election of the President and Vice-President of the republic, one of them has to belong to Yakut nationality. In other words, if the President is of Sakha origin, the Vice-president will be of Russian nationality (which is the current situation in Sakha republic) and vice versa. This system clearly ensures the balance of ethnic representation in the region (Nazukina, n.d.). By and large, it has been observed that the ethnic Sakha, who account for almost half of the republic population, tend to elect Sakha as their deputies, and "*while Russians dominated the economy, especially in large diamond or oil companies, ethnic Sakha dominated in politics.*" (Ventsel and Struchkova, 2015, p.273).

What about smaller indigenous nations in Yakutia? Initially, in areas of indigenous residence single-member electoral districts (where Evenki live) were formed, so that 12 elected deputies out of 70 represent indigenous peoples in the Parliament. Later, the regulation was changed and electoral districts were expanded (Filippova, 2016). In 2018, only one indigenous representative was in the Parliament (Sakha News, 2018). To address the situation, in 2018 the Assembly of indigenous peoples representatives was created in Republic's Parliament by analogy with the one established in KHMAO (State Assembly (Il Tumen) of the Sakha Republic, 2019). It consists of republic deputies and municipal deputies representing indigenous peoples (ibid.).

In contrast, in Chukotka AO and Komi Republic, no such basis for indigenous representations in regional parliaments has been created. Despite this fact, from 1994 to 1997 in Chukotka Parliament 7 out of 13 deputies were of indigenous origin. As of today, the number has

diminished to two indigenous deputies. In regional parliament of Komi, deputy Markov of Komi origin (from 2007 to 2015) has been known for an active Komi policy and participated in preparation of UNDRIP. As no special quotas have been created in both regions, indigenous parliamentarians, even if working in parliaments, compete on equal terms with other candidates.

At the executive level, in Sakha Republic, Council on indigenous peoples of Sakha Republic was created in 2012: its work is to prepare offers and decisions on indigenous issues, coordinate the work and relationships between indigenous communities, state and local organs. It consists of state representatives, academic institutions and NGOs approved by the President of the republic (Administration of the Head and Government of the Republic of Sakha, 2019). Additionally, an ombudsman for the small-numbered peoples of the North (created only in three Russian regions, including Yakutia) position was established in the republic in 2013. His job is to ensure recognition and implementation of indigenous rights by state and regional authorities, companies and organizations. Ombudsman's candidacy is approved by the President of the republic and the State Assembly taking into account indigenous organizations' opinion (On the Ombudsperson for Rights of Indigenous Peoples in the Republic of Sakha (Yakutia), 2013). On top of that, in 2019, the Ministry of Arctic and peoples of the North was established. Its creation is considered as a particularly progressive measure, as no other organ that deals with indigenous peoples' affairs at the ministerial level has been created in the Russian Federation.

In KHMAO, starting from 2016, the Council of the Representatives of Indigenous People of KHMAO at the Government, supports indigenous political participation by inviting members of indigenous organizations to discuss means of regulating indigenous communities with municipal administrations and higher-level government officials. Its aim is to ensure socioeconomic and cultural development of regional indigenous peoples (Wessendorf, 2005). In 2017 inter-departmental commission on indigenous development was created to coordinate

work of executive power on socioeconomic and cultural development of regional indigenous peoples (Nazukina, n.d.).

In Komi Republic, no organ that deals exclusively with indigenous policy has been established. Ministry of national policy deals with all ethnic issues (Minchuk, 2016). In 1991, the first Congress of the Komi People was held, whose executive committee was awarded a de jure official role in the political arena by the republic's government as a government advisory committee, and its leader, Valery Markov, was made a senior advisor to the President (Fryer, 2019).

In Chukotka, Department of Indigenous Affairs under the Governor of the Chukotka and Council of indigenous representatives were created in 2013 and 2001 (Northern Gold LLC, 2013; Nazukina, n.d.; Anadir.bezformata.com, 2013; On the Council of representatives of indigenous small-numbered peoples under the Government of Chukotka Autonomous region, 2001). Also, in 2016, the okrug's government created Parliament Committee on indigenous affairs and social policy, consisting of 3 members (On the Structure of Parliament Committee on indigenous affairs and social policy of Chukotka Autonomous Okrug).

All in all, it has been observed that the regions with the status of Republic and Autonomous district have more progressive legislative foundation for indigenous rights' protection. Several regions with this territorial entitlement have enacted proactive indigenous policies and more stringent indigenous rights protection mechanisms than those guaranteed by the federal government. As an illustration, Sakha Republic, where Yakut people enjoy the status of the so-called titular nation, adopted its constitution even before the Russian Federation, as well as Russia's first and only law on anthropological expert review (or an ethnocultural impact assessment), designed to assess the socio-cultural and economic impacts on indigenous communities affected by extractive projects (Stammler, 2017).

In both republics, Komi and Yakut communities are not recognized as indigenous peoples by the Russian legislation but recognized as such by international standards. Markedly, for peoples who are not recognized as indigenous by the federal regulations, the administrative status of the region is of major importance. To put it another way, attributed status of republic has allowed Yakuts and Komi to enjoy varying degrees of governmental autonomy (The International Bank for Reconstruction and Development/ The World Bank, 2014). At the same time, in contrast to Yakuts, voices of indigenous Komi counting for only 23% of the regional population are less visible (Tysiachniouk et al., 2018).

Indigenous groups in Khanty-Mansi and Chukotka Autonomous regions are recognized by federal legislation and regional charters, and adopted regulations provide for indigenous representation in the regional parliament and support of traditional indigenous activities (Murashko, 2009; Gladun and Ivanova, 2017). KHMAO in particular, has developed laws on TTNU that require enterprises operating in the area to obtain the consent from indigenous groups prior to the project and pay compensation for any damages affecting indigenous lands (Tulaeva, Tysiachniouk, 2017).

## **5.2. Regions Without Autonomous Status**

Under those circumstances, absence of special territorial entitlement affects primarily smaller, non-titular indigenous groups. Usually, in districts that have neither republican nor autonomous region's status indigenous population cannot even be considered a significant minority. Therefore, indigenous groups in Murmansk and Sakhalin regions enjoy fewer benefits in comparison to those granted by the status of republic or autonomous entities. As a rule, in regions where the percentage of indigenous peoples is very low, the legislative regulations on indigenous peoples' rights is not articulated; administratively, there are no departments on indigenous peoples' issues in governance structures; authorities and governors of these regions do not recognize the indigenous aspect of regional policy as crucial (Berezhkov, 2012).

Ultimately, these factors make it particularly challenging to set indigenous affairs on the agenda (Berg-Nordlie, 2015).

At the legislative level, no representation for Sámi has been created in Murmansk. At the executive level, in Murmansk, in 2009, Council of Indigenous Small-Numbered Peoples of the North under the regional government was formed by authorities for legitimization of the government decisions on indigenous issues (Murmansk Regional Government, 2009). This Council consists of representatives of Sámi obshchinas, a representative and a member of district's government, one Sámi member of provincial Public Chamber (Berg-Nordlie, 2015; Murmansk Regional Government, 2009). Notwithstanding regional framework, Sakhalin region's indigenous peoples have managed to have one representative under regional Parliament. Since 1994 one indigenous member works in the Parliament of Sakhalin as official authorized representative of indigenous peoples in legislation authorities (Turaev, 2018). Additionally, at the executive level, Agency on indigenous affairs was created.

### **5.3. Legal Disempowerment: TTNU & Obshchinas**

Before proceeding with the analysis of TTNU and Obshchinas, created as a form of territoriality for Russia's indigenous groups, another key point to consider is that historically, the question of land ownership, especially in relation to indigenous groups, has been complex. For one thing, indigenous territory has never been regarded as a form of private property by aboriginal population; instead, indigenous land use was collective and temporary (Kasten, 2005). With attention to Russia, the approach to land developed in country's realities, is quite different from other Arctic states, such as Canada or USA, where a legally-binding contractual evidence supporting indigenous peoples' rights to land exists. Contrary, Russian indigenous peoples have not been involved in legal relationships with the state on the matter of the land ownership; they have neither sold their lands, nor received any compensations or delegated the right to supervise their lands to a third party. The Soviet Union, in turn, simply declared indigenous territories the

state lands and managed them at its own discretion. Since there were never any treaties signed between indigenous peoples and the Russian Empire, the best outcome indigenous groups can hope for is a long-term lease, i.e. “*the title to land is not even on the table*” (Eckert et al., 2012, p.45). Henceforth, Russia’s indigenous groups’ claims are much more modest than those of indigenous communities in the West, focusing on the right to preserve a traditional lifestyle and some type of limited property rights to land and resources (ibid.). At most, indigenous peoples participate in guarding the territories, they may use their lands, but they are not allowed to be in full control of the territory. As a result, no land rights have yet been properly secured in Russia (Colchester, n.d.).

Within the course of Russia’s history, the discourse on “*acquisition of the North*” placed a special focus on its economic development, implying appropriation of the region's land and reshaping culture of local population “*into something less alien*” (Berg-Nordlie, 2015, p.46). For that reason, in claiming control and access to land and resources indigenous peoples try a variety of strategies (Eckert et al., 2012). Recent years, however, have been marked by intense efforts to legally disempower and exclude indigenous peoples from the management of their ancestral territories.

### *5.3.1. Law on TTNU: Amendments & Contradictions*

Since the rise of the Russian indigenous movement in the late 1980s, the creation of a legal environment that ensures indigenous traditional ownership, access to resources and land use rights has been the main aspiration of indigenous organizations. Attempts to create a legal framework for indigenous peoples’ land rights date back to the early 1990s when several Russian regions elaborated their own indigenous land rights regimes. The earliest attempt was the introduction of “patrimonial lands” (later converted into TTNUs) adopted in 1992 in KHMAO (On the Statutes of Primordial Lands of Khanty-Mansi Autonomous Okrug, 1992).

Later, in 2001, the state initiated the creation of the so-called “Territories of Traditional Nature Use” designed to protect indigenous land from industrial encroachment, exclude these lands from the real estate trade, and provide indigenous population with secure plots of land “in perpetuity” assigned to traditional economic sectors - reindeer herding, fur, fish and marine animal hunting, harvesting - that provide the main employment and main source of income for indigenous communities (Turaev, 1998; Colchester, n.d.; Miggelbrink, Habeck and Koch, 2016). Under the legislation, companies which pursue industrial activity within the officially designated TTNU should reach an agreement with the indigenous population about land use and are obliged to compensate for damaging traditional lands. The law also provides indigenous peoples the right to participate in assessments of sociocultural impact on the indigenous communities by extractive companies (Article 6.8).

After the Russian revolution, all land was considered the state property. And so far, it remains under the state control. Henceforth, according to the Land Code of the Russian Federation, almost all lands that might be candidates for TTNU status are either partly or wholly situated on federal land (70% of Russia territory is categorized as forest fund, which is also federal property); therefore, local and regional organs do not have the authority to transfer control over such lands to indigenous peoples. Only the federal government has the authority to do so (Eckert et al., 2012). As a result, since the adoption of the law on TTNU by the State Duma in 2001, no TTNU has been designated on the federal level at all. And while regional authorities have, however, created over 500 TTNU, none of them has been confirmed by the federal government as required by the Land Code. The existing TTNU, therefore, have *“no guaranteed legal status and no effective protection from being dissolved or downsized, as often happens.”* (CESCR,

2017a, p.5). In effect, due to the government's failure to confirm existing TTNU, their status is open to changes at any time.<sup>30</sup>

In 2001, practically at the same time when the Law on TTNU was adopted, the Russian Federation enacted the Land Code, which ruled out any form of land tenure other than rented and private property: "*Citizens cannot be granted permanent (indefinite) use [rights] over plots of land. Judicial persons, except those named under item 1 of this provision are obliged to have their right to permanent (indefinite) use of land plots transferred into the right to rent the given plots or to obtain the plots as property*" (Article 20). This effectively means that indigenous lands can become the private or long-term leasehold property of industrial companies (Vinding, 2002). Given that nomadic indigenous communities typically migrate with their herd throughout the year in search of pastures following the cycle of reindeer herding and, hence, use substantial areas, up to several thousand hectares (300 hectares for 1 reindeer) (Ethnic.ru, n.d.), neither purchase nor rent are financially viable options for indigenous groups (Basov, 2018). This contradictory approach creates severe difficulties in asserting indigenous rights to land and resources.

The hierarchy of Russian legislation means that the Land Code – which does not recognize indigenous traditional resource or land rights – will override the indigenous rights legislation. Thus, in practice, if a traditional resource use area is threatened by an oil, gas or mining project, no real protection is offered by regulations (Murashko 2008; Wilson and Swiderska, 2019). Furthermore, in 2007 the word "in perpetuity" disappeared from the TTNU Law (Gilberthorpe

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<sup>30</sup> On 15 January 2015, the Court of Appeals rejected an appeal by the administration of Oleneksky district of the Sakha Republic challenging the legality of a license issued by the regional resource authority, Yakutnedra, for the exploration and extraction of mineral resources in TTNU that had been established by the local authorities in Oleneksky district. The court rejected the appeal because the boundaries of the specified TTNU had not been determined by the federal government. As noted above, this is true for all currently existing TTNU, such that they are all unprotected from similar encroachments.

and Hilson, 2014).<sup>31</sup> In 2014, the Land Code stipulated that lands in perpetuity can be granted to indigenous peoples only for the construction of building or other facilities needed for development and conservation of indigenous traditional lifestyle for the period of no more than ten years. The provision in Land Code that had explicitly stated that in places of indigenous traditional residence, authorities decide on location of industrial objects (i.e.: infrastructure, extraction facilities etc.), based on the results of information gathered from indigenous communities was removed at all (CESCR, 2017a). Another problem is that federal land, which also includes all land designated as a “forest fund”, cannot be granted a status of regional or local TTNU. These federal lands are, however, often precisely those territories where indigenous peoples live and which form the basis of indigenous groups’ livelihood (ibid.). Given these points, indigenous peoples claim that the Land Code is one of the major legal obstacles to indigenous land rights’ realization.

The situation aggravated furthermore in 2013, when the federal law “On amendments to the federal law ‘On specially protected nature areas’ (Articles 5 and 6) was approved without public discussion, despite the positions from lawyers and ecologists. One of the most significant pitfalls was the downgrading of the TTNU status from ‘Specially Protected Conservation Areas’ to ‘Specially Protected Areas’ (CESCR, 2017a).<sup>32</sup> As a result, the word “conservation” (alluded to “nature”) was removed from the TTNU definition. While “specially protected conservation areas” is a term stipulated in environmental legislation of the Russian Federation which creates the specific safeguards for indigenous participation and consultation rights, the designation “specially protected areas” does not exist in Russian law and, as such, is not

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<sup>31</sup> All these contradictions in laws make it hard to reveal whether indigenous peoples pay for the use of land (IP representatives contend that they do pay such fees, and even if these are small, they nonetheless impose an economic burden on indigenous communities; In Sakha, for instance, they need to register their claim to use the land for traditional natural resource use, and bureaucracy around registration is complex. In order to register an area as a TTNU, an applicant needs to conduct a technical land assessment that costs \$570 per hectare. Since commune cannot match the amount required, it leads to the failure to register the lands. (Gilberthorpe and Hilson, 2014).

<sup>32</sup> Two acts passed in 2014 significantly weakened the law on TTNU, these being Federal Law 171-FZ dated 23.06.2014 and 499-FZ, dated 31.12.2014.

identified in state legislation. As a result, now, allocation of land and projects for economic activity (construction of roads, pipelines and industrial facilities) are no longer subject for ecological assessment and evaluation of negative impacts on indigenous lives by industrial projects is no longer required (Miggelbrink, Habeck and Koch, 2016).

Markedly, these territories have been eliminated from the real estate trade as well. The amendment also changed the rules for the removal of land plots from TTNU. Originally, in the event of indigenous peoples' removal from their ancestral land, the state was obligated to provide indigenous communities with equivalent plot of territory and natural objects in exchange. After the revision, expression 'Compensation for losses in case of alienation of plots of land for state or municipal needs' disappeared from the entire land legislation. Moreover, the level of court protection for these territories is decreasing, too.

Regionally, TTNU have been created in KHMAO and Sakha Republic. Both regions established special procedures for agreements between companies and indigenous peoples on areas to be used for industrial activity which make the companies liable to pay financial compensation for damage (Alferova, 2006). Contrary, in the Komi Republic, there are no indigenous groups recognized by the state; therefore, regulations to enable the federal law on TTNU have not been developed. In Chukotka the region law on TTNU has been enacted only last year. In Murmansk and Sakhalin no TTNU have designated.

As shown above, these sweeping changes have set all conditions for legally disempower indigenous groups and, furthermore, facilitate the rapid advancement of industry into indigenous lands. As a result, there are almost no norms that restrain industrial encroachment to places of indigenous traditional residence. In other words, the protective function of TTNU has been stripped away and the safeguards against unmitigated industrial exploitation have been declared void.

### *5.3.2. Law on Obshchinas: Amendments & Contradictions*

When the Law on obshchinas was introduced in 2001, many indigenous peoples organized into communes to pursue their traditional activities (Colchester, n.d.). The original intent behind the introduction of the obshchina concept was multifaceted: for one thing, obshchinas were supposed to carry out functions of local self-administration, participate in decision-making processes of the interests of indigenous peoples, provide services in the domain of culture and education and, at the same time, function as economic cooperatives through which indigenous peoples could pursue their traditional economic activities in a viable and sustainable manner (Rohr, 2014). Obshchina was seen as a rightful unit of property management. Initially, indigenous peoples had the right to use obshchinas lands in perpetuity and without charge (Miggelbrink, Habeck and Koch, 2016). The members of an obshchina did not pay taxes, since their ventures were not registered as commercial entities. In 2004 the law was changed; the notion “in perpetuity and without charge” has been revoked and the rent has been introduced. Since then, many communities have lost their rights to the lands granted to them for traditional subsistence practices (Evengard, Larsen and Paasche, 2015; Stamatopoulou, 2017). In many regions, indigenous obshchinas are now regarded as competitors by private businesses, especially in the fishing industry, some of which are affiliated with the local administrations and spare no effort to push indigenous communities out of business. Another troublesome aspect of the law is its restriction to pursue ‘traditional’ types of activity. They can be terminated if they stop engaging in traditional economic activities. So, indigenous peoples have to demonstrate that they deserve these rights by providing that they are indigenous enough, that their land use activities are traditional enough (Eckert et al., 2012). In contrast to the initial idea, obshchina lands do not provide a comprehensive solution to either indigenous land rights nor environmental protection of indigenous homelands (Smith, 1997). The law on obshchinas does not acknowledge the concept of land rights, and in practice, it cannot facilitate neither territorial

nor non-territorial autonomy for indigenous groups. Obshchinas have been founded in all six regions. However, in an overwhelming number of cases, they pursue purely symbolic type of economic activity.

The conversion of communes into territorial self-government bodies is hampered by several factors. Most of the existing obshchinas are small-numbered. Altogether, obshchinas unite a very small percentage of indigenous peoples. At the same time, usually there are several communes created in one village, often conflicting with each other. More importantly, they cannot become self-governing bodies without given an authority over a territory, natural resources and economic independence (Turaev, 2018).

### *5.3.3. Sectoral Laws: Amendments & Contradictions*

In like manner, the provisions on preferential allocation and free use of various categories of land by indigenous peoples, originally stipulated in the Land, Forest, and Water Codes of the Russian Federation, have been withdrawn. This has led to creation of favorable conditions for unrestricted privatization of natural resources, their virtually unlimited economic use and industrial activities in the traditional territories of indigenous residence. Likewise, provisions of laws on Fishing and Hunting and Forest Code, that initially stipulated that indigenous obshchinas' preferential right to fishing and hunting grounds on a non-competitive basis, have now been declared void (Forest code of the Russian Federation; the Federal Laws On Fishing and Conservation of Water Biological Resources, On the Conservation of Hunting Grounds and Amendments to Specific Regulations of the Russian Federation, Articles 27, 28, and 42). Henceforth, since 2001 all forest, hunting and fishing areas, including those in the territories inhabited by indigenous communities, may be granted to industrial companies on the basis of long-term licenses obtained by tender. The duration of such licenses is usually 20 years or more, which effectively means that even if the government implements the TTNU law, many of the

land areas and resources being used by indigenous population are already under private control, protected by long-term contracts. Following these amendments, a revision of the allocation of fishing and hunting grounds has been initiated. Many grounds previously designated for indigenous traditional activities were re-classified as industrial fishing or hunting grounds. The revision of the Forest, Land, and Water codes placed indigenous groups in a position where they have to rent the territories allocated for their traditional subsistence and cultural practices, and at times, not to mention, compete with more powerful enterprises who happen to also have a right to license the land. Thus, parts or even the whole TTNU are subject to auctions, after completion of which the rights of use are assigned to the winner. Since commercial auctions to obtain fishing and hunting grounds were introduced in 2008, a large number of indigenous peoples lost traditional pastures, fishing and hunting grounds on their ancestral lands due to both required documentation and budgetary capacities (Anaya, 2010; Tomaselli and Koch, 2014; Stamatopoulou, 2017). Needless to say, requiring indigenous peoples to purchase or rent their own ancestral lands clearly violates their most fundamental rights as set out in the UNDRIP, ILO Convention and other instruments.

Since the above-mentioned amendments do not limit tenders and auctions of land, forest and water areas in territories designated for TTNU and obshchinas, it has created grounds for endless conflicts and lawsuits where indigenous peoples have to defend their right to pursue traditional activities on their lands. Although some fishing and hunting quotas have been exclusively established for indigenous peoples, sometimes they barely meet the nutritional needs of the community in question. In order to receive quotas, there is an application period and quotas can be rejected. The application procedure is yet another story: sometimes places for application are located too far away from indigenous settlements; applications should be printed that also poses a problem for indigenous groups who do not have necessary equipment; in other cases, quotas are issued for hunting or fishing grounds that are geographically too far

away from indigenous places of residence (Turaev, 2017). Initially, any commune had the right to apply for the quotas, now, only obshchinas who already have fishing grounds (i.e. who won the auction) are eligible. Additionally, indigenous quotas for fishing and hunting cannot be used for commercial activities, and indigenous peoples are, therefore, banned from generating income and developing local business. This excludes indigenous peoples from economic basis for development and the largest providers of income and employment (Who are Indigenous Peoples of Russia? 2014).

#### *5.3.4. Indigenous Voices on TTNU, Obshchinas & Legislative Amendments*

Although to different extents, nearly all Arctic indigenous peoples in Russia share common concerns: the disputed ownership of territories and inadequate participation in decision-making process.

In Komi, hunting, fishing and reindeer grounds have been considerably diminished with the arrival of extractive enterprises to the region. Hunting, in particular, that was once a crucial part of indigenous people's livelihoods, today is nearly lost. In regions without TTNU such as Sakhalin, issue of fishing quotas is especially pressing. Respondents claim that indigenous fisherman are constantly pushed out from fishing industry by commercial companies.

It has also been stated that in some regions authorities and industrial companies create fake obshchinas that receive best land grounds for fishing and hunting. According to one respondent from Sakhalin, de facto "real" obshchinas do not exist in the region. Furthermore, leaders of obshchinas have neither proper knowledge nor experience to lead indigenous peoples. Murmansk's Sámi respondents complain that created communities of indigenous peoples in the region pursue purely symbolic cultural traditional economic activities, that are targeted solely on attracting tourists.

Respondents from Sakha claim that sweeping amendments to federal laws have undermined an already fragile empowerment launched in late 1990s. Given these points, without solving problems with land rights and right to pursue economic development, every attempt to self-government would remain an empty shell as it is today.

Additionally, on the basis of the survey results, it might also be concluded that one of the most pressing issues that concern indigenous population is environmental problems such as pollution place great strain on the lands, resources. In June 2018, 93 tons of dead Pacific herring fish washed up on Sakhalin island (Gliadkovskaya, 2016; Blašković, 2018). Sources reported the main cause was a lack of oxygen, which was blocked by the ice dam of Exxon Neftegaz Limited (Kuznetsov, 2018).

Sakha people report that the recent accident of Alrosa company in Yakutia in August 2018 caused pollution of rivers. In fact, Sakha republic has suffered from severe environmental damages from the Soviet times when it was plundered for its diamond, oil and gold reserves (Yakovleva, Alabaster and Petrova, 2000). Diamond and gold mining operations, as well as hydroelectric projects, for instance, has polluted the Vilyuy River with traces of thallium and other toxic chemicals. In the 1970s and 1980s 11 underground nuclear tests were initiated in the river basin, seven of which had been reported to have a yield greater than or equal to that of the bombs dropped on Hiroshima (Crate, 2002).

In particular, respondents raise concerns about the dire consequences of drilling for oil. Under Arctic hostile weather conditions and cold environment, since the oil would not naturally disperse as it does in warmer waters, any spill would be much more troublesome (Harvey and Walker, 2013). The annual spill of crude oil in Russia is 5 million tons, which is reported to be nearly six times the amount spilled in the Gulf of Mexico in 2010. In Komi republic, for instance, spills have a systematic character. Similarly, in KHMAO, the annual oil spills from pipelines amounted to 5,781.4 tons on an area of 229.6 hectares in 2009 (Gertyk, 2015). In

2011, Russian company Rosneft alone spilled 5,289 tons of oil. In 2014, KHMAO suffered 2,538 oil pipeline accidents with 4,668 hectares of land contaminated. In May 2011 in Murmansk the oil spilled into the sea in the Kandalaksha Bay (Kireeva, 2011).<sup>33</sup>

#### 5.4. Federal Inaction

Drawing on the analysis of existing forms of indigenous protection, one can conclude that, to a great extent, those are provided by the regional authorities within the framework of territorial entitlement of regions. Thus, the following question arises: aside from the established legislative framework, what are the other indicators of the state policy' disempowering effects on indigenous population? From 1991 to 2006, state support for indigenous peoples was implemented through target programs on socioeconomic development. The priority of the programs was primarily construction of social infrastructure, such as schools, houses, ethnocultural centers, etc. On the negative side, it has been stated that programs had mostly declarative character and did not include measures for development of economic base for traditional indigenous activities. From 2009 the government decided to shift from target-oriented programs to subsidies approach - i.e. transfer money for the development of indigenous peoples to the regions (Shtirov, 2013). The total sum of financial support is directed to all regions with indigenous peoples for development of traditional economic activities, education and health system, cultural events, modernization of infrastructure, etc. (ibid.). Amount of subsidies depends on the population in the given region. In recent decades, the amount of financing has been steadily decreasing, from 600 mln in 2009 to 113 mln rubles in 2018 (CSIPN, 2018). Markedly, experts describe the allocated sum as extremely insufficient.

There have also been programs launched to support indigenous socioeconomic development indirectly. A state program on "Strengthening unity of Russian nation and ethnocultural

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<sup>33</sup> Kandalaksha is one of Russia's oldest and northernmost nature reserves

development of peoples of Russia for the period until 2020,” for instance, albeit not being addressed indigenous peoples exclusively, is implemented in all regions with indigenous population with part of the subsidies going to socioeconomic development of indigenous groups. Financing is done primarily from the regional government with minimal sum from federal budget. In Komi, for instance, the financing of the program in 2018 constituted 125236,8 rub, including 5958,8 rub from the federal budget. In other words, the regional governments previously depended on subsidies, must now fund their own budgets without assistance from the federal government.

Also, all regions have issued their own programs aimed at development of indigenous peoples and traditional economic activities, healthcare, development of culture, etc. Needless to say, regions with more proactive indigenous policy and necessary legal ground, such as KHMAO and Sakha, have more programs directed at indigenous peoples.

In the republic of Sakha - concept of sustainable development of Arctic districts and regions of residence of indigenous peoples until 2020 has been implemented. In KHMAO currently there is a program of sustainable development of indigenous peoples 2019-2025 (1 453 914,1 rub, including 23 720,1 from federal budget) (Subsoil Use and Natural Resources Department of KHMAO, 2018). In Chukotka (Raipon.info, n.d.), Murmansk (Murmansk Regional Government, n.d.) and Komi Republic - there is plan of measures aimed at realization of the Concept of sustainable development of indigenous peoples for the period until 2025 (On the action plan for the implementation of the Concept of sustainable development of indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation in Republic of Komi 2017-2025). In Sakhalin there is a program on «Sustainable development of indigenous peoples of Sakhalin for the period from 2015 to 2020» (203 834,8 rub, including

23 436,0 rub from the federal government) (Official website of the Governor and the Government of Sakhalin Oblast, 2017).

There are also programs aimed at development of reindeer herding in the following Sakha, Komi, Murmansk, KHMAO and Chukotka regions (Balanov, 2016; On Reindeer Herding in the Republic of Komi; On Reindeer Herding in Murmansk Oblast). Funding for reindeer herding varies in regions, whereas Komi regional government allocated 46,800,0 rub in 2014, Sakha Republic's funding constituted 6,211,0 mln rub for the period 2012-2020.

### **5.5. Economic Disempowerment: Agreements & Extractive Pluralities**

The most recent form of indigenous participation in economic development - negotiating agreements with resource companies – that can potentially facilitate indigenous participation in decision-making processes, is proven to be, in Russian realities, another instrument to disempower indigenous groups.

All case studies are the regions with the largest local budgets (Table 4). All of them possess vast natural resources, which attributed to mono-profile character of economy that defines the direct dependence of the regional budget from the resource production. Exploration of reserves in six regions started approximately at the same time, and by the early 1960s, development and extraction of natural resources was embarked upon with great enthusiasm (UArctic, n.d.).

In some regions, petroleum industry dominates, in others - mining business prevails. Sakhalin, Komi Republic and KHMAO are single-industry economies and are highly dependent on oil and gas production. In comparison, economies of Sakha, Murmansk and Chukotka regions are based on mineral exploitation. Sakha republic has been primarily known for its mining industry such as diamond and gold extraction. In the same vein, Murmansk region's extractive industries are not as nationally important in comparison to KHMAO or Sakhalin.

Resource-rich regions attract both national and multinational extractive companies that race for

**TABLE 4**  
**RUSSIAN REGIONS, GDP P.C**

Rank	Regions	GDP p.c. Rub (2016)
1	Nenets AO	5 821,6
2	Yamalo-Nenets AO	3 670,3
3	Khanty-Mansi AO	1 852,3
4	Sakhalin Oblast	1 575,6
5	Chukotka AO	1 323,2
6	Moscow	1 157,4
7	Magadan Oblast	1 006,6
8	Sakha Republic	903,6
9	St. Petersburg	712,3
10	Komi Republic	640,6
11	Tyumen Oblast	632,2
12	Kamchatka AO	628,1
13	Krasnoyarsk Krai	615,8
14	Murmansk Oblast	560,4
15	Leningrad Oblast	511,8
16	Tatarstan Republic	499,8

Source: Rosstat, 2016

control over these regions to acquire and maintain rights to extract resources. In cases of KHMAO, Murmansk, Sakha and Komi republics, extractive activities are operated by Russian companies: Rosneft, Surgutneftegaz, Transneft, Gazprom, Lukoil. These companies can be divided into state-owned (Gazprom, Transneft, Rosneft) and private (Lukoil and Surgutneftegaz). Although Lukoil and Surgutneftegaz are Russia's biggest private companies, both were created by merging several previously state-owned companies. Another interesting point, Surgutneftegaz ownership arrangements are characterized by a

lack of transparency, with Putin rumored to have significant shareholdings in it (Martus, 2017). In Lukoil's case, it has been stated that albeit being a private company owned partly by foreign companies, it remains "loyal" to Russia. In other words, albeit the company seeks international business opportunities, company's executives make sure its internationalization is in line with Russian policy (Wenger, Ortung and Perovic, 2006). With this in mind, where the company itself is not state-owned, in Russian context, the state still plays a significant role in company's activities.

This rule is applicable to all Russian private companies. Contrary to KHMAO, Sakha and Komi republics, in Sakhalin case two large private, transnational oil consortiums – Sakhalin-1 and Sakhalin-2 operate in the region. Sakhalin-1 shareholders include US company Exxon Neftegas

Limited, the Japanese company Sodeco, the Indian state oil company ONGC Videsh Ltd and subsidiaries of the Russian company Rosneft. Sakhalin-2 consists of the operator Sakhalin Energy, Gazprom, Shell, Mitsui and Mitsubishi (Tysiachniouk et al., 2018). Similarly, a Canadian company Kinross operate in Chukotka.

### *5.5.1. Socioeconomic Agreements with regional authorities: State Paternalism Model*

In relation to the development of CSR in Russia, historically companies were responsible for delivering social services and supporting infrastructure (schools, roads, medical facilities, etc.) and were deeply integrated into all the activities of the community (sponsorship, cultural programs). On the part of corporate responsibility documents, Russian companies usually admit adherence to the UN Global Compact and the Russian Union of Industrialists and Entrepreneurs, which adopted the Social Charter of Russian Business in 2007 as an official national document regulating corporate behavior. The Charter refers, amongst other things, to the involvement of businesses in the development of local societies. However, the Social Charter only has recommendation power and does not apply sanctions for non-compliance. Other initiatives include the Code of Entrepreneurial Ethics developed by the Russian Chamber of Commerce and Industry (Novikova and Wilson, 2015; Tishkov, 2016).

Although in Russia there is no direct legal norm demanding industrial companies to participate in the development of the region they operate in, in practice, majority of companies participate in sustainable development of the regions through agreements with regional governments (State Assembly (Il Tumen) of Sakha Republic, 2014). In effect, they conclude agreements on socioeconomic support with regional authorities, and together decide on spheres and amount of financial support (Gassiy and Potravny, 2017; Alekseeva, 2015; Shadrin, 2015; Zav'yalova, 2017). This specific type of arrangements, typical for Russian case, is called socioeconomic agreement. Usually, companies conclude these agreements with the regional and, sometimes,

with municipal authorities, stipulating different types of support to the region. Agreements are seen instrumental in solving acute social and economic problems of indigenous peoples, since incomes associated with the development of natural resources provide an essential source of financing for both direct and indirect programs for indigenous peoples and additional funds for infrastructure and welfare in local communities.

As an illustration, in 2014, Surgutneftegaz concluded socioeconomic agreement on partnership with the KHMAO for three years that was complemented by additional agreement in 2017 (Department of public and foreign relations of KHMAO, 2017). In 2011 and 2014 Kinross daughter companies concluded socioeconomic agreement with Chukotka regional government and regional Association of indigenous peoples (Invest-chukotka.ru, 2017; United Russia, 2014). In 2018, Lukoil concluded agreement with municipalities of Komi Republic where the company pursues its activities (Djavrshyan, 2018). From 2011, Sakha Republic has concluded agreement with Gazprom, Transneft and Alrosa on the socioeconomic development of the entire region (TransNeft, 2011; Egorborisov.ru, 2017; Stammer and Ivanova, 2016).

The amount of social investment and focus areas of support provided by the company to the region is determined following the discussion between the company executives and the regional authorities. In other words, the decisions on local needs are made by the two sides without much consultation with residents. According to agreements, companies usually take responsibilities to certain spheres of development of cities, municipalities and regions, and usually focus around construction of social infrastructure, such as schools, kindergartens, recreation centers, roads, etc. (Berkovich and Antipina, 2016). In addition, companies provide direct help for sports, educational, and medical institutions for district and village municipalities.

This type of agreements is typical for Murmansk region, where industrial companies supposedly do not operate in indigenous lands, and, hence, do not conclude direct agreements

with Sámi population. That is the reason why the only type of agreements in the region are socioeconomic agreements negotiated between state-run companies and regional and municipal leaders, who sign the contracts. The mining sector in the Kola Peninsula consists mainly of companies and enterprises established during the Soviet times (operated from 1950–60s), when the interests of indigenous peoples in Russia were not considered. Since enterprises of the Kola mining complex are reported to operate outside the territories of Sámi traditional residence (Koivurova et al., 2015), the issue of cooperation between mining companies and the indigenous people in the region is, thus, not widely discussed, and this applies to all companies, including those located in territories which lost their status of traditional Sámi territories in Soviet times. Particularly, issue of returning territories lost in the Soviet time, or any compensation for them is neither raised nor discussed (Koivurova et al., 2015). The existing legislation does not provide for special mechanisms to consult with Sámi interests in mining projects. Currently, special provisions to involve Sámi in mining projects, including any EIA are not established. Thus, legal consultations with the Sámi on the development of mining activities are not organized in Russia.

In like manner, as Komi people are not recognized as indigenous by the Russian law, companies operating in the region do not have to negotiate agreements with them. These agreements are not open to public input or scrutiny. The regional government and company executives define the support to local communities. Municipalities are usually responsible for gathering information from the communities about the most pressing issues and then pass collected data to Lukoil-Komi. The company, in turn, drafts preliminary plan and the Lukoil headquarters makes the final decision about financial support. Lukoil representatives and state officials decide on the level and direction of financing with money going directly to the district budget. As a result, the decision-making leaves very little room for the local people to express their

opinion on the content of the policies and control the nature, types, and delivery of benefits (Pappila, Nysten-Haarala and Britcyna, 2017).

In addition to the lack of transparency, Lukoil ignores environmental issues or compensations for environmental damages and often fails to report spills. It has been observed that Lukoil makes promises when eliciting approval for starting work, especially after yet another spill, to generate positive publicity for the company and then fails to keep those promises. Recent agreements that included ecologic provision, were, according to local population, “*to silence the loud demands of the local protest movement, which were beginning to have a negative impact on the reputation of the company*” (ibid., p.8). As such agreements are seen as a way to buy off the locals with often questionable benefits in exchange for them accepting environmental risks. For companies, generally, it is plainer and financially advantageous to simply “pay off” indigenous residents with material goods than to develop sound mechanisms of indigenous participation in assessing and tempering the ecological and cultural risks involved.

All in all, Lukoil’s global commitments as a member of Russian Social Charter on Business and Global Compact, are not sufficient for the Komi to overcome its domestic status. Non-recognition as indigenous means lack of land rights and access to compensation. Notably, Lukoil also operates in KHMAO where it implements higher standards toward indigenous Khanty since those are recognized by the state. Lukoil also holds negotiations with reindeer herders beyond what is required by Russian legislation (Tysiachniouk et al., 2017). Additionally, in KHMAO, TTNU have been designated, and Lukoil’s extractive project is partly funded by international institutions including the EBRD. In other words, given domestic constraints, Lukoil’s commitments to global indigenous and environmental standards, was not as influential in Komi, as in other regions (ibid.).

### *5.5.2. Benefit-sharing Agreements*

Another form of relationships between indigenous communities and companies are direct agreements with aboriginal population (Basov, 2018). Agreements negotiated with companies, as well as potential bargaining advantages for indigenous actors vary, depending on a plurality of financial and political degrees of support.

#### *5.5.2.1. Preferred model or Partnership*

In the Sakhalin, during the period of confrontation with largest oil companies the Regional Council of Authorized Representatives of Indigenous peoples was created by regional communities. Its members are elected during the regional indigenous peoples' Congress. Even though the Council is not reflected in the regional legislation, it became the consolidated body of indigenous movement in Sakhalin. On behalf of regional indigenous peoples, it coordinates the negotiations with the authorities and business executives, the issues of economic, social, ecological and cultural development, etc. One of the most compelling achievements became the triangle agreements with ENL and Sakhalin Energy companies (Wilson, 2019). The tripartite partnership agreements of both Sakhalin Energy and ENL have become major forums of negotiation where indigenous people are involved in the process of decision-making process about their own development. Both companies elaborated a formalized procedure for adopting decisions. Under these agreements, Sakhalin Energy had fully delegated to indigenous peoples the right to choose which development projects to implement and distribute funds without assistance from the company or the state and oversee grievance procedures. ENL, in turn, granted the local communities an advisory vote and engaged indigenous people in the monitoring of industrial activities. As such, indigenous representatives worked as inspectors during the Sakhalin-1 during exploration works of the company. Procedures for distribution of grants are well-defined and transparent with the results announced to all region's residents.

Independent international experts carry out the monitoring process of the awarded grants. Secondly, there is regular cooperation with the local residents on the social and ecological aspects of the companies' activities. Both companies inform the population about their extraction plans and monitor the population's sentiments during annual meetings, through corporate information centers, complaints mechanisms, and a network of coordinators working closely with the local communities. This allows to anticipate tensions and ensures conflict resolution at the initial stage. Finally, the partnership agreements also provide for a large number of training workshops and educational seminars for local residents with the aim to develop indigenous entrepreneurship skills and create new grassroots management structures, targeted at helping indigenous peoples to develop their own initiatives. The initial idea of these measures is to instruct residents to develop collaborative partnership relations with companies and, particularly, set forward their initiatives, and devise their own projects (Tulaeva and Tysiachniouk, 2017).

On the negative side, however, over time the elaborated partnership has also resulted in some unintended consequences. Thing to remember, equitable distribution of funds is often seen as one of the major downsides of any benefit-sharing agreements (Fidler and Hitch, 2007; Kuokkanen, 2019). Indeed, conflicts are becoming apparent in relation to the mechanism for collecting and distributing money to affected communities in Sakhalin and it has been reported that communities fail to allocate benefits fairly (The International Bank for Reconstruction and Development / The World Bank, 2019).

The Sakha Republic, known for its progressive safeguards in the field of indigenous rights, has concluded agreements with the largest diamond company Alrosa in the region and, more importantly, indigenous provinces became stakeholders of Alrosa as well. The diamond mining sector in Yakutia designed a mechanism for sharing benefits with affected communities via investment in environmental protection, education, health and small business development

(Yakovleva, 2005). In contrast, companies specialized in extractive industry, such as Gazprom and Transneft, while operating in Yakutia, have taken a limited corporate policy, aimed purely at compensation payments similar to the case of KHMAO.

#### *5.5.2.2. Corporate Paternalism Model: Limited & Moderate CSR*

The KHMAO is often perceived as one of the most developed regions in the Russian Federation, taking into account economic development, quality of life and development of indigenous peoples' legislation. Its experience was presented by the Russian government as one of the best experience of negotiations between indigenous peoples and extractive industry in the country. It has been stated that for many years, KHMAO had one of the lowest levels of conflicts between indigenous peoples and extractive companies among other regions of the Russian Federation. This was also the region where authorities brought the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, James Anaya, in 2009 to present best practices of indigenous socio-economic and cultural development. Nevertheless, quite a number of experts believe that the region faces the same, if not more pressing challenges than other regions in the country; rather, the conflicts are hidden and covered by significant financial resources concentrated in the region and thorough sugarcoated campaigns in the media.

Companies activities are determined by KHMAO regional legislation, under which they conclude contracts with TTNU entities (indigenous communities or families). Requirement to conclude these agreements are, hence, dictated by law as one of the conditions of their work in the district. The content of a standardized agreement is usually suggested by regional authorities and contains a standard set of goods which are supposed to compensate for damages to indigenous land. Under these agreements, the company usually provides snowmobiles, outboard motors, chainsaws, fuel, and clothing. Individual household' needs typically receive

no attention. In this case, companies do not differentiate between indigenous families whose lands are severely damaged and those that are only lightly harmed by business operations. Heavily and lightly affected families receive the same amount of compensation. The arrangements are compensatory in nature, and usually, they do not go beyond restitution for loss. By all means, these agreements fail to target indigenous peoples' needs and create conditions for the development of indigenous economies. Instead, they contribute to the growth of dependence on company's payments. At best, they help indigenous families to survive and maintain their traditional livelihood. This kind of arrangements may ease the pain and provide for indigenous communities for the short-term, but does not guarantee long-term results (Tulaeva and Tysiachniouk, 2017). Companies operating in KHMAO hold public hearings and consultations with local residents where they can raise their concerns and suggestions. However, these hearings are "formal in character" and do not always allow the negotiation of the plans of the company (ibid.).

According to the regional legislation, if indigenous peoples refuse to sign the agreement, their lands cannot be taken by extractive companies. However, the practice proves to be different. The communities realize that if they do not sign an agreement, the oil workers will conclude them with others and they will still lose without gaining anything in return. As a result, indigenous families, signing the contracts with companies and giving up their ancestral lands rarely raise the issue of consent or environmental pollution. Point often overlooked, indigenous population of the KHMAO cannot yet work out a common policy; as a result, each family negotiates, defends or tries to defend its rights separately. This organizational void, that is typical also for other regions, allows the company to minimize damages cost (Novikova and Wilson, 2015).

In contrast to limited CSR policy of companies in KHMAO, Kinross in Chukotka has taken more extensive strategy. Canadian company has vested responsibility to allocate funds in the

hands of created Kupol Foundation. It supports projects in four areas of social importance: indigenous traditions, healthcare, education and training, and sustainable development of small and mid-sized enterprises. Agreements were signed in 2008 by Kupol and RAIPON to help ensure that the benefits arising from Kupol and Dvoynoye operations reach the region's indigenous peoples. The agreements include the establishment of a permanent seat on the Foundation's selection committee for a representative of RAIPON.

### *5.5.3. Indigenous Voices on Relationships with Industrial Companies*

With regard to extractive industries, all respondents from six districts of the Russian North are concerned with ecological situation in their regions, reporting multiple accidents that are often sealed by companies' authorities and uncovered by the media (as observed by Komi respondents).

The most negative impact of legislative changes reported by respondents is disruption of wild animals' migration's paths. In many regions, industrial facilities such as pipelines are passing through or in a close proximity from indigenous traditional lands. In KHMAO, sharp increase in workers and technical equipment brought into the area for constructions, has led to increased contact between reindeer herders and companies' employees, and a reduction of reindeer pastures. Respondents from KHMAO reported that indigenous population is consulted only at the last stage of negotiations and communities influence on business activities in the region in no way. One respondent called operations of companies in the region an "abuse of power." Accordingly, the other respondent, described industrial companies' activities in the region as "barbaric."

The majority of those surveyed in Komi region stated that they are not informed about the forthcoming exploration work beforehand, and no information about meetings or hearings on

companies operations is provided, as a result, the existing institutional frameworks and networking are, for the most part, unreliable and inadequate to address Komi concerns effectively. Whereas the information on new projects arrives after decisions to begin the project have already been done, unexpected exploration near indigenous communities has given rise to conflicts between indigenous population and oil companies. Komi respondents state that building of industrial infrastructure and drilling works have resulted in changes of animal migration, pollution of rivers and soil.

According to respondents from Murmansk, the aid from companies is limited to sponsorship of cultural events. The support of mining companies takes the form of support for cultural events, funding for local infrastructure, etc. Respondents state that situation in Murmansk and many region in Russia looks more satisfactory on paper than in reality, and indigenous peoples' rights are mostly declarative in nature with the main problem existing in the issue of lands control.

In Sakhalin, despite the grants allocated by companies for preservation of indigenous traditional livelihood, proposals for revitalization programs (language, reindeer herding, etc.) that require targeted support, big subsidies and long-term time framework, are seen unprofitable and are, thus, often rejected by companies. The huge social significance of such projects, although acknowledged but is not given proper attention. Equally important, respondents from Sakhalin, emphasize that funding from the projects are not used for benefit, but rather provokes division and conflicts among indigenous population. Resulted in somewhat similar to favoritism, indigenous representatives who support and express content with companies' and government' policies are privileged and receive better financing, more grants, etc. Also, companies invite to participate in monitoring processes only those who support companies' strategies. In particular, respondents claim that in recent years the state control has increased, and *“as long as you are a good dancer or singer, you are fine; yet, if you are interested in rights activism, you automatically become opposition.”* Respondents also noted that foreign companies' activities

tend to have a less negative impact on environment and island's people than those of Russian companies.

In relation to petroleum industry in Sakha, both pipelines have a controversial history with a negatively perceived social impact and a poor track record on corporate social responsibility among the indigenous population in south Sakha. While indigenous Evenki received compensation payments from companies, the development of indigenous peoples' initiatives and entrepreneurship received no attention. Respondents also report that whereas big companies organize hearings with indigenous population concerning their projects, small enterprises do not hold meetings and consultations with indigenous communities.

Absence of ecological assessments of industrial projects and legal responsibility for organizing consultation on the environmental impacts with local population is another area of concern among respondents. Oil exploration work, for example, does not require an EIA at all. Few companies, integrated into the global economy, and using global financial instruments, tend to include an ethnological study into the EIA. Such practice has been reported in only few regions. For example, Sakha advanced the law on anthropological impact assessment (Etnologicheskaya Ekspertiza 2010, Novikova and Wilson 2017; Basov, 2017). Also, such practice exists in the KHAMO and Sakhalin region. According to Funk, since the ethnological assessment implemented by the Sakhalin Energy, there has been no efforts to repeat the practice in the same integrated and fundamental manner as in Sakhalin, despite the fact that Sakhalin Energy made all procedures in details public (Funk, 2018).

## **5.6. Indirect benefits**

In Russia realities, indigenous peoples are ensured with direct benefits in very rare cases (Fischer 2007). As such, examination of other types of benefits deserves special attention. Apart from direct benefits to indigenous peoples, at the national and regional levels benefits from

resource projects derive from “*taxation and revenue distribution, job creation, and social services, and various multiplier effects such as the growth of secondary industries and increased purchasing power*” (Wilson, 2019, p.2), that though indirectly, contribute to indigenous communities’ livelihoods and make more resources and opportunities available at the regional and local levels (Table 5).

**TABLE 5 TYPES OF BENEFITS**

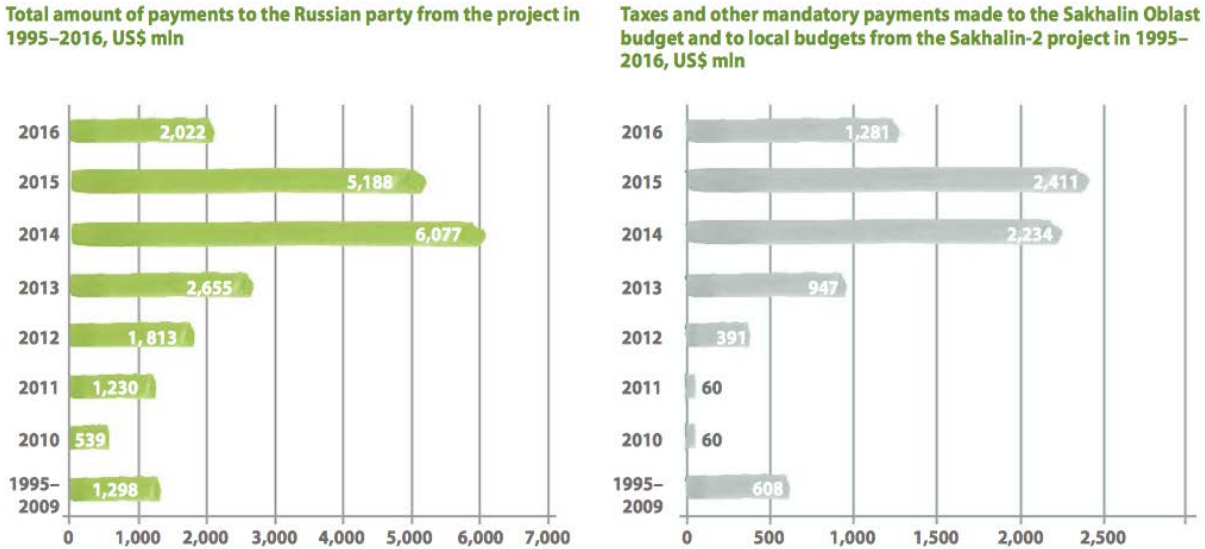
<b>Types of Benefits (Monetary and Non-monetary)</b>		
	<b>DIRECT</b>	<b>INDIRECT</b>
<b>Statutory</b>	State programs Regional programs Agreements between companies and regional government	Taxes, Royalties and other payments: companies pay a certain proportion of their sales to the government in the form of royalties, taxes, or license fees as defined in legislation, or based on an agreement reached among local and national authorities and project development companies. Under this approach, the government will decide how the fund is to be used. Without further action, it may be difficult to determine the extent of the benefits going to local communities.
<b>Negotiated</b>	Compensations Development Fund and programs: companies pay directly to communities in certain community development programs or into a community development fund. When this approach is used, operational arrangements need to be well-established in advance, and capacity building is always critical at the community level.	Training/capacity-building Sponsorship and ribbon-cutting Infrastructure: refers to investments outside that cover all infrastructure investment undertaken by the project companies directly or indirectly related to the construction and operation of the project; and social and environmental investment such as for schools, health facilities. Employment: preferential employment to local people. Project-related employment results in cash income and skills development for local people. In addition, the project companies can engage local service providers and procure goods from local suppliers to enhance the spread of local benefits

Sakhalin-1, for instance, contributed \$156 million to the construction of roads in Sakhalin Oblast (and Khabarovsk Krai), while the Sakhalin-2 project spent over \$600 million repairing 50 bridges, landfills, roads and other infrastructure on the island (Tysiachniouk et al., 2018). Also, benefits in form of royalties, taxes and other statutory payments usually bring an inflow of revenue into local economies (Funk, 2018).

Additionally, the amount of indirect benefits, depends on the type of agreement that companies choose to conclude with regional authorities. In Sakhalin, for instance, under the PSA special tax arrangement, the Sakhalin-1 and Sakhalin-2 projects have been freed from their federal tax obligations. PSA signed with the Russian federal and Sakhalin regional governments are quite

unique, with only one other active PSA in Russian Nenets Autonomous Okrug. According to the PSA, the state retains the ownership rights of the designated field and grants the investor an exclusive right to develop the mineral resources. The investor develops the resources by its own means and at its own risk and invests funds required for the exploration and development of the resource grounds (Sakhalin Energy Investment Company, 2016). Under the specific clauses negotiated in PSA, some types of taxes, levies, and duties (including the mineral extraction tax, property tax, etc.) are replaced with royalty payment (6%), which is paid to the Russian Federation throughout the lifetime of the project, and the profit share (32%) (Sakhalin Energy Investment Company, 2016; IIED 2005; Rutledge 2004; Wilson and Swiderska, 2019; Sakhalin Energy, 2017).<sup>34</sup> Additionally, companies deliver a share of the production in the form of natural gas to indigenous settlements.

**FIGURE 14 REVENUES FROM SAKHALIN-II PROJECT**



Taxes and other mandatory payments made to the Sakhalin Oblast budget and to local budgets totalled US\$ 1.3 bln in 2016. Revenues from the Sakhalin-2 project were a significant part of the total fiscal revenues of the Sakhalin Oblast in 2016 and represented over 60% of the regional budget.

Source: Sakhalin Energy Investment Company, 2016

<sup>34</sup> Financial benefits to the Russian party include the profit tax paid by the company and a number of mandatory payments, contributions and levies. In addition, the Russian party receives income on R-share dividends (a special preference share providing the right to receive dividends). Sakhalin Energy Investment Company (2016).

Division of revenues from the project between federal and regional levels is negotiated by two levels of government, the federal government of Russia and the administration of Sakhalin themselves (Bjurling, 2006). In 2016 there was approximately 50/50 split between the Sakhalin region and federal government (Figure 14; Sakhalin Energy Investment Company, 2003). Sakhalin Energy paid almost US\$ 2.02 bln to the Russian Federation (Sakhalin Energy Investment Company, 2016). Exxon paid US\$ 1.3 bln in 2015 (profit tax: 22% to oblast, 13% to federal; Barabashova, 2017). Since its startup, the Sakhalin-1 project has contributed more than US\$15 billion in tax and royalty payments to the federal budget, including US\$ 6.2 billion– to the Sakhalin regional budget (ExxonMobil, 2019).

Thus, according to the PSA, Sakhalin projects pay taxes not only to the federal budget, but also to the budget of the Sakhalin region. The Sakhalin government, in turn, uses part of tax to support regional programs for indigenous peoples. Additionally, according to Russian legislation, the distribution of tax revenue depends on the location of company's registration. Both ENL and Sakhalin Energy are registered in Yuzhno-Sakhalinsk, the region's capital with taxes allotted to the regional budget. Throughout the Sakhalin Energy project, the share of Sakhalin Oblast has been subject to change. Contrary to Sakhalin-1, there is no stipulation on how this percentage is divided between the federal and regional budgets. Initially, 75% of taxes went directly to Sakhalin budget, however, according to the recent news, now the government tries to alter the rules and cut the regional share to 25% (Kozinets and Brown, 2017; Borodikhin, 2017; Yas'ko, 2018; Kprf-sakhalin.ru, 2017; Cdu.ru, 2017).

Contrary, other regions where companies do not have PSA agreements with the authorities, receive a much smaller share from the industry. In the case of petroleum sector, based on the Tax code, it is subject to a range of taxes (Diachkova, 2011). Oil companies in Russia pay taxes to the federal government (income, profit, mineral production and value-added tax), to the regional government (property taxes, transport tax), and to local governments (land tax). Most

of the taxes paid by oil companies go to the federal budget, leaving a much smaller share for the regions. Until 2002, 60% of taxes from mining operations levied to the budgets of resources-producing regions, while 40% accrued to the federal budget.

With the increase in oil and gas prices in recent years, the federal government decided to change the tax sharing ratio between the central authority and the regions in its favor (Table 6). As the result, the regional share of mineral tax on oil and natural gas declined significantly. In 2002, the share of taxes on oil production falling on regional budgets dropped from 60% to 20%; in 2003, the share declined to 15% and, in 2005, to 5%. Since 2004, tax revenues from natural gas production are going exclusively to the federal budget. The continental shelf is solely owned by the Russian Federation; therefore, regions are not entitled to taxes and revenue from oil mining on the shelf (Kurlyandskaya, Pokatovich and Subbotin, 2010). The regional shares of the tax on other minerals have remained stable (Alexeev and Chernyavskiy, 2014).

Overall, while tax revenues are of major importance to the regional economy, the centralization of tax collection at

**TABLE 6**  
**ALLOCATION OF THE MINERAL TAX BETWEEN FEDERAL AND REGIONAL BUDGETS**

	2002		2003		2004		2005	2010
<b>Oil</b>								
Federal share	80	74.5	80	74.5	85.6	81.6	95	100
Regional share	20	5.5	20	5.5	14.4	5.0	5	
Autonomous district (okrug) share		20		20		13,4		
<b>Natural gas</b>								
Federal share	80	74.5	80	74.5	100	100	100	100
Regional share	20	5.5	20	5.5				
Autonomous district (okrug) share		20		20				
<b>Minerals other than hydrocarbons</b>								
Federal share	40		40		40		40	40
Regional share	60		60		60		60	60

Source: Russia's Budget Code available at <http://base.consultant.ru/nbu/cgi/online.cgi?req=home>

the federal level substantially reduces the regional benefits from taxation. As such, regions with economies highly dependent on raw material extraction such as Komi Republic and KHMAO, are bearing a greater cost for resource development than the benefit they get in return in comparison to national economy. Disastrous environmental risks such as oil spills, however,

are of local impact. In addition, while some companies are responsible for accidents, they are often registered and pay taxes in other regions. For instance, whereas Surgutneftegaz is registered in the region's capital, oil companies operating in the Komi Republic are predominantly incorporated in Moscow and, hence, profit taxes stay there. Moreover, many non-local workers are reported to be employed in oil projects, and much of the income tax is collected in workers' home regions. Thus, regional budgets only benefit from income tax, along with some minor land taxes (Cdu.ru, 2017). These findings demonstrate the Komi economy's lesser capacity to benefit from the petroleum industry.

### **5.7. Major Shortcomings of Agreements between Indigenous population & Companies**

Given the complexity of legal, institutional, natural and cultural settings, benefit-sharing in Russia takes various forms and has unintended consequences and shortcomings. Despite some relatively promising efforts taken toward indigenous rights' realization in some regions, resource development in Russia undermines indigenous rights' protection and further undermines and erodes traditional livelihood of Arctic indigenous communities. Widely agreed upon terminology of CSR at international level, it is however less articulated how the concept is translated and shaped by different contexts (Henry et al., 2016). Inevitably, the implementation of CSR is modified and adapted to local realities and determined by different company approaches, regional legislation and regulatory frameworks, the dependence of companies on international lenders, rights and land use, various interested groups at play, path-dependent practices and the global standards adopted by companies (Tysiachniouk et al., 2018). Arguably the biggest source of conflict between indigenous peoples and outsiders relates to the projects of extractive industries. One of the crucial characteristics of well-designed agreement is the ability to negotiate, and specifically to say "no" to development. In most regions, Russia's indigenous peoples strongly oppose industrial projects claiming that the financial contributions

of companies cannot compensate for the damage they cause to the environment and indigenous culture. According to the respondent from Sakha republic, there is a second wave of industrialization taking place in the region referring to an on-going shift from traditional for the region diamond mining to extraction of oil and gas which is perceived by Sakha residents as a “curse for the region.” Indigenous peoples claim that they do not have the opportunity to discuss and negotiate terms of their agreements with companies, instead they are presented “*with a model and an inflexible contract, preprinted and ready to be signed*” (Garipov, 2014, p. 71). Often, since indigenous groups have usufruct rights, the negotiation process with enterprises starts after the decision to extraction project has been made. Whether or not to start extraction project is not up for discussion usually (Stammler and Ivanova, 2015). In this case, payments from companies decrease potential objections from indigenous communities to industrial activities, i.e. companies exchange goods for loyalty to the company’s operations (Tysiachniouk and Olimpieva, 2019). As a result, instead of receiving the possibility to express and promote their interests, indigenous groups become the recipients of corporate “pay-offs” (Tysiachniouk et al., 2018). Arrangements for questionable payments “negotiated” between the enterprise and regional executives are, in a sense, instruments in enforcing acceptance among local residents for the operations of extractive companies. As a result, the dialogue with indigenous population has become a mere formality. Under this system of paternalism, CSR and companies do not support local decision-making. Aspects of infrastructure and welfare are presented as gifts and charity or limited to “ribbon-cutting projects,” while a desired support targeted at long-term sustainable development for the community is not even on the table. To put it differently, the major shortcoming is a fundamental power imbalance between actors in the negotiation proceedings, due to variation in access to funds, political connections and legal representation. As a rule, in negotiations over agreement, actor’s capacities are determined by the knowledge, organization and resources. Needless to say, non-indigenous stakeholders

hold considerable advantages over indigenous groups who rarely possess either formal and informal ties with influential actors and the knowledge about the market rules and formalities of negotiation process. Additionally, companies' strategic alliances with government aggravates already disadvantaged position of indigenous groups. In other words, indigenous communities are engaged in an uphill battle with extractive companies whose capacity and expertise in negotiation process is far more extensive. Failure to organize collective representation, in turn, may result in a complete disregard for their preferences. Surely, for the indigenous community, it appears to be more beneficial to negotiate than to stay silent. However, under conditions of underdeveloped institutions and weak civil society, finding strong indigenous representative on issues related to resource extraction can be particularly difficult. As a result, "mismatch" between the capacities of actors involved will likely lead to dysfunctional relationships between companies and communities (Tysiachniouk et al., 2018). Under these conditions, negotiations often result in (a weaker actor) communities "*signing away their rights and foregoing long-term benefits*" (The International Bank for Reconstruction and Development / The World Bank, 2019).

Another factor that influences economic arrangements is the role of government and company involvement. From a global industry perspective, companies generally hold on to domestic indigenous policy on the status of indigenous peoples and their rights to land and resources. Legally the business enterprises abide to the law of the individual countries they operate in and, hence, do not necessarily follow the same standards in every country. Many companies rely heavily on formal and informal relationship with federal authorities for the support of corporate operations, including financial support and services (Fjellheim and Henriksen, 2006). Particularly in Russian case, where the federal state takes side with the company, or, more often, dictates the rules of the game, benefit-sharing arrangements are often subject to the state capture. Some scholars argue that original idea behind benefit-sharing is empowering

indigenous actor to the level when the state participation in negotiations is optional. However, in the Russian Federation, where many large extractive companies are state-owned, the state plays a decisive role rendering the possibility to limit government's ability to influence the process virtually impossible. In Russia, land claims and terms of agreements are defined by the state or company (Corntassel, 2008). Whereas when acting in a good faith, the government can facilitate implementation of effective arrangements and play a positive role in fostering dialogue and negotiation, in Russian case the role of authorities is far less constructive. In a virtue of irreconcilable differences in priorities, authorities often take the side of the business which, in turn, hinders effective negotiating process between participants.

In a visa versa situation, some enterprises are becoming the sole source of basic services (water, electricity, communication, or road-building services) and a surrogate provider of government services (that are typically the responsibility of government) (The International Bank for Reconstruction and Development / The World Bank, 2019). To demonstrate, companies in Russia often take responsibilities of the state and regional authorities. Do business entities have the right to substitute for the government in addressing socio-economic challenges? That support (medicine, infrastructure, transportation) is certainly useful. But as a rule, they are within the competence of the state and spread upon the whole population. And on condition of this twisted situation, indigenous peoples have to fight for something that is their inherent right (Funk, 2015).

Surely, in negotiating terms of agreements, all actors maintain their own interests and decision to support indigenous communities is not coming from corporate generosity. To extractive company, it is of major importance that the resource is extracted in the shortest time at the least possible cost; since companies are in the domain of extraction, not indigenous peoples' development, they are, therefore, interested primarily in profit. While in Russia more and more companies declare their commitment to CSR policies, pursuing a responsible corporate policy

is often voluntary. Likewise, governments are interested in their share of taxes and fees received in a timely manner. Both sides therefore tend to define interaction with indigenous communities within the prism of “landlord-tenant relationship.” As such, interaction with indigenous population is primarily seen as a process of economic transaction in which the possible negative impacts are compensated with one-time cash payments or, rarely, employment. In contrast, the indigenous struggle is not simply to own real estate but also to protect their culturally defined landscape. Indigenous peoples are, therefore, treated at most as interested third parties or charity recipients rather than rightful participants.

Another key problem derives from the assumption that a program targeted at indigenous communities as a charity can assist disadvantaged social groups. The main criticism is that programs of companies are short-time oriented, and as such only serve to create and increase dependence (subsidies to travel, to obtain higher education, to rent apartments or pay utility bills) and consumer attitude to company support programs (Funk, 2015; Bartels and Bartels 1995; Grant 1995; Kerttula 2000; Graybill, 2009). In report of a second SIMDP there was a reference that this practice of paternalism that peoples got used to since the Soviet times, can cause conflict and tension (Sakhalin Energy, 2011). Further concerns relate to the unwillingness of companies to maintain socio-economic initiatives directed at long-term development of indigenous communities after the extractive project comes to end (Wanvik, 2016; Kuokkanen, 2019). A more advanced approach to benefit-sharing steps beyond the minimum requirements and offers indigenous peoples opportunities for training, employment and initiation of indigenous entrepreneurship.

## 5.8. Intricacies of Case Studies:

### *5.8.1. Status & Number of Indigenous population: Tragedy of Disappearing Nations*

Throughout the Russian North, the ability of indigenous peoples to express their identities and priorities through local legislatures has been weakened by harsh demographic realities. Their small number is one of the major reasons of a low-level indigenous empowerment and institutionalization. Even in autonomous entities indigenous peoples whom these territorial units are named after never constitute a majority population (The International Bank for Reconstruction and Development/ The World Bank, 2014). Historically, encounters between indigenous population and colonizers have had dramatic consequences on indigenous communities, and in some cases extermination, of indigenous peoples. In contrast to other Arctic regions, and despite the vastness of indigenous homelands, indigenous peoples do not constitute a majority in *any* of Russian regions (excluding Yakuts who are not recognized as indigenous by the Russian legislation). Indigenous peoples are often scattered and represent extreme minority of the populations their districts with Chukotka AO as the only region with a relatively high indigenous population - 30.7% (Petrov, 2008). The size of these groups in Russia varies from fewer than 300 to more than 40,000.<sup>35</sup> Usually, indigenous peoples constitute between 1 and 20% of the total regional population. In some regions indigenous peoples number just a few hundred members and are virtually invisible in the statistics for their home regions. On the other hand, they frequently constitute majorities in rural areas, whereas Russians typically dominate in cities. This urban-rural majority-minority divide, in conditions of urban primacy and rural isolation, poses significant challenges for the indigenous peoples to assert their rights and make their voices heard.

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<sup>35</sup> According to 2010 census, the most numerous of the indigenous peoples are the Nenets with a population of 44,000, followed by the Evenks (38,000).<sup>10</sup> The smallest group on record are the Kereks with only four members left (down from eight in the 2002 census).

In KHMAO, for instance, indigenous Khanty constitute 1,2% while indigenous Mansi comprise only 0,7% from the total population (Panfilov, 2015). In Sakha region, in turn, smaller indigenous peoples are minorities within minorities and are under threat of Sakhaization, in a similar manner as many Sakha feared Russification during the twentieth century. Recent process of amalgamating autonomous okrugs with bigger neighboring regions is likely to exacerbate existing problems (already in 2007, Evenk, Taimyr, and Koryak okrugs were abolished) (Petrov, 2008).<sup>36</sup> The slow erosion and disappearance of indigenous people is one of the world's greatest ongoing tragedies (Glennie, 2014). According to Russia's population census of 2010, the number of indigenous minority peoples has diminished dramatically (Russian Federal State Statistics Service, 2010). Due to the loss of territories and industrial expansion, some peoples are presently in immediate danger of extinction. Between the last two all-Russian censuses (2002-2010), two groups (Alyutors or Aleuts and Kereks) have already disappeared. Currently, we can distinguish three groups who are positioned at higher risk (Table 7).

<b>TABLE 7 INDIGENOUS GROUPS AT RISK</b>		
<b>Approaching / on the verge of extinction</b>	<b>"At risk zone"</b>	<b>"Safe"</b>
Kereks (Chukotka), Ulta (Sakhalin)	Eskimos (Chukotka), Nivkhs (Sakhalin), Sámi (Murmansk), Yukaghirs (Sakha, Chukotka)	Evenks (Sakha), Evens (Sakha, Chukotka), Chukchi (Chukotka), Nenets (KHMAO, Komi), Khanty (KHMAO), Mansi (KHMAO).
The low population (several hundreds of people), high level of assimilation, resettlement can lead to their final dissolution in the mainstream population that will most likely occur in the next decades.	Nations with bigger population (from 1-4 thousand people)	The third group includes rather "large" indigenous peoples. Despite a difficult situation, they enjoy ethnic consciousness, sufficient educational level, language, possess own ethnocultural institutes and have opportunities for self-development.

<sup>36</sup> For instance, the Evenk and Dolgan-Nenets (Taymyr) Autonomous Okrugs (created to recognize the Evenki, Dolgan and Nenets peoples), were subsumed by the Krasnoyarsk Krai and no longer exist. Interestingly, the two hydrocarbon- rich autonomous okrugs, Yamalo-Nenets Autonomous Okrug and Khanty-Mansi Autonomous Okrug (created to recognize the Nenets, Khanty and Mansi peoples), have successfully resisted such merging. The abolished autonomous areas retained their borders and names but became third-tier entities within other provinces (Øverland and Blakkisrud 2006; Berg-Nordlie, 2015).

### *5.8.2. Significance of the region in terms of economy*

Interestingly, despite its remarkably small indigenous population (less than 2%), KHMAO region has often been cited as one of the best practices of indigenous rights' implementation in Russia. Partly it can be explained by the status of the district as autonomous okrug. In like manner, the economic importance of the region plays in hands of the local indigenous population. Traditionally, the region has been placed among three leading Russian regions by GDP and the number one oil-producing region (Annex 9). Market incentives, need to attract investors, including foreign companies, and keep a positive image of enterprise, gives more incentives to business for implementing proactive indigenous policies. In contrast, Komi and Murmansk regions are economically less sustainable.

### *5.8.3. History*

In 1990, statement made by Russia's first post-Soviet President Eltsin to take "sovereignty as much as you can swallow" sparked a high degree of enthusiasm across regions. The Sakha republic was one of a few who managed to "swallow" more independence than others. The question is why. One of the reasons lies in Sakha aspirations for sovereignty and a distinctive Sakha form of internal nationalism (Argounova-Low, 2007). If we look at anthropological evidence about social organization and management in indigenous societies, it can be observed that Sakha people have a long history of and pronounced desire for nation-building/nationhood, self-organization, and self-governance (Ivanova and Stammer, 2017). Yakuts have also proven to be more initiative and ambitions in lawmaking than other nationalities within the Russian state (ibid.). Importantly, before unification of the Sakha region with Tsarist Russia, Sakha peoples already had a well-developed self-governance system and organization based on their system of social hierarchy (ibid.). Already in the 18<sup>th</sup> century, Sakha people demanded

preferential or equal treatment for their people. In 19 century the Sakha were allowed to create their own form of Parliament (Stepnaya Duma) – a right that was given exclusively to peoples with well-developed feudal relationships.<sup>37</sup>

Eventually, Sakha Parliament had demanded more rights and freedom for its people, and was, therefore, short-lived (ibid.). After incorporation into the Russian state, Sakha people did not lose leading positions in governance structures, on the contrary, were able to build and support informal networks to maintain control over decision-making positions (Ventsel and Struchkova, 2015). As a result, the Sakha elite maintained high social, political and economic status during the Tsarist and Soviet era. After the revolution, the Yakut Autonomous Soviet Socialist Republic was established where ethnic Sakha occupied various high positions in the Soviet apparatus, maintained close relationships with the center, and were actively engaged in enforcing Communist policies. When the Soviet Union came to power, Yakut people even tried to increase the status of the region from the Autonomous Republic to Socialist Union Republic (Ivanova and Stammler, 2017).

#### *5.8.4. Border-Transcending nature*

Murmansk and Chukotka represent distinct cases due to the transcending nature of local communities. In 1867, Russia sold the territory of Alaska to the United States. The geographical proximity of Chukotka to the United States (Alaska) and Canada (Figure 15), coupled with historical connections between the indigenous peoples has facilitated international collaboration. In particular, the representatives from 'Yupik Eskimo Society of Chukotka' YESC have become actively involved in the Inuit Circumpolar Council, a transnational organization representing Inuit peoples in four different countries (Wilson and Kormos, 2015). During the economic crisis in the 1990s, the Inuit Circumpolar Council worked with the

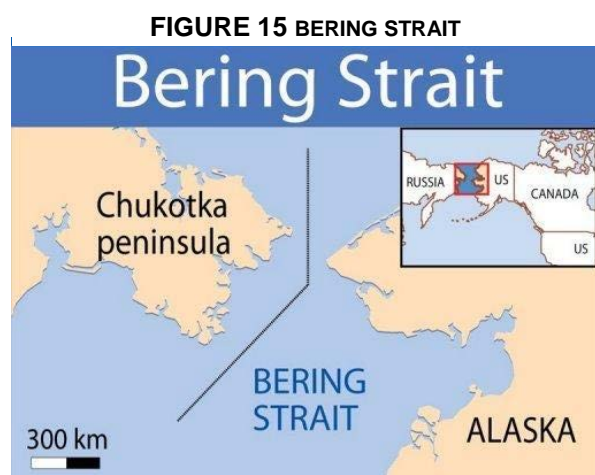
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<sup>37</sup> This right was allocated to few nomadic peoples of Siberia who, according to authorities had most developed feudal relationships, including Yakuts, Evenks, Buryats, etc.

Canadian government and other organizations to deliver humanitarian aid to the Chukotka indigenous peoples and assist in development of indigenous infrastructure (Wilson 2007). Since the 1990s indigenous peoples have become active partners with governments of Chukotka and Alaska in the preservation of regional cultural and natural heritage (Wilson and Kormos, 2015). In 1990, creation of the Beringian Heritage International Park was initiated. This park joined the Bering Land Bridge National Preserve in Alaska with a park encompassing the Providensky and Chukotsky regions of Chukotka (Schindler, 1994). The primary goal of the park is to preserve the rich and unique natural and cultural community in Chukotka (Schindler, 1994).

Additionally, a number of bilateral projects dedicated to wildlife management, cultural preservation and environmental protection were initiated between Alaska and Chukotka, including the Chukotka Walrus Harvest Monitoring Project and the joint US/Russia Polar Bear Commission dedicated to the conservation and management of the Alaska-Chukotka polar bear population (Wilson and Kormos, 2015; Diatchkova, 2010). In 2015, the United States and Russia introduced visa-free travel to the indigenous inhabitants of the Chukotka and Alaska, allowing indigenous people on both sides to cross the Bering Strait to visit relatives (High North News, 2015).

Murmansk indigenous peoples Sámi, one of the country's less numerous indigenous peoples, form part of a larger nation whose traditional homeland Sápmi is divided between Finland, Norway and Sweden. The border-transcending aspect of the Russian Sámi has



contributed to comparison of Russian Sámi politics with Scandinavian practices among Western media and academia. In other words, Russian Sámi are inevitably contrasted with the Nordic model of indigenous policy, that is fairly perceived as the benchmark. Due to its

proximity to its Nordic neighbors and the fact that the indigenous Sámi population is part of the Sápmi transnational entity, in the 1980s and 1990s the Murmansk region has become a forerunner in the revitalization of indigenous identity. Obshchinas have been founded in an overwhelming number of cases, with strong support from Nordic organizations actively participating in Russian Sámi cultural revival.

On a negative side, while Sámi in Northern European countries have their own Parliaments, Russian Sámi, despite the attempts, have not managed to create Scandinavian analogy on their lands. In 2010 pro-Parliament activism came to a peak when the Congress of Sámi activists launched a self-declared Sámi Parliament. They received vocal support from several Western Sámi politicians and activists. These events coincided with Russia growing centralization policy and skepticism against Russian NGOs and foreign organizations. Russian Sámi activists were called to the security structures for conversations on the matter, followed by accusations in the media that the West supported the Sámi in order to destabilize Russia. One newspaper labelled the Sámi as “*the new card of the West in the battle for the Arctic*” (Finugor.ru, 2012; Regnum.ru, 2012; Berg-Nordlie, 2015). The word “Parliament” used by Sámi, in particular, causes anxiety from state executives and has been perceived as a threat to state sovereignty and unity (Berezhkov, 2012). In 2014, the Sámi Assembly was established (Sam’ Sobbar). In December 2018, the Sámi Parliament and Council of authorized representatives (created earlier in 2008) were closed. Under conditions of lack of support from federal or regional government, they fail to find financial resources, organize the work of the office and find allies. In principle, Council of Representatives, Parliament and Sámi Assembly fulfill the same functions. None of them are decision-making structures. Albeit to a certain extent, they take part in indigenous policy realization, since they give advice to state organs on policy implementation, for the most part they are advisory and declarative organs to the regional authorities, with the latter having all rights to make indigenous policy decisions (Kropp et al., 2017; Filippova, 2016).

### 5.8.5. Local Leader

Political will and leadership can play if not essential, but an instrumental role in implementation of indigenous policy (Yakovleva, 2011). In case of Chukotka, the administration of Roman Abramovich proved to be successful for the development of regional communities, including indigenous groups. As a result of the governor's policy, new projects to mine gold and silver were launched, international investors flew in Chukotka, prompting regional economy (Litvinenko and Kumo, 2017). It has been said that since 2001, Abramovich has spent over \$200 million a year to pay salaries and arrears, build new infrastructure and fund social projects (Thompson, 2003). Chukotka's case with a young rich businessman as a leader follows a remarkable, yet atypical, pattern of Russia's regional development in general. The Chukotka case has been described as the region that "*merged legislative with executive power and blurred the face of public administration with that of corporate governance*" (Anderson, 2002, p. 106).

### 5.8.6. Type of companies

Sakhalin case is atypical for Russia as it is characterized by international companies' high level of involvement in applying their CSR policies to the Russian context (Tysiachniouk et al., 2018). The technology and investment needed to extract its offshore reserves have been provided by multinational joint-venture companies through PSAs between the Russian government and foreign partners in the Sakhalin-1 and Sakhalin-2 projects (Graybill, 2009). Based on these PSAs, Sakhalin-1 and Sakhalin-2 are the major contributors to the Sakhalin regional budget. Originally, the consortium did not include any Russian companies. In 2006, Shell, which at the time owned a 55% interest in Sakhalin-2 sold a controlling interest in the consortium to Gazprom allowing the biggest Russian company to enter the consortium as the main shareholder (Gazprom (50%), Shell (27.5%), Mitsui (12.5%) and Mitsubishi (10%)(U.S. Energy Information Administration, 2017).

Based on the following analysis, both companies actively implement international standards related to human and indigenous peoples' rights, workers' health and safety, ecological sustainability, energy efficiency, etc., and are guided by the demands of international loan suppliers. Through international monitoring and funding, both companies have the stated goal of addressing the interests of transnational as well as local stakeholders. Sakhalin Energy, through loans and investments, is influenced by international financial institutions (such as the World Bank, EBRD and the IFC) and implement its SIMDP based on the standards on indigenous peoples and the principle of FPIC. The following international standards were incorporated in the SIMDP: ILO Convention 169, UNDRIP, ISO-26000 standards, IFC Performance Standards on Environmental and Social Sustainability 7 and the World Bank Operational Policy and Bank Procedure on Indigenous Peoples (Tulaeva and Tysiachniouk, 2017). The companies also perform EIA as required by regional and international legislation. Particularly influential were the corporate standards Shell (the Sakhalin-2 member) whose principle in distributing corporate funds for social projects and recruiting representatives of the indigenous peoples to participate in the decision-making process significantly influenced the SIMDP.

This increased attention to responsible and environmentally friendly (in comparison to Russian companies) policy has contributed to indigenous participation in the development scheme (creation of local jobs, employment of local peoples in the projects, construction of new infrastructure). It has been cited that for the first time, Sakhalin's indigenous population were *“asked what they want for their futures and are considered part of the development process, not simply recipients of an economic plan imposed on them”* (Graybill, 2009, p.78).

With this in mind, in Sakhalin, influential international actors and global standards took the role of mediator in industry-indigenous relations, who, when monitoring negotiations in good faith, can play a largely positive role. As a result, companies operated in the region have advanced

policies designed to develop sound agreements with indigenous populations. A higher reliance on international financial institutions increases the likelihood that such policies will reflect globally-accepted standards designed to protect the rights of indigenous peoples. By demonstrating adherence to international rules and offering elaborated programs to indigenous peoples, multinational corporations, thereby, preserve their brand reputation. Also, since international oil companies did not arrive at the island until the 1990s, they have notably remained immune to Soviet CSR practices that often resulted in paternalistic benefit-sharing arrangements with local communities (Tysiachniouk et al., 2018).

In 2006, Sakhalin Energy initiated the Sakhalin Indigenous Minorities Development Plan and ensured indigenous participation at all project stages, including the design phase. As a result, wide forums of negotiation were created leading to a partnership among the oil companies, authorities, and indigenous communities. The representatives of indigenous peoples have been empowered by participation in decision-making process with the company executives and regional authorities. Under the plan, elected indigenous population is responsible for distribution of benefits and overseeing a grievance procedure. Thus, benefit-sharing in this case enhances both the transfer of resources and the decision-making authority of communities.

Although Sakhalin case has often been presented as the best practice of cooperation between indigenous population and industrial companies in Russia, it is important to realize that respect for indigenous rights became the guiding principle in international companies, operated in the region. It cannot thus be attributed as an achievement of the Russian state/company.

In contrast to transnational companies, Russian oil companies are less vulnerable to pressure from both transnational institutions and local NGOs, as well as indigenous protests (Tysiachniouk et al., 2018; Tysiachniouk et al., 2017). For Russian companies, the main international guidelines and documents are not considered mandatory, and industrial activities

take place in accordance with various levels of federal law. Large-scale industry came to Russian territories long before international instruments and ethical guidelines on corporate behavior were developed. In other words, in pursuing CSR policy, Russian companies typically tend to rely on Russian authorities and follow regional laws and informal practices of socioeconomic partnership agreements and compensation. This affects the strategies companies choose in realizing their social programs in the regions. Indigenous involvement in decision-making related to benefit-sharing is therefore limited (Tysiachniouk et al., 2018). Furthermore, while international companies cooperate directly with the population and support indigenous entrepreneurship and revitalization of the indigenous subsistence lifestyle by prioritizing languages and cultures through benefit-sharing policies, Russian companies tend to focus on social investments and provide support for infrastructure such as kindergartens, hospitals, sports, and cultural events (Wilson and Fjaertoft, 2016).

Russian companies were created at approximately same time (Lukoil in 1991, Gazprom in 1990, Surgutneftegaz in 1977, Alrosa in 1992, Transneft in 1993) with most them formed on the basis of Soviet state-owned companies. Relations between people and industry were built according to a Soviet equivalent of what is currently known as CSR, in which the company (state-owned enterprises) was responsible for the wellbeing not only of its own workers but of the entire population of the region. With time, these companies align themselves with international CSR standards, have been positioned in higher ranks at ratings within Russian companies and established corporate policies in line with the global markets demands. However, CSR practices embraced by Russian companies closely echo the Soviet experience. Despite efforts to keep their reputation as socially responsible, companies often fail to build trust with local residents. Instead, they are characterized by the companies' paternalistic management of the indigenous communities and the tendency to make all decisions by themselves without much consultation. Economic support given to municipalities and to the

region as a whole is considered important by most of the companies. As a rule, the choices over the content and direction of the given support are handed over to the companies as the sponsors of the regional development. The key roles on managing the funds are also played by regional authorities, which also reproduce Soviet and post-Soviet practices. The cases of Lukoil-Komi and Surgutneftegaz in particular represent a reset of Soviet practices as the decisions are made by the company in concord with regional authorities. This resulted in a limited circle of actors participating in benefit-sharing arrangements, and also in a less formal type of decision-making. (Tulaeva, 2017).

In other words, benefit-sharing programs are used as “window-dressing” and designed to please the investors and shareholders and improve company images, thus increasing the likelihood of obtaining a “social license to operate” with minimum indigenous participation (Tysiachniouk and Petrov, 2018). Commitments to respect global guidelines on indigenous rights are often implemented based on the fear of inhibiting company developments in global markets. In fact, without direct pressure from international financial institutions and multinational companies, commitments to global standards may simply be used to ensure that only the minimum benefit-sharing guidelines are implemented. In this case, company’s policy is limited to questionable compensations or targeted investments of cultural and sports events. As a result, stakeholder engagement is restrained, non-state actors are disempowered, and indigenous populations is dependent on company funding (Henry et al., 2016).

#### *5.8.7. Civil organizations involvement*

In their work of challenging and addressing existing problems, indigenous NGOs focus on adapting to the existing political regime and power structures, attempting to evaluate the activities of state bodies and intergovernmental agencies and finding alliances with “friendly” entities.

Komi NGOs, for instance, in order to continue their activism have had to adapt to sweeping political conditions. The Komi civil groups use several strategies to ensure better environmental and social policies, and have taken advantage of its relations to transnational NGOs, including Greenpeace Russia, to better invoke global norms related to indigenous rights and CSR. The Komi affiliation with Greenpeace Russia has positively influenced the development of a social movement while easing the unfavorable domestic climate for unrecognized indigenous groups in Russia (Tysiachniouk et al., 2018). Unique status of Greenpeace Russia in Komi can be explained by personal ties between Greenpeace and regional officials. Greenpeace has subsidized Komi representatives' participation in international forums, including, the Arctic Council meeting in Canada in 2015, and has also extensively publicized challenges, concerns and lack of recognition of the Komi-Izhemtsi.

In addition, two environmental non-governmental organizations SPC and the Izvatas have been defending the environment and local people for years. Izma Komi's representative organization, Izvatas, is one of the most influential regional ethnic and public associations. The organization was established in 1990 and used the ethnic group's title as its title. In the very beginning of Izvatas existence its members set preservation of the Komi Izhma language and culture, monitoring of abundance of the Izhma Komi people's rights and interests as the main goals of the organization's business (Fedina, 2017). Another organization that should be introduced is the Save the Pechora Committee, an environmental initiative group formed in the late 1980s, began to address environmental issues. Although, the organization is not indigenous one, however, many of its members are Izhma Komi or their sympathizers. The SPC has organized street protests in several Izhma and Usinsk district villages, and mobilized citizens, including members of the indigenous community, at Lukoil-Komi's public hearings. These organizations are the most eminent ecological and environmental organizations operating in the Komi Republic (ibid.).

Together, they have gained access to global institutions, such as the UN and the Arctic Council. The group also has cooperated with IWGIA, and the Institute for Ecology and Action Anthropology, a German NGO (Tysiachniouk et al., 2017). For example, in 2012, the SPC strategically decided to drop its legal registration as an NGO and operate informally in an attempt to minimize state scrutiny. The group also relies primarily on volunteer retirees who may have less to lose from social mobilization (Pierk and Tysiachniouk, 2016). In April 2016, SPC and Greenpeace jointly organized a roundtable with state executives on how to respond to a large oil spill in Usinsk.

Under Russian law, the company is not obliged to pay compensation to communities who are not legally recognized as indigenous by the Russian state. This notwithstanding, in the case of Komi, Lukoil initially resisted NGO demands that referenced these commitments and even attempted to fund a more favorable local NGO, a branch of the All-Russia Society of Nature Protection, to demonstrate social support for its activities. Company also used its close ties to national-level parliamentary deputies to endorse the company's activities in the Komi Republic and elsewhere. Although Lukoil does not receive EBRD financing for its projects in the Komi Republic at the moment (and indeed the EBRD is not financing oil and gas projects in Russia currently due to sanctions), Lukoil's policies toward indigenous communities have been influenced by the companies' past loans from the EBRD, the need to comply with the GRI, and desire to avoid negative publicity and to secure future investment. By participating in transnational activist networks, Komi NGOs were able to activate global norms to support their demands, including Lukoil's previous commitments to indigenous rights and CSR (Tysiachniouk et al., 2017). Lukoil did eventually respond to bottom-up pressure from activists and potential harm to its reputation when it negotiated an agreement with Izvatas in 2015. Markedly, in 2014, Lukoil has been ordered by a Russian court to pay a fine of 20 million USD for the destruction their spills have caused. The oil spills were investigated and identified by

Greenpeace Russia, and then confirmed by a local nature protection prosecutor (Burgwald, 2014). It would also appear that, had it not been for Greenpeace, these spills might not have received the attention.

Thus far, the Komi-Izhemtsi were unable to use domestic laws to gain indigenous status from the state or extract direct benefits from oil development in Russia's illiberal environment, but a shift to global venues and norms allows the Komi-Izhemtsi to try to escape the unfavorable domestic context for unrecognized indigenous groups and target Lukoil due to its perceived violations of indigenous rights and environmental protection, ultimately achieving a socioeconomic agreement (Tysiachniouk et al., 2017).

Sakha republic, in turn, has a strong civil society of its own. One important voice of that civil society is the newspaper Yakutsk Vecherniy, which has since developed into a strong voice of independent investigative journalism. This project gave rise to a significant environmentalist movement in Sakha (ESPO pipeline, campaign for the protection of the Lena River). The activities of indigenous people's organizations have also been instrumental in shaping one of Russia's most advanced examples of environmental and indigenous rights legislation, including Russia's only law on anthropological expert review (Novikova and Wilson, 2017). Most recently, the "Sir" (land, in Sakha language) movement was successful in promoting changes to a new Russian initiative to increase new settlement in the Russian Far East (known as Law on Far Eastern Hectare, 2016)<sup>38</sup>, under which any citizen of Russia could claim land in the Russian Far East that is not registered or occupied on paper. Thus, any hunting and herding

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<sup>38</sup> In 2016, a new federal law "On the Far East Hectare" was initiated by the federal government to stop the out-migration from the Far East regions. Based on this law, the government started a program according to which every person in the country can receive for free a hectare parcel of land in any Far East region for personal use. This has resulted in massive land withdrawal from regional TTNUs. In Khabarovsk Krai, for instance, about 50% of the total area of TTNUs in the region was withdrawn (Economic, social and cultural rights of indigenous minority peoples of the North, Siberia and the Far East of the Russian Federation, 2017).

Source: CESCR (2017b)

grounds in south Sakha where indigenous users had not done all the paperwork were under threat of being given out to strangers. As a reaction to this cumulative pressure, today almost all indigenous obshchinas have re-registered their land documents. This was done partially on the initiative of a union of indigenous communities in south Sakha, devoted mainly to the land rights question. The Sakha authorities moreover lobbied successfully for indigenous TTNU to be excluded from falling under the law of the Far Eastern Hectare (2016). As a result, indigenous lands within the Sakha Republic cannot now be reallocated to outsiders.

In Sakhalin case, the Council of Authorized Representatives is the most active and influential body of indigenous people in the region. It consists of eight members representing four main indigenous groups of Sakhalin with members elected during the regional indigenous peoples' Congress. It negotiated a partnership agreement with Sakhalin energy and ENL, and the regional administration. The aims of the Council are to protect indigenous peoples' rights, represent indigenous communities in their interactions with government and oil companies, and monitor operations of oil companies and their contractors. By promoting indigenous initiatives in Sakhalin, now the Council has taken the place of regional Association of the Sakhalin oblast on political level. The regional Congress of indigenous peoples also elects the authorized representative of indigenous peoples in the regional Parliament as official authorized representative of indigenous peoples in legislation authorities (Berezhkov, 2012). In addition to the Council, there is the Sakhalin Indigenous People's Union which unites all indigenous NGOs on Sakhalin Island, such as Kykh–Kykh.

#### *5.8.8. Reaction & Protests*

Across Russia indigenous peoples are struggling to resolve environment issues of the vast territories they depend on. Contamination of indigenous lands by chronic spills, radioactive leaks and water pollution, in addition to infringement on land areas for extraction, sometimes lead to confrontations, both violent, as well as of non-violent nature. For business entities,

protests could lead to financial costs and, if not handled in a timely and thorough manner, could significantly harm company's reputation on an international stage. Scandals could result in severed contracts, expensive and lengthy legal battles, and a subsequent market drop (The International Bank for Reconstruction and Development / The World Bank, 2019). Confrontation is usually typical for the cases where the regional economy is dominant and where oil companies, local and indigenous communities are lacking a constructive dialogue (Wilson, 2016; Stammler and Wilson, 2006; Stammler and Ivanova, 2016).

In Sakhalin, for instance, the path to regulated relations of all interested parties (indigenous population, government institutions and oil companies) was not easy (Funk, 2015). One of the distinguishing features of the Sakhalin case is the influence of social movement against multinational conglomerates that emerged due to the negative impacts of construction projects. Importantly, environmentalism has emerged as a powerful source of expressing discontent and demanding change in Sakhalin. Both local and international environmental networks, including Sakhalin Environmental Watch and 146 NGOs operating in 22 countries, notably WWF, Greenpeace, Rainforest Action Network, BANKTrack and Friends of the Earth, as well as 80 Russian NGOs located all over Russia, continuously challenged the oil industry on Sakhalin from the late 1990s. Largely concerned with the threats to the Pacific grey whale population and salmon in Sakhalin's waters, as well as pipelines crossing seismic fault lines, rivers and streams and ongoing deforestation, these organizations pressured financial institutions on environmental issues and launched campaigns stretched from local to global venues to target the headquarters investment banks willing to finance the second stage of the Sakhalin-2 project (Environmental Justice Atlas, 2015; Tysiachniouk et al., 2018).

Backed up by environmental movement, the indigenous peoples held major protests to demand change in the corporate conduct. Worried by disturbances to traditional practices, indigenous activists demanded an ethnological impact assessment of potential damage, compensation for

damages, funding for indigenous peoples' development, indigenous participation in all future decision-making processes on issues affecting their land, lifestyle and socio-economic development (Tysiachniouk et al., 2018). The movements came together in the Green Wave protests which culminated in January 2006 when protesters blocked road access to several of the consortia construction sites, including the Sakhalin Energy LNG plant (Jones, 2011; Environmental Justice Atlas, 2015).

Indigenous groups placed the most pressure on Sakhalin Energy (a consortium that applied for financial support from the European Bank of Reconstruction and Development with Shell as a receptive target): since the company hoped to receive funding from the European Bank for Reconstruction and Development, it had to follow the bank's operational policy on indigenous peoples. According to the standards of the international financial institutions, the company must take the interests of the local communities into account and resolve any emerging conflicts during the construction process. Unresolved conflicts with indigenous people can potentially harm companies' operation and block the companies from receiving loans from international financial institutions and, therefore, inhibit their positioning on the global markets. Thus, the protest campaign of local indigenous communities and international NGOs tried to dissuade the EBRD of investing in the Sakhalin-2 project. Sakhalin Energy and ENL sent representatives to indigenous peoples' settlements to persuade them not to participate in the protest. Company representatives threatened to fire 30 indigenous employees who were involved with different oil extraction projects at the time if they chose to participate in the protests. Oil company security squads were also sent to the Nogliki settlement to deter potential protesters (Jones, 2011). The bank pressured the company to resolve these conflicts by establishing an agreement with the indigenous population by issuing a recommendation to solve the conflict and, on January 11, 2007, confirmed that it would not provide a USD \$300 million for the Sakhalin II project (Jones, 2011). Also, after pressure from the media and international campaigns by

NGOs such as WWF, Greenpeace and local indigenous organizations, Shell accepted to re-route the offshore pipelines in order to avoid whale-feeding areas (Environmental Justice Atlas, 2015). While protests were directed both against Sakhalin-1 and Sakhalin-2 projects, they mainly affected Sakhalin-2 when public financial institutions that were lenders and investors to the project threatened to cancel their investments in Sakhalin-2.

In contrast, Sakhalin-1 turned to be less vulnerable to the NGO campaign (Tysiachniouk et al., 2018). Unlike Sakhalin Energy, Exxon Neftegas Limited did not substantially rely on international financial institutions, instead its operations are based to a larger extent on its own CSR policy, elaborated in their U.S. headquarters by Exxon Mobil, which is based on the same global standards, but is not constrained by the requirements of global financial institutions. Since the ENL has not borrowed money from financial institutions, the company was thus less subject to social scrutiny. It was instead influenced by the Sakhalin Energy partnership agreement and pressure from regional authorities. Thus, the ENL approach and its evolution over time were to a larger extent influenced by local factors, such as involvement of the state in tripartite partnership and activist campaigns. The pattern being played out is familiar: negligence followed by protest leading to the signing of a benefit-sharing agreement (Fondahl and Wilson, 2017).

These circumstances induced Sakhalin Energy to extensively negotiate with local indigenous peoples and triggered the development of inclusive social programs (Lamers et al., 2018). Social mobilization played a crucial role and forced Sakhalin Energy and Exxon Neftegas Limited to develop new, more effective instruments of cooperation. Protests resulted in a trilateral dialogue between the indigenous people, the state administration, and energy companies and introduction of the Sakhalin Indigenous Minorities Development Plan - a de facto peace treaty between Sakhalin Energy and indigenous representatives. The cooperation agreement is signed by the chair of the indigenous council, the Governor of the region and the

general executives of the companies. As a result, both companies changed their strategies of interaction with local communities. ENL has been somewhat less generous than benefit-sharing by Sakhalin Energy, its benefit-sharing is less complex, more flexible, and more limited, as its grant funding is available only to communities where drilling occurs. Another result of the protests became Regional Council of Authorized Representatives of the Indigenous Peoples of Sakhalin Oblast established in 2006 (Tysiachniouk et al., 2017).

Significant role was played by environmental organizations which became the catalysts for the protest movements' activities in Sakhalin. Most importantly, largely concerned about environmental degradation on the island due to Sakhalin Energy's activities, environmental groups included indigenous issues in their grievances as well creating a strong environmental and indigenous activism base on Sakhalin (Graybill, 2009). As a result, joined by both local and international organizations, the coordinated movement targeted policymakers to create environmentally or socially sound reform and had actively made use of global standards to pressure companies (Graybill, 2009; Tysiachniouk et al., 2018).

To sum up, Russia's Arctic is characterized by the most complex and unresolved issues relating to indigenous rights (Nuttall and Callaghan, 2000). The following analysis has revealed some differences and yet intense compatibilities of indigenous disempowerment in given regions with various tactics used to legitimize discriminative policies against indigenous peoples driven by the vested interests of each party. Context elements such as region's overreliance on natural resource, legal framework, scale, and scope of partnership can influence the process elements and, therefore, need to be considered.

The few forms of protection offered by state legislative regulations, policies and programs consistently fail to recognize and address the concerns and needs of indigenous groups. By enacting laws and adopting the regulatory framework, the federal government sets the tone for

implementation of indigenous rights. However, in the reality of weak rights and minimal financial support coming from the federal state, indigenous peoples often rely on regional authorities and territorial entitlement as additional leverage to achieve implementation of their rights.

Originated in Soviet times, national policy has been based on ethnic affiliation, according to which every group of social structure is consistent with administrative entitlement. As political, economic and cultural development of each group is different, so is the territorial division, with the largest and relatively powerful groups being attributed to the highest level of autonomy - republics. Within the limit of what the federal Russian state allows, the status of republic must not be underestimated. Created system of territoriality has a profound impact on regional variations of how indigenous issues are addressed in the region. As a result, those who received some degrees of autonomy were able to endure the transition, while others have to find additional ways to cope with the multiple challenges (Fondahl and Poelzer, 1997). Therefore, today Sakha (alongside KHMAO) where Yakut people control the region with a size bigger than India has Russia's best-regulated indigenous land rights.

In a case of Sakha republic in particular, where Yakuts are not recognized as indigenous peoples by the domestic legislation, established administrative entitlement clearly put them in a better provision and provides with far more control over land and life than could be enjoyed by smaller groups who are recognized as indigenous. As such, the Sakha Republic has been at the forefront of passing legal acts even before the Russian Federation (Stammler, 2017). As a result of political dominance of Sakha, the republic has Russia's most advanced regional legislation on indigenous rights (ibid.). Stringer legal frameworks in comparison to federal regulations have entitled Yakut leaders to speak of "*achieving a legal breakthrough, compared to Russia as a whole, along the road to establishing the legal status of numerically small Northern peoples*" (Kasten, 2005, p. 198).

However, while the status of republic has played into the hands of Yakut population, it falls short of making Komi stronger in voicing. Contrary to Yakut people, accounting for almost half of the population and enjoying the status of the so-called titular nation, Komi count for only 23% of the regional population (Tysiachniouk et al., 2018). Different legal entitlements of region's people contribute to their different access to benefits and compensation. Unrecognized as indigenous, they are excluded from rights attributed specifically to indigenous peoples. They are furthermore excluded from decision-making over their territories and from adequate compensation for damage to these lands inflicted by extractive industries.

Promising legal initiatives and institutional development have been taken by regions with Autonomous okrug's status as well. KHMAO, for instance, has introduced important safeguards mechanisms in relation to indigenous peoples' rights. Starting from 1992, region has led in the establishment of legal rights for indigenous peoples, including adoption of laws for the creation of TTNUs that are assigned only for the use of indigenous peoples for traditional economic activities and substantial experience in concluding agreements with indigenous populations (Yakovleva, 2011; Stammler, 2017). As of today, KHMAO is known for its comprehensive framework on indigenous rights and better conditions for its indigenous population than other regions of the Russian Federation.

Jurisdictions of regions, that do not have the right to establish their own constitution, have fewer incentives or means to accommodate aboriginal aspirations (Fondahl and Poelzer, 1997). Murmansk and Sakhalin regions that are not nominally connected to indigenous population, and as such were not created to facilitate ethnic minorities' self-government, but on the contrary were administratively framed as common regions of Russia, both have a particularly weak tradition of indigenous policy (Berg-Nordlie, 2015).

Regions that are resource-poor are also vulnerable. In fact, abundant resources can be a two-edged sword: on one hand, industrial companies bring disruption of indigenous livelihood and

environment, on the other hand, absence of big companies, both Russian and international, in the region also results in a failure of indigenous population to attract attention of global community and state's authorities and use the leverage to pressure powerful actors to take indigenous claims into account. Oil brought international companies and attracted much-needed attention to indigenous communities of Sakhalin. Other regions, however, have not followed the lead. And there are far more cases in other regions of Russia, whose stories largely remain untold. Example of Kuzbass with its fast disappearing indigenous Shor people, for instance, has been labelled as "Slow Death" referring to devastating impact of coal industry.

On a positive side, there is the emergence of a stronger corpus of international human rights pushing for a much more inclusive and respectful approach to development. In recent decades, with the influx of industrial companies to the Arctic region, a new form of empowerment and increasing indigenous peoples' input in decision-making, has been developed. Benefit-sharing, in particular, is often portrayed as one of the recent forms of indigenous empowerment and highly desired practice for ensuring that profits are properly shared with local inhabitants. In regions, suffered from the lack of benefit from taxation, the scale of environmental damage and scope of compensation, companies' social investment projects take on a greater significance in local people's eyes. Lack of benefits through employment and taxation system, in turn, helps to explain the emphasis of Russian companies on social investment projects. With regard to agreements with communities, standard models of interaction between industrial and indigenous parties include partnership, and corporate and state paternalism (Table 8).

Numerous actors with different roles, interests and incentives are involved in land-use decision-making processes. These include federal, regional and local governments, state and private firms, international organizations, NGOs, communities and indigenous organizations. Benefits agreements clarify the rules by which the benefits, as well as possible burdens, are to be shared among the multiple actors affected by the land use. Forms of benefits vary from monetary or

non-monetary support, compensatory payments, charity programs, sponsorship or long-term oriented means of support (Luttrell et al. 2013).

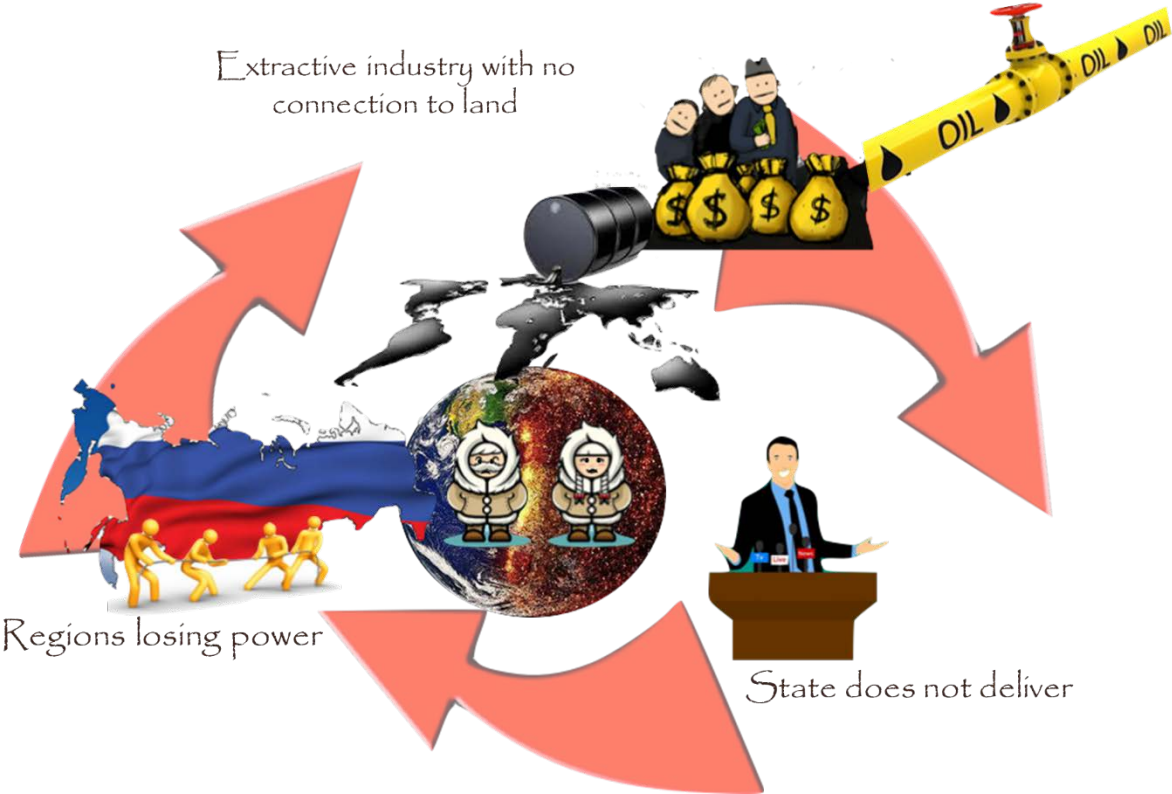
Table 8: Different Models of Companies' Interaction with Indigenous peoples

Different Models of Interaction with Companies					
Model	Regions	Companies/Type	Direct Benefits	Indirect Benefits	Influencing factors
State Paternalism	Komi	Lukoil (Russian private)	Direct agreement only with one Komi group	Regional government and company define the support to local communities, sponsorship	Komi are not recognized as indigenous Environmental protests Lukoil has foreign lenders
	Murmansk	Mining companies (Russian)	No agreements with Sami	Regional government and company define the support to local communities, sponsorship	Companies' operations are not on indigenous lands Sami - transboundary nature: support from international organizations, closer watch of the state
Corporate paternalism (Limited CSR and Moderate CSR)	KHMAO	Surgutneftegaz and Lukoil(Russian private)	Compensation payments with designated TTNU; Heavily and lightly affected households receive the same compensation	Employment, sponsorship	Surgutneftegaz is registered in the region (taxes stay in KHMAO)
	Komi	Lukoil(Russian private)	Separate negotiation with each family/household; Compensation payments	Sponsorship	Komi are not recognized as indigenous Environmental protests Lukoil has foreign lenders
	Sakha Republic	Gazprom and Transneft (Russian state-owned)	Gazprom' and Transneft' compensation payments to certain communities,	Sponsorship Temporary jobs one-time payment for losses of biological resources to the Aidan region's budget	intervention by the Republic President In Sakha mostly affected – Evenki
	CHAO	Kinross (Canadian)	Benefits from Kupol Foundation	Employment Education & Trainings Monitoring Sponsorship	Agreements with regional RAIPON and Kinross Indigenous representatives in Foundation Sakha – title nation Alrosa shareholders structure
Partnership or Preferred Model	Sakha Republic	Alrosa (Russian)	Municipalities are shareholders (not indigenous peoples) 2% from Alrosa revenues to socioeconomic and environmental purposes		
	Sakhalin	Sakhalin-1 (International) Sakhalin -2 (International)	Direct participation in distribution Grants	PSA: bigger share stays in the region Employment Education & Trainings Monitoring Sponsorship	Protests International companies

Agreements with companies have been seen as a way of addressing the challenges indigenous communities face. On its steady way of becoming the largest oil and gas producer in the world and increasing its production capacity of oil and gas pipelines located primarily on indigenous lands, Russia's authorities have been largely unsuccessful in protecting indigenous rights (Nikolaeva, 2017). And since the federal legislation has continued to assign rights and allocate land and natural resources in a manner that not only exclude but marginalize already disadvantaged groups, these agreements have surely become an alluring prospect for indigenous groups to ensure, or at least try to ensure their rights in the illiberal reality of the Russian state. Yet, arrival of international companies and standards to Russia has resulted in collision and "overlying" of two different approaches to corporate behavior: international standards and Soviet practice that are different in shape, form and design (Funk, 2015). Nearly all examined companies are formed on the basis of Soviet state-owned enterprises. Rooted in the Soviet experience and weak legal and regulatory environment, Russian practice creates a new form of CSR marked with a strong paternalism and entitled to sugar-coat the uneven landscape of indigenous rights. Under those circumstances, benefit-sharing arrangements merely act as short-term measures incapable of preventing the eventual destruction of their communities. CSR stays a voluntary initiative while the concept of benefit-sharing in its modern interpretation is still taking shape. State increases control over private extractive companies (Alrosa), keep them close and loyal (Lukoil, Surgutneftegaz), taxes away companies' natural resources profits from the regions.

Needless to say, the benefit-sharing policy, if properly implemented, can positively affect the livelihoods of Arctic residents who depend on access to natural resources. It is, therefore, crucial that the corporate sector shares a portion of benefits derived from the resource extraction with the local residents "*in an equitable, transparent, and just way, allowing all stakeholders to be a part of the process and outcome of benefit sharing*" (Tysiachniouk and Petrov, 2018, p.

33). Yet, in the Russian Arctic, process of establishing partnerships with subsoil users across the country is in the initial stage, and the compensation mechanism, to date, is poorly developed. So, the existing forms of interaction (contractual relations, social responsibility of companies), except, perhaps, protests from the indigenous population, backed up by international organizations' pressure, do not lead to the dialogue. Protests, in turn, are relatively rare, or generally uncovered in the literature. In many cases, existing relations rather lead to the ignorance or indifference, which is due to the fact that the position of indigenous peoples (and sometimes they themselves) imperceptible and invisible (Basov, 2018). All in all, Russian authorities and companies fail to find the middle ground for balancing indigenous rights and economic interests, or, most probably, are not in a search for one. Indigenous peoples are, thus, left without powerful counterbalance to dominant players, destined to remain in a vicious circle, trapped between misplaced responsibilities of thirsty-for-profit companies and unactionable authorities (Petrov and Francis, 2015; Figure 16).



**FIGURE 16**  
**INDIGENOUS PEOPLES, STATE AND BUSINESS RELATIONSHIPS' CIRCLE**

SOURCE: AUTHOR

## CHAPTER VI

### DISCUSSIONS & IMPLICATIONS OF RESULTS: Reconciliation

#### (Im)possible?

*“No rights - no problems“*

In the previous chapter, we analyzed factors responsible for variations of indigenous rights implementation in Arctic regions that make it challenging to set indigenous affairs forcefully on the agenda. We looked at different actors responsible for various means of indigenous disempowerment. On the whole, indigenous rights are not afforded the respect or legal power. Situation created can be described with the words of one of the respondents: *“No rights - no problems.”* In realities, where economic incentives outweigh the importance of indigenous interests, indigenous rights are entirely ignored.

Since 1970s-1980s, empowerment of indigenous peoples has steadily become a common trend in the Arctic region. From late 1990s, however, the pattern breaks down. The legacy and impact of the Soviet “self-colonization” started to come out. As a result, slight signs of indigenous empowerment that were seemingly in line with the logic of global trend, turned out to be a mere temporary detour. As such, current Russia demonstrates the regression of indigenous peoples rights which is in sharp contrast with other Arctic countries where indigenous peoples’ rights generally develop according to the international law. Assertion of indigenous rights in Russia’s Arctic, starting from the most fundamental right to self-determination and ending with the most contested self-governance and land rights, are nowhere near the levels achieved in other Arctic nations:

*“...Arctic Indigenous peoples enjoy among the highest qualities of life and greatest degrees of political autonomy and social inclusion of any Indigenous peoples in the world. [...] Arctic Indigenous peoples have organized into political formations able to challenge the preferences*

*of their colonial governments without fear of overt political repression, violence, or retaliation” (Greaves, 2015, p.3).*

### **6.1. History repeats itself: New Context, Old Challenges**

Cross-referencing postcolonialism’ reflections on inability of modern states to transcend imperial past, a concept of path-dependence is a continuous and recurring theme running through all dissertation. Russia’s post-colonial melancholia - where diversity and otherness are seen as threatening, and enduring Soviet legacy that determines the trajectory, speed and content of state agenda, are proven to be stable and difficult to break out of (Etkind, 2014; Nikolaeva, 2017). Russian state’s failure to define its role and position in the newly-emerging systems of state governance and past Soviet narratives resulted in a powerful continuity of hegemonial policies towards indigenous peoples for whom coloniality is hardly “*post.*”

Trace of colonial logic of the Russian state in relation to both indigenous problematics, as well as more general ethnic policy of Moscow, has manifested itself in at least three ways: Russian aggressive imperial aspirations (domestic and external), fractured indigenous identity and de-politicization of ethnic issues.

#### *6.1.1. Endless Empire*

Russia’s long-standing normative dependence on Soviet past, and its mostly failed attempts to redefine itself within it, have predetermined the trajectory of its policy that is destined to cycled internal colonization. Viewing through postcolonial lens, Etkind argues that Russian colonization as “*an expansion of the Russian people*” creating “*its own territory,*” was very distinct from the Western type that was “*a product of geographic discoveries and military conquests.*” This, in turn, resulted in a curious case of self-colonization with the periphery teaming up with the center and made the process of decolonization in Russia “*logically impossible,*” contrary to Europe where “*colonization is defined in a manner that presupposes decolonization*” (2001, pp. 64–65). In the attempts to place Soviet Russia within the

postcolonial paradigm, scholars came to the conclusion that substituting one empire with another, Russian Federation found itself “*between the dead empire and the newly emergent one*”: “*a dynastic empire fell, a socialist one followed, and a third is now consolidating its institutions along familiar trajectories*” (Spivak et al., 2005, p.830). Similarly, Beissinger argues that “*the deconstruction of the former USSR remains an ongoing and potentially endless process, even after the USSR formally ceased to exist.*” (1993, p.110). As a result, the demise of USSR has not led to the end of a political system that employed it (Inozemtsev, 2017).

Reformulated in order to fit to new globalization demands and challenges of diversity, maintenance of imperial logic rooted in historical contingences is manifested in Russia’s fear of interethnic tension and consequent aggressive response to it. As illustrated by Kremlin’s brutal tactics to handle ethnic instability that reached a boiling point in the 1990s, especially in the Northern Caucasus, Russia goes to great lengths to prevent any threat of secession refusing to end hopes of constructing a united community untroubled by ethnic and cultural divisions (Gorenburg, 1999). The desire to reestablish its hegemony and apparent obsession with “national unity” and “territorial integrity” is not limited to domestic arena, but expands to the post-Soviet space as well (Ukrainian conflict).

### *6.1.2. Devalued Identity*

During the Soviet era, indigenous peoples were subject to assimilationist policies that were a common feature of the twentieth-century landscape. However, the distinctive feature and the greatest “success” of the Soviet policy driven by the idea of promoting Russo-centric consciousness was erasing of the clear border of identity.

The task of the Soviet government was to upgrade the status of indigenous peoples who were seen “*backward, living in isolated communities ...incapable of self-determination, to the level*

of more progressive and developed groups of society ready to be integrated into one Soviet nation (Donahoe et al. 2008, p.1009; Nikolaeva, 2017). From 1936 to 1990s, since only the “*Soviet people*” was recognized as the subject of state-legal relations, indigenous peoples were not referred in the legislation as rightsholders (Kryazkov, 2010, p.55–57). Pursuing the policy of paternalism, the state itself decided for the indigenous peoples what they should do, what language to speak and where to live. By deliberately confusing ethnic and Soviet identities, the Soviet state blurred clear distinction between them. This, in turn, has facilitated the rupture of Russia’s indigenous path from international indigenous development (Moore, 2001). As a result, the post-Soviet era inherited a highly problematic consciousness that was characterized as “*inherently contested, embedded, and overlapping*” (Kuzio, 2002, p.248). These inherited identities have not simply vanished, but undergo a process of re-evaluation. Generally, a grey zone exists when it comes to discussions of diverse nature of Russian society. Russian non-indigenous population remains ignorant about indigenous groups, and many are unaware of the existence of these communities. While the government itself has recognized state ethnic diversity, the idea of diversity is not celebrated and indigenous peoples remain largely invisible. The imparted legacy of fractured and incomplete identities also plays into hands of contemporary Russian policy that uses it to devalue already confused indigenous identity.

### *6.1.3. De-politicization of Russia’s indigenous issues*

Under the circumstances of growing statism, some scholars observe a shift from the 1990s indigenous rights' discourse aimed at access and control over land, natural resources, self-determination, sovereignty and political mobilizations towards depoliticized policy that puts more focus on the cultural aspects of indigeneity, similar to the one pursued at Soviet times, when everything associated with ethnicity was encouraged by the state, yet cut out of law and politics domain (Funk, 2015; Nikolaeva, 2017).

Martin (2011, p.13) described this approach as a strategy of depoliticizing ethnicity “*through the aggressive promotion of symbolic markers of national identity: folklore, museums, dress, food, costumes.*” That is what we are witnessing today: on the one hand, specific programs are actively supported by both local and central governments; on the other hand, the measures are limited to cultural events without any rights granted. In other words, indigenous customs and traditions are treated as valuable, yet, they are not identified as sources of rights. As such, the Russian state came to promote exclusionary categories of its ethnic diversity (Etkind, 2014) and to narrowly frame indigenous rights by focusing on state support on traditional cultures while taking the focus away from more substantive discussions regarding the reclamation of indigenous territories, livelihoods, natural resources, and self-government (Corntassel, 2008). Under those circumstance, permitted only to celebrate limited markers of identity, indigenous peoples in Russia have to “*incarcerate themselves in a certain “traditional” lifestyle*” (Donahoe 2011, p.413; Nikolaeva, 2017). In this context, indigenous policy remains highly restrictive and limited to cultural rights while indigenous demands for special representation and political rights have little room for maneuver. Indigenous peoples are not seen as a powerful source of rights and political voice, but rather as an object of primitive, yet, exotic cultures worth preserving.

## **6.2. Legal Stagnation: Rights That Do Not Exist**

Soviet policies of Russification, collectivization and resettlement had a disastrous effect on the traditional way of life of the indigenous peoples and created a dependency on the state-organized resource use (Wilson, 2000). Yet, the current crisis of indigenous rights in Russian was not a logical outcome of hardships of the Soviet policy. Rather, it is what happened in the following years has resulted in further destruction of indigenous identity.

Indigenous activism and empowerment that was rather successful in turbulent 1990s were not destined to failure. On the contrary, it was an aberration from the global trend of indigenous empowerment. Yet, somehow, 28 years later, as indigenous peoples were seemingly in control of their fate, they came to be, once again, outsiders, both politically and economically. After a brief moment of democratization in the 1990-2000s, indigenous hopes have been shattered by the government of Putin and his elite. Only this time, being already traumatized by the Soviet policy, indigenous peoples discovered that alongside the “*old enemy*,” they fall foul of thirsty-for-profit industries. The twenty-first century brought deforestation, pollution of water with industrial wastes, degradation of reindeer pastures and put Arctic diversity at risk. After dissolution of the USSR and transition to a market economy, Soviet laws lost the power and became ineffective, yet, with challenges multiplied, no alternative approach has been proposed either. Who is responsible for indigenous empowerment? In realities where the federal government does not deliver, regions are losing power, companies depend on authorities, the border is quite blurred.

With regard to legislation, the period from the 2000s onwards has been referred to as “*legal stagnation for indigenous rights*” in Russia (Kryazhkov, 2012, p.29; Miggelbrink, Habeck and Koch, 2016). Major organs dealing directly with indigenous peoples have been liquidated. During the 1990s, responsibility for indigenous minority policy shifted rapidly between different State Committees and Ministries, leaving indigenous policy field institutionally “*homeless*” in the period 2000–2004. In 2001, the Ministry of Federal Affairs, National and Migration Policy was disbanded. In 2004, indigenous policy was handed to the Regional Development Ministry, which was responsible for elaboration of state policy on indigenous peoples and normative relations of socioeconomic development of indigenous groups in regions with indigenous population and also managed ethnic interrelations that for security reasons were much higher on the political agenda (Chyebotaryev et al., 2015). Ironically, it was the

Ministry that partially administered energy and transport projects in regions. RAIPON and this ministry established relatively good working relations. In 2014, however, the Ministry was dissolved and indigenous policy transferred to the Ministry of Culture (Berg-Nordlie, 2015). As it was stipulated by indigenous peoples, this change placed limitations on indigenous affairs, that were now framed within constraints of sponsorship for “*singing and dancing*”, “*whereas rights, land and development would be off the table*” (IWGIA, 2014a). As of today, on the federal level, indigenous policy remains poorly institutionalized. Indigenous issues lost the ministerial level, and Federal Agency for Ethnic Affairs responsible for all indigenous issues at the national level.

The number of indigenous representatives working with federal and regional authorities went down as well. Indigenous politicians began losing their political privileges at the federal and regional levels. Gradually, the role of indigenous politicians transformed into that of consultants to authorities with little power to influence law- and decision-making. In the Duma of 1994–1996, there were only three deputies from indigenous representatives; from 1996–2000, there were two; from 2000–2004, there was one; and in 2008, there were no representatives working as deputies on the federal level.

In 2004, the right of federal subjects to create representation quotas for indigenous communities in the regional parliaments (Stamatopoulou, 2017) was declared void in connection with signing and ratification by Russia of “Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the CIS Member States”, according to which “*ethnic quotas*” violate the principle of citizens’ equality. Although there are some representatives of indigenous peoples in the regional and local bodies, there is an overwhelming absence of an indigenous voice in the main legislative bodies in all levels (Xanthaki, 2004). Due to extremely small percentage of indigenous peoples, the chances to be elected as deputies is minimal. They have slightly better chances in a few territories where high percentage of indigenous population lives.

Although some persons belonging to indigenous peoples are represented in elected bodies, through their membership of mainstream political parties, due to the fact that they run for election on general terms, it is hard to detect them. Moreover, Russian law bans the formation of political parties on the grounds of ethnic or religious belonging. Remaining opportunities for indigenous representatives to feed into decision-making relate to consultative bodies (Prina, 2014).

### *6.2.1. Conflicting Terminology & Deliberate Misrecognition*

First and foremost, the Russian legal framework does not employ a concept of “*indigenous peoples*”. Instead, it proposes its own definition of “*indigenous small-numbered people*” not known internationally (Fedina, 2017). These two categories are entitled to dramatically different conditions of peoples’ legal imaging and protection (ibid.). Several observers state that it is impossible to create a common model for Russia taking into account that areas of indigenous residence take more than half of the country’s territory which was acquired at different stages of history. It has, therefore, been expressed, “*unless such an exclusive definition is applied, most non-Russian groups could lay claim to rights set out in the UNDRIP*” (Rohr, 2014, p. 15). This reasoning is often used to explain why the definition of indigenous peoples focuses on the numeric classification to stress their distinction from the dominant group as well as the necessity of “*saving*” their languages and cultures, as small number implies the danger of extinction.

Definition is notably different from the UN and other international instruments’ definitions which contain no reference to size and population of the given community, but instead emphasizes historical aspects such as discriminative experiences, and expression of indigenous self-identification (Rohr, 2014). Developed concept of “*small-numbered peoples*” points up the artificial legal category with rather “*arbitrary demographic limit*” that has been introduced by the state (Fedina, 2017; Overland, 2005, p. 108). Such an exclusive term limits the recognition

of indigenous rights to the smallest possible subset of ethnic groups and excludes peoples with larger populations that have often expressed their self-identification as indigenous, such as the Yakuts or Komi. Also, this numerical politics of indigeneity recognition creates considerable tensions between the small and larger indigenous groups, as it presumes that some indigenous peoples are more indigenous than others, and that some groups can be written out of the indigeneity discourses, disadvantaging them economically and politically in the process (Nikolaeva, 2017). They can never be granted republics' status and, according to Miller, "*these sorts of bureaucratic circumscriptions of indigeneity are deployed by the states to control, manage, and contain indigenous populations in designated areas, minimizing the threat posed by their assertions of difference, reducing a number of beneficiaries, and necessarily causing a conflict between recognized indigenous and would-be but not yet recognized groups*" (2003, p. 209). In this sense, the unambiguous and categorical recognition of indigeneity ignores the necessary complexities of indigenous experiences, consequently benefitting the interests of the state authorities, marginalizing and disregarding indigenous peoples' rights, their potential grievances and struggles (Nikolaeva, 2017). Without doubt, incompatibility of indigenous collective rights with the Russian legislature can be ascribed to the attitude of Russian government itself; the practice of other countries suggests that the greatest challenge to indigenous rights may not be theoretical-philosophical but the political one.

### *6.2.2. Misleading Impression & Unfulfilled Promise of Indigenous Legislation*

Many experts note that on paper Russian legislation includes rather strong state obligations to protect indigenous peoples' rights. The Russian Federation adopted three national framework laws establishing the framework of cultural, territorial and political rights of indigenous communities. In particular, these laws guarantee indigenous peoples' rights to use the land; to

participate in the implementation of control over land use, and in decisions about protecting their traditional lands and way of life, economy, and activities through conducting ecological and ethnological expertise; and to be compensated for damages to their traditional lands resulting from industrial and economic activity (On Guarantees, Art.8). Although the constitutional rights and legislation have offered the basis for indigenous population to make claims to lands and to establish self-government, when examining Russia's case, it suddenly strikes that nothing is ever quite as it seems.

Of particular concern is the absence of the right of indigenous minority peoples to the lands they occupy which includes only weak usufructs provisions. Even those modest provisions that were included in the 1990s legislation, today lost their power. Recent amendments to all these laws have made virtually impossible full implementation of indigenous peoples' collective rights to land and resources (Zaikov, Tamitskiy and Zadorin, 2017).

According to numerous scholars, clear land tenure is prerequisite for the effective implementation of indigenous rights. Without land rights and rights over natural resources, the right of self-determination and other rights would be meaningless or merely become "*paper*" rights (Corntassel, 2008, p.108). Clear tenure helps to ensure and secure property rights, as well as the right to access natural resources. Land rights are also a basis for claiming benefits. Clear tenure facilitates their allocation and lowers the potential for conflicts over benefits linked to resources. In turn, unclear or insecure tenure has long been known as a factor that impedes proper natural resource management, whereas the conflicts over land are recognized as a barrier to indigenous empowerment. Crucially, Russian legislation does not acknowledge indigenous peoples' inherent right to their ancestral territories. In fact, Russia's approach to land is quite different from other Arctic states. After the Russian revolution, all land was considered state property. It remains under state control, despite contested and competing claims from indigenous peoples and even local governments. 92% of Russian land is publicly owned, either

at federal, regional or municipal level (the rest is held by legal entities and individuals) (OECD, 2015). Importantly, there is no the same sort of legally binding contractual evidence supporting indigenous peoples rights to land that there is in the Canadian and US contexts. There were never any treaties signed, and the question of native title to land is not even on the table. As such, *“the best anyone can hope for is a long-term lease”* (Eckert et al., 2012, p.52). In other words, in Russia, indigenous peoples are not regarded the owners of their ancestral land, and based on their traditional occupancy, are merely granted usufruct rights over territories and resources required for the maintenance of their traditional way of life. Federal laws do not grant any special rights that let indigenous peoples participate in the decision-making process concerning the lands and resources. Similarly, there is no regulated system ensuring consultation, cooperation, agreements and other forms of indigenous participation.

TTNUs were considered relatively promising for facilitating indigenous control over land. TTNUs served as a guarantee for the future solid self-development of the northern territories under new market realities (Turaev, 1998). The original idea behind their creation was that these lands would be mostly off-limits to industrial development (Evengard, Larsen and Paasche, 2015). These lands were meant to be managed, or at a minimum co-managed, by indigenous communities. Importantly, TTNU and obshchinas were created not only to fulfill economic rights of indigenous groups by giving them possibility to ensure their traditional economic activities. Their creation reflected the existing link of indigenous culture and the traditional economy; as such, allocation of lands to indigenous groups was crucial to preservation of their unique traditions. Preservation of the nation, ethnicity is first of all, preservation of inherent economic livelihood. In this regard, the TTNU was seen as an “indivisible foundation” of indigenous community aimed at preservation of environment in which that community has been formed. Foreign experience convincingly testifies that the peoples whose traditional economies retain their defining positions in indigenous life support system, better preserve all other

elements of traditional culture - language, community relations, household, etc. (Turaev, 1998). In the same vein, established obshchinas were seen as a sole subject of use (ownership) in TTNU management as an institution of economic autonomy and environmental management (Turaev, 1998). In practice, however, obshchinas have been formalized not as decision-making or land-owning bodies but something more akin to civil society formations instead of indigenous self-governing bodies (Øverland and Blakkisrud, 2006; Berg-Nordlie, 2015).

Many of the principles on the status of the TTNU remain undeveloped (Turaev, 1998). The federal government did not confirm any TTNU established by local or regional administrations. Neither the creation of TTNU, nor obshchinas was supported by a set of measures for the development of the traditional economy, and mechanisms for the socio-economic development of territories. In 2001 the Land Code of the Russian Federation ruled out any form of land tenure other than rent and private property, thus making the provision on perpetual use of land by indigenous peoples by the TTNU law void. This amendment acts as a major obstacle to the realization of land use rights of indigenous peoples (The International Bank for Reconstruction and Development/ The World Bank, 2014) and provides no room for the recognition of an indigenous community as a collective rights-holder. The indigenous peoples cannot determine the borders of existing TTNUs and have no veto rights if the state wants to alienate these lands, for industrial or other purposes (Øverland and Blakkisrud, 2006). The protective TTNU functions are, therefore, an empty shell. As a result, the formation of the TTNU and obshchinas are seen mainly as a political action, turning out to be merely products of the era of the democratic “*romanticism*” of the 1990s.

Some regional regulations provide considerably more opportunities for indigenous participation. However, because of jurisdictional uncertainty and weak regional power vis-à-vis the federal government, the federal government usually overrides regional law in areas of shared jurisdiction – land use, natural resources, and indigenous peoples (Newman, Biddulph

and Binnion, 2014). As a result, the regions are quite restricted by the federal legislation. Due to the lack of normative and legal mechanisms that provide for indigenous rights' realization, the existing system of Russian domestic legal regulation is full of gaps, inconsistencies and contradictions and has yet to be redeveloped according to current international standards. Legislative decrees and presidential edicts are often left ignored by most regional jurisdictions. In other cases, authorities implement federal laws in a very selective way, especially with respect to natural resources and lands issues. In particular, even at times when indigenous peoples were seemingly backed up by already modest, yet existing, legislation, the state moved the finish line by withdrawing and changing the few laws designed for indigenous protection. These exemptions to legal norms can be seen in companies' ignorance of obligations to assess possible negative impacts of projects on the traditional way of life of indigenous peoples or the permission to define, downsize and resize TTNU. Often, these exemptions are claimed to act upon federal approval. All in all, as Kryazhkov (2012, p.35) stated, "*Russian legislation concerning indigenous minority peoples could be characterized as unstable, contradictive, often imitational, only initially developed, and not enough adjusted with international law.*"

Existing norms exist in isolation from each other and, often, they are not perceived in their entirety, nor perceived to be binding. The laws are fragmentary and sparse on both federal and regional levels and thus depend on "*either case-by-case arrangements or additional by-laws to be passed at [the] regional or national level in order to enable their implementation*" (Rohr, 2014). Thus, insufficient regulatory potential, lack of mechanisms to implement the declared rights, jurisdictional vagueness and non-concreteness, and authoritative federal power represent the biggest obstacles for indigenous communities seeking adequate protection (Newman et al., 2014; Gladun and Ivanova, 2017).

Russian legal and political system proved to be extremely flexible with an "*open architecture*". Its changes depend directly on foreign policy factors, governmental policy and political agenda,

as well as on established political practice in a particular region of the Russian Federation (also influenced by ethnic and social composition of population).

### 6.3. The Russian State in the Time of Putin

At the same time, Russia's indigenous policy (or its absence?) should be seen as a part of a general trend of centralization of Russian policy. During the first two decades of the new century, dozens of new laws were adopted to strengthen the power vertical, control on society, mass media, non-governmental sector, etc.<sup>39</sup> In varying degrees, it has affected all civil society sectors, including human rights' defenders, ecologists, journalists and others. New regulations curtail freedom of press, criminal prosecution of organizations or its members, judiciary loses independence. The result of this transformation became a compromise policy targeting economic modernization in the strong paternalistic state with focus on national interests. This policy seeks establishing civil society mobilising assistance to the state in its modernization, at the same time demonstrating intolerance towards a *critical* civil society.

Scholars of Russian federalism and regional politics have emphasized a series of important trends in the relationship between the federal and regional governments since the demise of the Soviet system. Contrary to the Soviet strategy to preserve the state territorial integrity at all costs, under Boris Yeltsin, the political system underwent a process of decentralization, rooted in the growing weakness of the federal government and the rise of powerful regions. Since 2000, the power structure between the federal center and regions has shifted dramatically. The new president Vladimir Putin and his elite initiated a series of reforms designed to (re)strengthen the position of the federal government vis-à-vis the regions. Under the firm rule of the newly created national political party United Russia, strategic companies and oligarchs were subdued and recentralized hierarchy of government political authority was introduced

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<sup>39</sup> The most recent measure includes on the law on centralizing the Russian Internet signed on May 1, 2019 restrictions on political competition and interference in local and regional elections attacks on and killings of journalists; physical abuse by law enforcement officers, infringed on freedoms of speech and expression

(Remington 2012; Wilson and Kormos, 2015). Under Putin's control, some autonomous areas were decimated or merged with bigger regions with idea to strengthen the controllability of the regions. Furthermore, in 2004 Putin cancelled rules for electing regional governors. The current system of appointing governors, first to be nominated by the President, was then instituted. In addition, the president appointed special representatives to oversee governance of each of the seven Federal okrugs of the state; wherein okrugs are mere units of administration created in 2000 in support of strengthening the powers of federal authorities (Stamatopoulou, 2017).<sup>40</sup>

Coupled with diminished political control of region, districts have not avoided changes in economic incentives neither. As a part process of a broader process of centralization, the federal government has initiated measures to tax away natural resources profits from the regions (Ross, 2016). The centralization of revenues from mining operations conforms to the notion that mineral resources should belong to the Russian nation, and as such, tax revenues should not be concentrated in individual regions, but utilized in the interest of the entire population. Although the regional governments are entitled to propose the development of licensing programs for the use of mining leases and conditions of licenses for the use of resources, they have very limited influence on decision-making. In reality the subjects of the federation have been deprived of any real voice regarding subsoil use, except for the development of infrastructure.

### *6.3.1. Rise of Business & Oligarchs*

Another feature of Putinism in line with weakening of regional powers is a growth of the political influence of big business and the rise of oligarchs (or *oligarchs* as Etkind refers to them). Skyrocketed demand for natural resources has enabled a rapid advancement of the so-called "*resource colonialism*" defined as the rhetoric of development that benefits the

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<sup>40</sup> For an analysis of centralization measures, consult Oversloot, *supra* note 22, at 93–103. For the discussion of the implications of centralization on the regional and local governance, see B. Krug, and A. Libman, "Commitment to Local Autonomy in Non-Democracies: Russia and China Compared," *Constitutional Political Economy* 26, no. 2 (2015): 221–245.

extractive communities and “*understood as economically driven discourses, programs, and policies promoting extractive activity*” into the resource-rich Arctic region (Gritsenko, 2016).

Under Putin, many enterprises have become concentrated in the hands of the state, while control over strategic companies has been passed to a small number of people who had close ties to the President. Increased centralization and the reduction of regional powers have forced the governors to search strong economic partners who would compensate for their loss of economic and political resources. Big business, in turn, has come to rely on the support of the “friendly” governors to guarantee the preservation of their regional properties and provide them with preferential treatment (Ross, 2016). In 2004, the elections of governors were replaced by presidential appointments forcing business to create new forms of lobbying and channels to access to regional politicians. From that time, regional parliaments have served the important purpose of reconciling the interests of business and government (ibid.).

Powerful lobby of extractive industry and business representation in political structures are typically found in those regions where there are important business assets and where governors rely to a significant extent on the economic support of big enterprises. In this context, Arctic region has become the main platform and the backbone of big business. In KHMAO, for instance, in 2001 the representatives of the oil and gas companies formed a majority with 60% of the seats in the parliament (Gill, 2016). In 2009, in regional parliaments of Komi Republic and Murmansk 57% and 47% were representatives of the business (Sakaeva, 2012). In Yakutia from 2002 to 2008 51% of deputies represented industrial interests (Wessendorf, 2005). In 2018 out of 71 deputies around 22% of deputies are representatives of business (diamonds, oil, gas, energy, etc.) (Iltumen.ru, 2019). In Chukotka (15 deputies) and Sakhalin (28 deputies) the presence of business in regional parliaments is less evident (Dumasakhalin.ru, 2019; Duma-chukotka.ru, 2019). Current situations hold that in realities where industrial groups and interests represent a majority in legislative bodies of state power, indigenous empowerment is doomed

to failure. And as long as the interests of the indigenous peoples of the Arctic clash with the interests of big business – access to the region’s natural resources, which support the country’s political and economic stability – the government will side with business (Heininen, Sergunin and Yarovoy, 2014). This phenomenon has been referred to as “*ecology of the pipe*”, that uses “*material, financial, and human resources with the purpose of strengthening the ruling elite, because the pipes demand an increasing number of managers, engineers, construction workers, and most of all guards, that are loyal to the regime*” (Vladimirova, 2017, p. 301).

In fact, amendments to legislation on natural resources was influenced primarily by the concerns and interests of business development (IWGIA et al, 2017). Already in 1995 due to pressure from the oil lobbyists, a pro-indigenous law On the Foundations of the Legal Status of the Indigenous Peoples of the Russian North, was vetoed (Matveeva et al., 1997, p.311). Weakened protection of indigenous rights to participate in decision-making has allowed businesses, backed up by authorities, to remove protected status from territories and sectors they are anxious to exploit, regardless of their significance to the indigenous groups (IWGIA et al, 2017). One compelling example is the status of TTNU. Because of all amendments, in practice, if a traditional resource use area is threatened by an oil, gas or mining project, the legislation affords no real protection (Murashko 2008). As no TTNU recognized by the federal government, it often grants resource extraction licenses in regional TTNU territory.

Recent changes to sectoral laws serve as another example of increasing influence of business. Originally, some provisions of sectoral legislation (e.g., land, forest, and water codes as well as acts on subsoil) stipulated the rights of indigenous peoples for preferential use of resources in areas of their traditional residence. With regard to one of the main economic activities of many indigenous communities, fishing, already in Soviet times, the interest in economically profitable fishing attracted the attention of business. As a result, indigenous communities have been gradually pushed out of the activity. The initial provision that gave a permission to

indigenous peoples to preferential use lands for fishing without competition was recognized invalid (Article 39 FZ-166, 2004). Now fishing grounds now belong to people or business who won the quotas to pursue commercial activities (Mamontova, 2012). In fact, since 2008 all indigenous territories for hunting or fishing have to be distributed through auctions only and there are no exceptions for the indigenous communities inhabiting those territories. Indigenous peoples are obliged to compete in commercial tenders for hunting and fishing grounds with usually more competitive private businesses who lease these lands for long-term tenure (up to forty-nine years). As a result, traditional fishing, reindeer herding and hunting grounds can now be shared with other users and many indigenous communities lost their traditional lands since that time. By clearing a way for businesses opportunities, these provisions substantially endanger indigenous access to their sources of subsistence, food, and income, and have been identified as one of the principal obstacles preventing indigenous peoples from enjoying their fundamental rights. When the Ministry of Natural Resources of Russian Federation issues the licenses for exploration, it does not demand strict requirements in relation to indigenous rights or ecological standards. Even in the event of serious violations, revocation of license happens in extremely rare cases (Amirova et al., 2017).

### *6.3.2. Russia's Obsession with the Arctic: Small People & Big Oil*

Why does the Russian state take such an aggressive stance on the Arctic matter? Although priority of Arctic development is stressed in national strategies of all Arctic states, Russian North has several characteristics that are fundamentally different from those found in other Arctic regions.

First, and probably most evident explanation, stems from the region's economic importance for the country. Since the 1930s Arctic exploration became a yardstick of the Soviet Union (Breyfogle and Dunifon, 2012). For centuries, the Arctic has served as a resource periphery,

from which source materials such as furs, silver, gold, diamonds, wood, coal, oil, gas, and other goods were to be extracted for state benefit. The Far North has been depicted as a resource repository, capable of feeding the whole country.

Secondly, Russia has invested far more in the Arctic than any other bordering country. Economically, the Soviet state showed much more interest in the possession and exploration of the North, and claimed that “*no other country has made so many explorations in the Arctic as the Soviet Union*” (Zenzinov, 1944, p.65). Historically, although like in other countries, the target of the exploration of the Arctic lands was primarily resource extraction through industrial colonization, the Soviet Union developed its Arctic regions very differently from Canada or Alaska. While other Arctic states conceived the development of territories through shift work, the Soviet Union concentrated on large-scaled development of permanent settlements and full-scale industrial facilities and infrastructure as incentives for the population to stay permanently in the Arctic (UArctic, n.d.; Laruelle, 2015; Stuart, 1980). Development of the North was accompanied by a mass northward migration of workers. From 1930s, numerous settlements were built in a close proximity with the labor camps of the Gulag system (Wormbs, 2018). As a result, from the second half of XX century the Russian North has experienced one of “*the most extensive and spectacular resource development in the Arctic*” (Crate and Nuttall, 2003, p.89).

Finally, for a long time the region played a role of a security buffer for a nation that frequently feared encirclement. The dominant context for Soviet and post-Soviet activity in the Arctic was demonstration of Russia’s military capacities and ideological struggle and confrontation between the East and West (Vartanov and Roginko 1990, p.70). Arctic geographical position as the closest point between the US and the USSR has only magnified its strategic military importance. Recently, renewed security concerns were triggered by the Ukrainian crisis when the EU and NATO introduced economic and political sanctions on Russia and stopped

cooperation with Moscow in the military sphere. After the imposition of international sanctions against Russia over the Ukraine crisis, big extractive projects were cancelled, deprived of funding or postponed. Cooperation was further harmed by Russia's law On foreign agents, that labeled the Nordic Council of Ministers in St. Petersburg and several indigenous and environmental groups in the region as foreign agents. Russia also demonstrates its renewed territorial expansionism by adopting accelerated military modernization programs, including the 2015 military doctrine and making claims to almost half the Arctic Circle and all of the North (Dowd and Moens, 2010). Since the Arctic region *"in Putin's vision, looks like a miracle, the place from which prosperity for future Russian generations will flow... It follows, in his mind, that if we have it, others will want to take it away. So, it must be defended"* (Martínez, 2013). As a result, considered vital for the survival of the Russian state, the oil and gas industry – and hence the North – has become securitized (Blakkisrud and Hønneland, 2006; Wilson and Blakkisrud, 2014; Berg-Nordlie, 2015). And in order to protect its interests, Russia demonstrates its military prowess by violating air and sea space, staging large scale exercises, reopening Soviet bases, and prepositioning forces. As a result, today, the Russian North has been characterized by unmatched growing military presence in the Arctic with the Northern Fleet, heavy icebreakers, several nuclear-powered vessels with ballistic missiles situated in the region (Braun and Blank, 2017). The Kremlin's expanded military activities in the region have contributed to the emerging atmosphere in the region, that is *"poisoned and the feelings of mistrust and suspicion are again in place"* (Sergunin and Konyshev, 2016).

But above all, for Russia, the Arctic is an idea. Since its exploration, the discourse of "acquiring the North" or "acquiring the Arctic" fed the national fascination (Breyfogle and Dunifon, 2012; Wilson and Blakkisrud, 2014) and quickly captured the Russian imagination. Bolsheviks also described Arctic industrialization as the process by which the Soviets civilized the North

(Wormbs, 2018). Similarly, the press, portrayed the exploration of the North as “*a victory of the Soviet people over the inclement ice desert*” (ibid., p.224).

Based on top officials’ words, the Far North occupies a particular place in the national imaginary and plays a role far more important than just a driving force of the Russian economy and strategic energy battle ground (Hille, Kortekaas and Ager, 2016). It is considered a fundamental and inseparable part of Russian identity and “*reservoir of national authenticity*” and an essential component of state patriotism (Honneland, 2017, p. 401). The region has been referred as a “*Russian dream*”, “*heart of most Russian people,*” “*one of the foundation blocks of statehood*”, “*the shrine of Russia’s national idea, a new political and spiritual continent, a promised land, Russian destiny*” (Harvey and Walker, 2013; Honneland, 2017; Gutenev, 2018). “*While in the USA the Arctic is an Alaskan afterthought associated principally with energy and polar bears, in Russia it is considered a fundamental part of identity and a repository of national power*” (Emmerson, 2011, xvii). Arctic resources have been referred to as “*a national pride*” (Jensen and Hønneland, 2015, p.96) and “*a fundamental element of Russian greatness and a force of national reinvigoration*” (Hille et al.,2016).

These discourses nurtured by the Russian elites and state apparatus help to focus public attention on the need to invoke Russian glory and great power status (Braun and Blank, 2017). By conveniently converting “resource curse” into “resource blessing,” mythologized Arctic narrative is used to cover growing social inequalities, highly unequal distribution of wealth, low life standards and economic malaise (Charron, 2017). By pushing forward big Arctic projects such as the Northern Sea Route, it is hoped that extractive initiatives “*will be the economic engines that will save the Russian economy*” (ibid.). Notably, Kremlin’s dependence on the resource-rich Arctic with more than 55% of federal revenues derived from the use and export of natural materials, has resulted in the curious situation with Russian central regions feeding off a periphery that itself remains largely underdeveloped. To drain more money from resource-

rich regions into the federal budget, the Russian government not only changed the share of taxes, but placed headquarters of strategic corporations operating in the Arctic, in Moscow or St. Petersburg, where they pay regional taxes. As a result of these schemes, the central part of Russia generates unequally huge regional gross product while the Arctic regions are characterized by massive underinvestment and catastrophic drop in living standards.

Consequently, in terms of administrative organization, Russian Arctic is characterized by a top-down approach with an enormous share of the wealth diverted from the region. All decisions, plans and finances go through Moscow and then through regional centers, so most communities have little space to develop and integrate global markets autonomously (Fert-Malka, 2018). This resulted in perpetual problems of governance. As such, regardless the general trend of growing political interest in the region among Arctic states, peripheral regions in Russia's Arctic specifically remain under-represented in the debates on the future development (Dale et al., 2018; Heininen et al., 2014; Kinossian, 2017; Wilson, 2009).

Nowadays, the Russian state is characterized by concentration of power in hands of a few oil and security apparatus and cooperating top-level elite, over-reliance on natural resources, monopolization of both power politics and resource-related system, exclusive society and deterioration of human capital (Etkind, 2014). All in all, coupled with and reinforced by “antagonizing the West” rhetoric, Russia's obsession with its most precious asset - the Arctic – seems to play the role of the only source of Russia's self-confidence.

The growing emphasis on Arctic economic development on Russia's political agenda has led to a duality in the authorities' relations to other actors with an interest in Arctic natural resources. Externally, Russia's paternalism is somewhat tempered by the presence of international actors in the region and forced obedience to global standards. While the Kremlin believes it to be vital to directly influence everything that is going on in the region, state

officials consistently present Arctic as the region of shared concern, harmony of interests and collaboration (Wilson and Blakkisrud, 2014). Under the circumstances of growing economic decline and limited federal budget, Russia cannot sustain the development and potential use of its Arctic zone without the other Arctic states as partners. The strategy is therefore to balance its expansionist aspirations with constructive regional engagement in order to maximize the potential for economic growth and ensure the support of Nordic countries for investment, technology, know-how, and markets to enhance its own energy production and regional development (Andreassen, 2016). One of the slogans often used in foreign discourse is similar to the name of the international conferences organized by the Russian Geographical Society since 2010 - “Arctic – the territory of dialogue” (Prokushev, 2018).

### *6.3.3. Criminalization*

While in comparison to some countries where indigenous leaders are increasingly facing militarization policies, including killings and attacks from military and police, in Russia, still, it is securitization that is observed more than militarization. However, since the assertion of indigenous rights to ancestral land, territories and resources essential to their survival, is increasingly seen as a threat to Russia’s national resources development and even portrayed as a threat to national security, the future indigenous policy might, indeed, embark on the path of militarization. Already now, state policy deliberately de-legitimizes indigenous peoples’ attempts to assert rights and control over their situations and their development. In the wake of heightening tensions between Russia and the West, any human rights activism is becoming a target for a closer state watch. Indigenous peoples have currently been operating under the special attention of the intelligence services and state-controlled media. They see themselves increasingly confronted with hostile attitudes and accusations of treason or separatism.

In July 2012, the State Duma adopted amendments to the federal law on non-governmental organizations that is widely known as the “Law on foreign agents.” “Foreign agents” are supposed to be non-governmental organizations, deprived of support from the state, which receive foreign funding, like grants, and have influence on the political agenda in Russia. But the practice of realization of this law showed that it mainly addresses opposition and independent civil organizations. In connection with this securitization, contacts between Russian and foreign indigenous activists have been construed as “*the foreigners using their Russian partners to foment inter-ethnic strife in the North*” (Gray 2004, p.175). In the 2012, Ivan Moseyev, an activist for the recognition of Pomors as an indigenous minority was charged with incitement of inter-ethnic conflict (Berg-Nordlie, 2015). It was stated that “Moseyev was using support from the Norwegian special services to promote ethnic separatism.” (Freedom House, 2013). In relation to the case, Freedom House pointed at Russia’s “*legislative efforts to quash “extremism,” another vaguely defined term that is applied arbitrarily to the government's perceived enemies*” (ibid.).

In 2014, several indigenous activists were detained and their passports sized by FSB at the Sheremetyevo airport when they were on the way to a UN conference for indigenous peoples in New York. In 2013, Dmitry Berezhkov, former Vice-President of RAIPON, following the threats from the authorities and a criminal case initiated by the Russian police, asked for political asylum in Norway. In 2017, similarly, Pavel Sulyandziga, former President of RAIPON, moved to the United States, after receiving death threats in response to his human rights’ activities. His brother Rodion Sulyandziga, director of the NGO Support of Indigenous Peoples of the North, was detained by the police in 2016, and later released (Nilsen, 2016). In 2018 Yana and Vladislav Tannagashevi left Russia to seek asylum, following increasing threats and harassment because of their activism in protecting the rights of the Shor indigenous community in the Kuzbass, Russia's main coal mining area. In 2017, director of Japanese

ecologic NGO “Taiga Forum,” Eiichiro Noguchi was issued a five-year ban to enter the Russian Federation. In December 2019, Johannes Rohr, German human rights defender, participated in the seventh UN Forum on Business and Human Rights in Geneva, where he expressed concerns about the situation of indigenous peoples in the Russian North. Two weeks later, he was issued a fifty-year entry ban to the Russian Federation.

Another prominent example of indigenous oppression happened in KHMAO in 2015, when Sergei Kechimov, a Khanty shaman, got accused of uttering death threats to a worker of Surgutneftegas oil company. Sergey Kechimov is the last resident of Lake Imlor, a sacred site for ceremonial and spiritual purposes. Meanwhile, Surgutneftegas, races to use the indigenous land, claims that one million tons of oil lie beneath the lake (Lerner et al., 2017). A few years ago, Surgutneftegaz was granted permission to start oil extraction on Kechimov's home lands, located near the Imlor Lake. In September 2014, after more than four years of ongoing confrontations with oil executives, Kechimov shot to death the oilmen's dog because of the threats it imposed to his reindeer herd, later some men came and forced him to sign a document written in Russian, which Kechimov had a little knowledge of, which later was recognized as confession that Kechimov had threatened to kill the workers of the oil company. After being convicted to a two-year prison sentence, Kechimov was granted amnesty in honor of the 70th anniversary of the victory in the Great Patriotic War (Fedina, 2017). Surgutneftegas, in turn, continues to encircle the Lake Imlor, posing a long-term threat to indigenous community and way of life (Lerner et al., 2017).

#### **6.4. Companies, CSR & Indigenous peoples: *Development at the cost of rights***

##### *6.4.1. Change & Continuity*

There is currently no existing legislation in the Russian Federation regulating relationships between indigenous peoples, state and business in decision-making processes. Nor is there a code of conduct governing relationships between industrial companies and indigenous

communities on planning and implementation of large-scale industrial projects. Currently, the Russian Federation's Ministry of Regional Development is working to establish a Russian standard for an ethical code of conduct for industrial companies impacting local and indigenous population. But as of today, some agreements (Sakhalin) are thoroughly elaborated, in keeping with modern standards, some are merely formal and superficial, and some are completely absent.

Notable evolution regarding corporations and indigenous peoples' land rights comes from the increased reference to indigenous peoples' rights within the voluntary corporate codes of conduct. International companies happened to play an instrumental role in increasing political awareness and organizational capacity among indigenous peoples (Petrov et al., 2017). Symbiotic relationship with land on the one hand makes them vulnerable to potential negative impacts of commercial development and on the other hand makes indigenous peoples sought after as potential partners for business ventures in various industries (United Nations Global Compact, 2013). The corporations working in the Arctic oil and gas sector have increasingly declared their commitment to benefit-sharing arrangements and elaborated the principles of concluding agreements with indigenous peoples that provide traditional communities with a form of economic empowerment. In Russia, in virtue of state ill-developed indigenous strategy and lack of financial benefits, agreements with companies and governments are often seen as the only option for indigenous peoples to attain sustainable development of their communities. Indeed, many indigenous people and local government leaders, strongly feel that creating sustainable society is the task of the regions' leading industry. These expectation and view of sustainability are strongly related to past understandings of the roles of industry and government in social development (Graybill, 2009).

CSR concept developed in the Soviet years was characterized by the top-down welfare provision, high level of industry dependence on the state policy and informal ties with the

authorities as a key factor of success. In the Soviet era, all industry was owned by the government, which was responsible for taking care of its citizens under Communist doctrine. Since the enterprises were state units and, as such, provided social services, the state identifies which kinds of infrastructure and which social needs need to be addressed. Negotiations generally occur behind closed doors without consultation with the public about their needs and interests (Henry et al., 2016). This system was designed to reinforce the state's authority and promote the state's priorities in economic development. This social contract entails that local populations may obtain full employment, housing, free healthcare, and education "in exchange for participation in state-sponsored political mobilization and labor tranquility" (Henry et al., 2016, p. 1346). The implicit threat of repression was also used to pacify the population, resulting in a coercive contract rather than voluntary agreement between state and society. In the 1990s, incapable of providing welfare, the state transferred some responsibility for social services to regions. The collapse of government-run industry and the end of government subsidies has a pound impact on the regional economies.

While already in the 2000s, the state had recovered most of its positions and became the leading political player in the country, this approach hasn't been changed. Even when the companies returned to state control in Putin years, expectations that companies act as distributors of welfare continued to infuse state-industry relations. Many companies base their operations on the legacy of state-owned enterprises institutions and maintain an important role in social welfare provision in the local communities (ibid.). Companies are encouraged to manage the activities in partnership with central and local authorities and take on some aspects of welfare provision. Governors "*are expected to maintain social stability in their regions while at the same time ensuring a steady flow of budget revenue to the center*" and, as a result, "*pressing short-run demands ... can pre-empt a long-term development strategy.*" (ibid., p. 1347)

By and large, in Russia the concept of corporate social responsibility (not to mention higher goal of benefit-sharing) is largely underdeveloped. Unable to transcend Soviet past, it is still in its infancy and evolving in its modern interpretation. Benefits are in turn offered in this paternalistic fashion without community engagement, — as gifts to prevent community mobilization. While indigenous communities often consider their traditional way of life on their land as being more important than acquiring questionable compensations from oil companies and feel that no amount of compensation can replace the loss of ancestral lands, the Russian state does not extend them the right to veto industrial activities. These communities are then left with one option. That is, to accept compensatory payments that in practice look more like pay-off. As a result, community sees short-term improvements (without regard to long-term economic sustainability) that are likely to contribute to the emergence of dependency among local residents on companies' funding (Tysiachniouk et al., 2018).<sup>41</sup> Negotiations between these two parties naturally involve a power imbalance that is often presented as the “coexistence” of industry and indigenous communities. Therefore, without a strict power to stop the project, benefit-sharing agreements are not a universal problem-solving instrument.

On the other hand, in recent years, in Russia, the issue of social responsibility of business has become particularly pressing. One of the reasons is poor ability of the state to fully ensure a decent level of social protection for people. Under these conditions, the social programs of businesses at the regional level are becoming increasingly important. Global demands for CSR practices have now placed both the environmental aspects and participatory rights of local people onto the agenda of Russian companies' CSR policies as well. Multinational companies have exported their CSR policies through joint ventures and foreign investment and are entitled to function according to globally-recognized standards and consequently induce Russian companies to operate in the same fashion. A decade ago, virtually no Russian companies were

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<sup>41</sup> Usually this is expressed in the old proverb “give a fishing rod instead of a fish.”

producing sustainability reports, whereas today most large Russian companies embraced the concept of CSR (Kelman et al., 2016). As such, Russian companies are pressured to adopt CSR practices despite the Russian government's desire to maintain exclusive control of the natural resource sector. This is a result of competition over export markets in addition to the need for investments, skills, and technology (Henry et al., 2016). This has also resulted in policy models of some companies that are more sensitive to local contexts and are more advantageous for meeting community needs and fostering sustainable development than domestic regulations. Yet, in Russia, benefit agreements have not led to comprehensive review of state relations with indigenous peoples and the development of joint management of resources (ibid.).

By and large, extractive industries in Russian Arctic inspired by new possibilities in developing natural resources appear to be ill-prepared to benefit-sharing commitments. Companies policies still have very little, if any, contextual understanding of the scope of impacts extractive industries have on indigenous peoples' lives and lag behind in understanding substantive rights for indigenous peoples regarding their lands and natural resources, as well as the need for additional social and environmental policies or building relations with local communities (Wilson and Blackmore, 2013). For example, representatives of Russian firms tend to define CSR to include basic activities such as *“paying taxes, creating employment, [and] abiding by the law”* or *“simply do not see CSR as a relevant issue for their business”* (Kuznetsov et al. 2009, p. 41, Crane et al. 2013, p. 20). As Russian oil and gas sector is dominated by national companies that raise capital domestically, the state maintains a decisive role in the oil and gas sector, while authorities primarily determine how natural resources are used. They are also responsible for legitimating the work and managerial behaviors of energy companies, who essentially represent the state. This mode is prone to external control and changing rules following the decisions made by the companies (investors, international organizations, or state), yet not the indigenous residents.

#### *6.4.2. Rightsholders, stakeholders or charity recipients?*

While the sharing of benefits is essential ingredients to ensure respect for indigenous peoples' land rights, benefit-sharing frameworks should not be seen as panaceas for solving existing problems between communities and companies. The complexity of this concept is embedded in its determination to achieve a balance between conflicting variables: extractive industries and indigenous peoples. At the end of the day, the activities of the first group will ultimately threaten the survival of the second. This in turn leads to a permanent conflict (Kryazhkov, 2013).

Importantly, benefit-sharing should not be confused with compensation for damages, and other payments offered by states and corporations that are simply a restitution of what has been lost. Recently, the criticism of compensation as a tool of economic development has escalated. Compensation by its nature has nothing to do with sharing benefits of development, or investing in an affected community (Broberg and Sano, 2018). So the question is what are indigenous peoples have to or willing to sacrifice?

Indigenous peoples' right to compensation is part of their right to property, whilst their right to benefit-sharing must be seen through the lens of the broader umbrella of indigenous rights to development, self-determination, land rights, etc. Economic benefits, while easing the damages inflicted by the industry, do little to prevent the eventual destruction of indigenous communities. Ideally, benefit-sharing includes "beyond law" commitments and activities and is more comprehensive than top-down compensatory payments and short-term material benefits (Mackie et al., 2006; Kumar and Wati, 2017, p.164). Rather, it should be seen as a shift away from narrowly structured agreements to a set of safeguards to generate wealth and ensure long-term sustainable development for affected communities (ILO, 2012; Tysiachniouk and Petrov, 2018). This concept generally represents a multi-agent partnership that provides a more

expansive framework for ensuring indigenous rights and increasing their participation in the decision-making process and capacity building. In other words, benefit-sharing should be a “*means of complying with a right, and not as a charitable award or favor granted by the company*” (Anaya, 2010, p.18). Under this concept, assistance to indigenous groups are not seen as part of a charity projects of the enterprise, but as part of efforts to fulfil rights. It thus entails supporting the rights-holders in claiming their rights. Needless to say, comprehensive benefit-sharing programs are more likely to function properly in areas with well-established liberal traditions (Figure 22).<sup>42</sup> Benefit-sharing without sound wider democratic procedures does not allow for greater participation by indigenous people and communities to act autonomously.

Probably the biggest shortcoming is that, if not properly implemented, the agreements have the risk to end with indigenous peoples selling off their lands and resources (Corntassel, 2008). And that is what happens in Russia’s Arctic - phenomenon that was described by Tully as “*the first success of strategies of extinguishment (release) and incorporation by agreement.*” (Tully, 2000, p.50). Policy has failed to address the needs and to deliver sustainable economic benefits to them by, instead, reinforcing their dependence on powerful companies, and marginalize them even further.

On the condition that indigenous rights conversation is pursued under the guise of corporate responsibility rather than democracy, does it alter human rights conversation in the country?

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<sup>42</sup> One of the best examples of indigenous - industrial partnership is Mackenzie Gas Project in Canada that offered Indigenous people of the North ownership and a seat at the planning table (negotiations started in 1970s (!). This case represents a multibillion-dollar energy development where the Indigenous locals have a say on everything from construction to employment to service contracts alongside the world's biggest oil majors. In Canada indigenous nations have already surpassed the status of rights holders and steadily move towards shareholders position while Russian indigenous populations still struggle for self-determination. It represents a scenario where all actors cooperate to improve their overall gains. Interestingly, within 50 years from 1950 the population of Canadian indigenous nations became fivefold (200,000 to a million). It proves that realization of indigenous rights on land, resources and self-government are not an obstacle to industrial development (Forgeron, 2015).

Operating with severe disadvantages, indigenous communities across Russia have looked for ways to resist extractive industries and explored benefit-sharing principles that would protect their inalienable rights to land. Yet, instead of asserting their essential rights within the political arena, indigenous communities address the corporations and demand benefits thus shifting their status of rightsholders to clients, interested parties, and, at best, stakeholders. As a result, while looking for the benefits through economic development indigenous nations, run the risk of outweigh their inherent rights to ancestral land with thirst for profit (Corntassel, 2008). In the absence of indigenous rights, communities that shift their demands from the state to the corporation find themselves in a situation when they trade one form of power imbalance for another that often results in even further degradation of indigenous rights. In the event that agreement only compensates the damages inflicted by industrial operations on the indigenous peoples, the discussion of the benefit-sharing is not even on the table. By redirecting their claims from the state to the corporation, indigenous peoples find themselves in a position when their rights are easily manipulated by companies, and, what is more, replaced by benefits. This eventually leads to fundamental ignorance while stifling indigenous voices.

In this case, agreements are considered as a worst-case scenario for the solution of indigenous problems, ultimately turning the population into “*objects of charity who cannot control their government*” (Etkind 2014, p.162). The agreements extinguish original indigenous title to their territories and force indigenous representatives to accept questionable monetary payouts for their unrecovered land, sell off nature, territory and potential for development, and “*voluntarily surrender their rights as indigenous peoples*” (Tully, 2000, p.50). As a result, impact of arrangements can be double-edged swords. While benefit-sharing can potentially provide valuable laboratories for building the governing and development capacities of indigenous peoples, in Russian realities they proved to be instruments for colonization and control vested in the company and the state (Downing and Garcia-Downing 1996).

## 6.5. International instruments & Why they fall short

Contradictory laws and regulations that afford little space to indigenous communities push them to refer to international law—rather than Russian law—to substantiate community claims to specific rights (The International Bank for Reconstruction and Development/ The World Bank, 2014). Yet, some scholars and indigenous rights’ activists observe that obligations in the field of indigenous minority peoples’ rights protection, created by international law not play out in practice. And while substantial achievements toward protecting indigenous rights have been made at the international level in recent years, this progress is manifestly incomplete (Latta, 2018). The reforms achieved to date are subject to major limitations, so development projects undertaken with adequate regard for indigenous rights will likely remain the exception rather than the norm until further reform occurs (Foster, 2012). Having laid the theoretical foundation, the question arises what can be done to ensure further effective implementation.

With regard to the UNDRIP, according to the established rules, a country could take any number of steps to implement UNDRIP, including adopting laws and regulations consistent with its terms and making the budgetary allocations required to enforce them. It has become apparent, however, that some countries have assigned implementation a higher priority than others. and it is questionable whether some intend to take any concrete steps at all in response to their endorsement of UNDRIP (Latta, 2018). It seems likely, therefore, that implementation of UNDRIP will remain uneven and inadequate as long as it is left to individual countries to decide on the package of measures needed to be developed in order to conform with the UNDRIP terms (ibid.).

A number of scholars and indigenous-rights advocates have proposed that UNDRIP be followed by the enactment of an international convention that would make its principles binding on contracting states. Martinez Cobo himself viewed UNDRIP as but an interim step

toward the adoption of such a convention. Others have similarly referred to the adoption of such a binding convention as a logical and necessary next step after UNDRIP. Prospects are, however, not promising. After all, it took more than thirty years to adopt a non-binding instrument for the protection of indigenous rights.

Both the ILO and the UNDRIP have limited application in the Arctic. Only two of the eight Arctic countries are parties to the ILO Convention. In fact, few, mostly South American countries, have so far ratified the ILO Convention. Sweden and Finland, due to prolonged negotiations over land and natural resources with the indigenous Sámi people, have so far refused to ratify the ILO Convention. The United States, Canada, and Russia have argued that it infringes upon fundamental domestic legislation. The Russian Federation has not ratified the Convention mainly because of its article 14, which outlines the rights of ownership and possession of indigenous peoples over the lands which they traditionally occupy. In relation to the UNDRIP, the only countries that voted against the adoption of UNDRIP in 2007 were the USA, Canada, New Zealand and Australia, but in the following years all these countries officially removed their objector status to UNDRIP on the UN scene. Position of the Russian Federation who abstained from the vote in 2007, has not changed ever since.

Similarly, UN Guiding principles on business are entirely non-binding. Article 15 of CBD does grant the right to the sovereign country—not to the indigenous peoples in whose territory genetic resources are located.

In the same vein, none of the elements of the established system of Arctic governance places a legally binding force on Arctic states to ensure implementation of indigenous rights. It effectively means that Council's rulings are soft law instruments at best and, as such, no country must comply with its recommendations. In fact, the only legally binding document in place in the Arctic is the Agreement on the Conservation of Polar Bears adopted in 1973. While

indigenous groups enjoy permanent participant status on the Arctic Council, they still constitute a minority at the negotiation table. Furthermore, as permanent participants they enjoy exclusively consultation rights.

In other words, all rights granted to indigenous communities depend on the state in question, and, therefore, can be withdrawn at its instance (Forgeron, 2015). History and past experiences make it logical to conclude that many of the calls for international adherence to such charters will be at best highly selective (Smith, 1999). The major global governance institutions that promote CSR are voluntary and offer recommendations rather than strict rules and standards. Key institutional actors such as the Arctic Council and its Sustainable Development Working Group, for instance, have not yet issued guidelines on benefit-sharing.

#### **6.6. Indigenous Organizations & Indigenous mobilization**

Around Arctic, indigenous peoples are building up a joint agenda to further their social and economic interests. This process is accompanied by the establishment of partnerships with indigenous peoples through legally recognized organizations as new political actors. While strong representation and mobilization proved to be fruitful in cases of Sakhalin and, to a lesser extent, in Komi, overall, either transnational or Russian NGOs are not overtly present in Russian civil society sector. In general, under repressive environments, capacities of Russian indigenous organizations as a political agency are much more limited. Few legal guarantees allow indigenous organizations to challenge major political decisions.

The solution to indigenous struggles was once seen in the hands of RAIPON as a representative of Russia's indigenous groups that was established on March 1990 as a non-governmental umbrella organization (Semenova, 2007; Monique Lerner et al., 2017). In the early 1990s RAIPON and regional Associations of Small-Numbered Indigenous peoples of the North was hoped to lead indigenous self-government. This organization appeared in the wave of

emergence of international indigenous movements, protesting governments and marginalization of indigenous peoples around the globe (Semenova, 2007). In the 1990s and beginning of 2000s RAIPON served a critical role in assisting the indigenous community against industrial exploitation and Russian state apparatus and was perceived as “*a political union to lead and guide the national movement of indigenous peoples and to transform political decisions into practical solutions*” (ibid, p. 17). In the first years of their work, RAIPON enjoyed the state support, actively participated in the discussion and preparation of indigenous laws and programs of socio-economic development. Industrial companies, in turn, coordinated their activities with indigenous organizations and look for compromise solutions. There were even examples when associations co-founded industrial companies.<sup>43</sup> One of the reasons of a relative progress was the financing system of traditional economy and culture of indigenous peoples: partially, these funds were transferred from authorities directly to regional associations of the peoples of the North. Organizations, therefore, to different extent, directly participated in decision-making process concerning the development of their communities. Some organizations were responsible for distribution of fishing quotas, others were assigned territorial slots with fishing grounds, some leased the land to industrial companies and used the rent money for the development of indigenous groups, including payment of scholarships and transportation expenses for students, cultural development, etc. At that time, the foundation for sound cooperation of regional associations with the government had been laid. Yet, a true partnership, that so many observers had talked about did not happen.

Already in 2009, RAIPON became the target of increasingly closer watch of the state (Berg-Nordlie, 2015). In 2012, Russian Ministry of Justice decided to stop all RAIPON activities. A year later, however, indigenous representative body was allowed to reopen after strong

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<sup>43</sup> For example, the Association of Indigenous Peoples of the North-Evensk District of the Magadan Region was a co-founder of the joint venture Omolon Gold Mining Company, associations of Itelmen (Thsan) and Koryaks (Nymylan) were part of the founders of JV Okhot-Bering.

international pressure. In March 2013, indigenous representatives elected a new president for RAIPON – human rights activist Pavel Sulyandziga who won the first two rounds of voting. However, the election was interrupted by state officials: foreign observers and media representatives were asked to leave the premises; after the private talks with the state officials, Pavel Sulyandziga withdrew his candidacy. Expectedly, Gregory Ledkov, federal government's favored candidate, member of Putin's United Russia Party and the State Duma won the third round of voting and became RAIPON president (ibid.).

Already by the mid-1990s the “honeymoon period” of relationships between authorities and most of indigenous organizations came to an end. Indigenous communities began to be seen as the opponents to the governmental apparatus and a threat to social harmony. Internal problems of indigenous institutionalization such as lack of agreement among leaders, low professionalism and conflicting relations further aggravated situation (Turaev, 2018). Although indigenous groups extend cooperation with the global networks, recently the possibilities for public mobilization through informal networking have been put under strong state control. Additionally, according to Fondahl and Sirina (2006), indigenous groups in Russia are usually lack of practical capacity to defend their rights legally because of the legacy of the Soviet regime, when indigenous peoples were primarily trained to be teachers, medical and cultural workers, rather than lawyers, economists, scientists and business people. Under those circumstances, civil society organizations and self-government institutions in Russia are divided and, have to operate under increasingly restricted conditions.

Correspondingly, Russian courts have totally lost their independence from the government, leaving indigenous peoples with no effective possibilities to appeal for judicial justice. Generally, courts prefer to stay within the confines of domestic legal precedents.

Although poor records in indigenous policy could potentially complicate Russia's relations with a number of the Arctic organizations, including the Barents Secretariat and the Arctic Council and the UN, Russian authorities openly disregard negative international responses on human rights violations in Russia. The Russian Federation relies on its own legal system and prioritizes internal policy of retaining the power to the detriment of international reputation.

Current conditions of a lack of expertise, resources and points of leverage, open the question of how Russia's indigenous groups will be able to defend their lands and rights. It is critical that Russia's indigenous peoples' supporters do not turn away, but instead reinforce participation mechanisms through alliances with interest groups such as NGOs, academic, and environmental organizations and continue to engage as reliable partners enduring dark times (Downing et al., 2002).

For Russia, indigenous organizations' future has implications for Russia's civil society as a whole. The current Russian apparatus is far more set to suppress any activism. At large, the state prevailed over the aspirations of civil society that is underdeveloped, marginal, fragmented and has a very limited influence on policy-making. Researchers described the post-1990s civil society in Russia as "*hibernating*", "*under transition*" or facing "*a traumatic transformation.*" What observed in this event is co-ignorance or mutual avoidance of confrontation or any interaction with the state (Fedina, 2017). Drawing on the path-dependence theme, Russian civil sector can be best described as a "*culture of average citizens*" or "*trade-off mentality*" that always "*keep a low profile*" and pursues a strategy of non-interference in political or any other affairs (Kuokkanen, 2019; Kleman, Mirjasova and Demidov, 2010).

# CONCLUSION

## Textbook Case of Successful Colonization

What is the Arctic's story about? For governments, both Arctic and non-Arctic, it is a story of cooperation and scene for showing and claiming power. For economists, it is story of enormous economic potential, wealth and earlier unavailable abundant resources. For environmentalists, it is the story of fragile and one of the most extreme environments to which humans have adapted; the environment that came to be "*the health barometer for the planet*" (Watt-Cloutier, 2019). What is Arctic for indigenous peoples? For that old campaigner, it is all these things and much more. But above all, for indigenous communities, embedded within Arctic narrative is a story of colonial conquest. For Russian indigenous peoples, in particular, it is still a narrative, dominated by colonial logic, as it was for the past four centuries. The rhetoric of colonization, its language, form, shape and methods may have changed, the sites and heart of struggle remain.

Today, Russia's indigenous mosaic includes 40 aboriginal peoples who came a long way from heavy pressures of assimilation into the Russian state, passing through the turbulent 1990s when they were seemingly in control of their future. And today, for some reason, Russia's indigenous populations have found themselves even more vulnerable within the newly reconstituted state.

These are the peoples that have been imposed to embrace statehood, first by the Russian empire, the Soviet Union, and finally by the Russian Federation. And yet, somehow, whereas having been incorporated into the state, these people have never been fully incorporated into society. They are not stateless, but they live in the shadow of the state. Throughout the entire Russian timeline, they have been placed on the underside of history. Geographically, they are positioned as far from both state and regional centers as possible. Politically, they are at the margins of power, unable to overcome the second-class status. Demographically, they are fast disappearing. Socially, they are not just marginalized, but thrown back to an era long gone.

Perpetual crisis that indigenous peoples found themselves trapped in, does not refer to the crisis of indigenous rights, struggles and determination, but points at the perpetual failure of policy reforms. What we are witnessing today, is not just a legacy of the Soviet times, but an effect of state-making. For indigenous peoples, two separate periods before and after the USSR dissolution is a continuation of one story of the largely hidden slow-paced process of assimilation. A brief revival of rights-based conversations in the 1990s has not stood the test of time and is coming to terms with decades of failure. Promising laws sooner or later were made ineffective, changed or withdrawn. Already modest and fragile progress made after the USSR demise has eroded away. After being already traumatized during the Soviet Union and tested once again at Putin's time, there is little surprise why they have been virtually invisible. The question is not whether they have managed to become stronger in voicing but survive.

Arctic indigenous peoples' days are numbered. Today Russia's indigenous peoples are at a critical juncture in their history. If in the 1990s on the wave of democratization Russian indigenous peoples were standing at the crossroad of development, now, after two decades of vain hopes, they are on the verge of extinction. Putin's government has not just had a hand in continuing the colonization process, but has ramped up efforts to actually engulf indigenous peoples. And if we look ahead, indigenous peoples are risking to become "*ghosts of history*", written off both history timeline and the map of the Russian state. The policy of the state, which is slated to become the solution of indigenous problems - might in fact become the last solution.

Indigenous empowerment is not a matter-of-course, but political achievement. Twenty-eight years after the disintegration of the Soviet Union, it is evident that the Russian Federation is not in a search for a more inclusive indigenous policy, and what is more, it is neither an aspiration nor a political ideal of the federal government. Indigenous empowerment is seen not so much as an objective but as an obstacle in the way of state's "successful" Arctic policy. Indigenous policy in Russia is fascinatingly malicious, incompetent, at times criminal, artificially

constructed, purely symbolic and imitative. As such, it leaves little room for the politicized articulations of indigeneity and aims at limited superficial inclusiveness and standardized diversity. And instead of developing ground for responsive change, state policy becomes an instrument for control with basic and inherent rights being replaced, at best, by benefits and preferences. And while bigger indigenous groups have managed to adapt and use existing regulations for advocating their rights, many smaller peoples have not advanced any closer to empowerment, because there never were rights to begin with.

It has been frequently observed that Arctic indigenous peoples have captured the world's attention and conscience and are among the top agenda items in Arctic narrative (Watt-Cloutier, 2019). Russia's willingness to cooperate with the Arctic states, however, does not translate into progress in its domestic indigenous policy. With more companies circling closer and closer around indigenous territories and becoming richer, indigenous peoples have become outcast on their own lands. And while in Arctic other nations enjoy the empowerment of already sophisticated forms, in Russia the challenge is to once again rupture the silence around injustice and (re)establish the legitimacy of the claims about indigenous rights.

Why does such a big and powerful country as it claims to be, fail to support and ensure the survival of its most vulnerable peoples? In a closer look, in the early twenty-first century, Russia is a weak state with repressive and inefficient institutions. The West and Russian sources tend to view the Arctic as a source of the Russian strength; in practice, it is more of a Russian blind side. Russia's Arctic "greatness" rhetoric is a convenient way to convert "resource curse" into "resource blessing," inflame nationalism and deflect public's attention away from increasingly closed government and reminiscent of deep economic malaise (Charron, 2017). Observers also tend to state that indigenous peoples' treatment has become the embodiment and even indicators of region's development. If this assertion is true, in Russian realities, indigenous peoples are indeed a reflection of current Russian Arctic - fractured and fragmented region. On the one

hand, there are Arctic regions in crisis, seen as borderlands and peripheries, if not marginalities; and those regions in full economic boom, whose raw material exploitation effectively provides prosperity for central parts of the country but leaves its own territory in peril.

What is the Arctic for Russia? For Kremlin, Arctic has never ceased to be a resource. In fact, it turns out, the state “successful” Arctic policy is detached from its peoples. The historical treatment of the Arctic as a periphery, whose greatest treasure is resources, not its residents, has created an illusion in which the extraction of raw materials is understood to be Arctic regions' only viable option. Normative dependence on Soviet policies predetermines the trajectory of contemporary indigenous path, facilitates prioritization of oil and gas extraction, by deliberately confusing indigenous identities and rendering their claims unsubstantial and secondary (Hicks 2011; Koch and Tomaselli 2015; Tomaselli 2014; Nikolaeva, 2017). The notion of path-dependence recalls not only dependence of the Russian state on post-Soviet legacy, but enduring and increased dependence of indigenous communities on the state and regional authorities as well. Coupled with legal stagnation, a renounced post-Soviet condition created an organizational void and institutional capture of indigenous agency incapable of developing self-defense mechanisms. Diffused responsibilities for indigenous policy have, in turn, resulted in frustrations and misplaced expectations among indigenous population. And whereas resources are too tempting to give up the “Arctic dream”, the state shows little regard for the price (Hille, Kortekaas and Ager, 2016). And as a result, indigenous peoples' rights become an obstacle to be removed and the cost of the Russia's Arctic obsession.

Who does Russia's Arctic belong to? It is in possession of neither regional authorities, nor even companies, to say little about indigenous peoples. In its relationships with business, the state neutrality has been completely undermined. Indigenous communities are not considered to be a part of the equation and approval for the companies' actions is, in fact, granted by the state and supported by regional and local administrations. State and industrial actors do not hesitate

to use a variety of instruments to disempower indigenous communities legally, economically and politically. In other words, as a result of existing imbalance that favors the disengagement of indigenous agency, Arctic indigenous communities have ended up being passive observers of the present order of things.

Indigenous nations are known for their adaptive capacities. They have adapted to state policies, climate change and now, with numerous players racing for influence in the Arctic, they are once again tested. This results in the pressure on indigenous land accumulated on all fronts, multiple industrial companies and the pro-industry apparatus. This fundamental imbalance in distribution of power has resulted in situation where rights of indigenous peoples are in a constant state of flux, reliant on the actors at play, on the goodwill of the particular administration and never truly guaranteed. As such, indigenous rights' implementation is largely uneven and on an ad hoc basis (Crate, 2002; Wilson, 2016). In hopes to change the situation, ironically, indigenous peoples address political, economic and legal systems that are not of their own making. They are forced to participate in structures and procedures designed, constructed and executed by governments who continue to act as the guardians to a group of people they have reduced in number, name and spirit by refusing and reframing indigenous inherent rights to self-determination and self-government.

The peoples I have sought to describe and understand in this paper, have been subjected to conscious and deliberate strategy of erasing from Russian landscape - socially, culturally, legally and physically. I have come to see this research not as a study of indigenous peoples of the Russian state *per se* but as an example of extremely successful colonization policy towards its indigenous population that managed not only to put indigenous population at the brink of extinction, but to silence the remaining - a story that might be widely seen as a story of indigenous populations worldwide having been engulfed by the state. Trapped between Soviet

past and uncertain future, Russia's Arctic indigenous peoples turn out to be hostages of current political situation with political space for maneuver shrunk to a new minimum.

Current realities and multiple constraints open the question of what is the future fate of Russia's indigenous peoples? While they were among the last to join the UN agenda, they can become the first to quit it. Some scholars claim that what is going to happen next is in the hands of indigenous peoples themselves, and depends on the path they choose. Is it true? In realities created by the Russian state that not only turns a blind eye to indigenous peoples, but nullifies any progress, indigenous groups are not in the position to lead decision-making processes in the country. Like no other peoples, indigenous communities have never depended "*more abjectly for their security and prosperity on the skills and good intentions of those who rule them*" (Scott, 2009, p.324). Whether or not Russia's indigenous peoples will be able to assert their rights and ultimately shape their own destinies is premised on the direction that Russia as a whole will take. The current indigenous policy seemingly aimed at the conservation of indigenous cultures, ignores the actual challenge indigenous peoples face - survival at a sheer physical level- and is doomed to failure. Even if communities have the greatest, and most direct, stakes in preserving their cultures, in Russian realities, they are often run into the kind of ill-will hidden in state strategies which claim to be to the benefit of indigenous peoples. As of today, Russia's approach to indigenous accommodation is characterized by the unrivaled subtlety, unmatched adroitness, or even malice of the state policies.

One clarification should be made. The people who are being spoken for should not be confused with speechifiers declaiming, with almost unquestioned validity, the success of the Russian indigenous policy. In this paper, while talking about silence of indigenous voices, I refer to those indigenous peoples whose stories, problems, challenges and hopes are not present at any political agenda. Yet, the voices of government representatives and those close to them, are

more than loud-mouthed.<sup>44</sup> While giving speeches at political arenas, both national and international, state officials do not talk about problems, yet declare the progress made, commitment of the state to indigenous rights, and nonexistence of bad examples. While indigenous communities from other countries challenge the existing regimes in their states on international forums, that, as a matter of fact, have been created for that purposes, from the Russian side, there is a surprising success achieved in relation to indigenous empowerment. This different type of silence from the Russian government and statements about “best practices” that are, by implication, very contrasted with other indigenous peoples’ statements made, for instance, at UN conventions.

How can the country which has not ratified any legally binding documents on indigenous rights, be pointed at as an example of successful indigenous policy? Or, most importantly, how can the state which has structurally deprived indigenous communities of rights, power, privilege, voice and, on top of all, capacity to fight back, celebrate its indigenous peoples? This is a mystery that is to date remains unsolved.

### *Contribution & Further research*

The research has the intention to contribute to a growing body of academic literature on indigenous and Arctic studies. Previously seen as detached from global political dynamics, today the region has received wider academic and political attention and has become a testing

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<sup>44</sup> Responding to the report prepared by the Council of Europe and the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities, the Russian Federation states that "a substantial part of findings and conclusions of the draft opinion is based on personal judgments and biases...the recommendations of the Advisory Committee attached to the opinion are groundless" (Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities, 2018). President of RAIPON also declared "absence of any discrimination against ethnic minorities, including indigenous peoples" in Russia (NazAccent, 2019).

"Russian experience of ensuring rights and interests of indigenous peoples can serve as an example for other countries" (Barinov, 2017)

At 16th session of UN Permanent Forum on Indigenous rights in 2017, top officials from KHMAO gave high praise to indigenous rights situation in the region and emphasizes "real" state support. They also stated that other states "would do well to learn from" the experience of the Russian Federation"(Administration of KHMAO, 2017).

site for the application of traditional concepts and theories across various fields. In this “*new age of the Arctic*” issues such as climate change, that is happening first and fastest in the Arctic, and its consequences for weather, access to resources, security, the economies and cultures of local peoples, energy security, the balance between economic development and environmental protection will be at the center of future research. Since Arctic indigenous communities continue to gain a foothold in policy initiatives, the Arctic case also offers a fruitful ground for re-framing roles of indigenous groups in global policies and rethinking approaches to indigenous expertise and practices. The multifaceted challenges to indigenous communities, including environmental degradation, industrialization, globalization and integration into the global markets, erosion of cultural traditions, disputes over political participation and autonomy, and conflicts over land use, are not necessarily confined within states’ territorial borders (Zojer and Hossain, 2017). Thus, experiences of Arctic indigenous people with a rapidly changing and destabilized environment serve as a case for other indigenous peoples worldwide and can contribute to central debates, concepts of indigenous governance and risk-based communities (Ferris, 2013). Similarly, Arctic offers an important subject for further study of the complexity of relations among multiple actors that includes local, national and regional and international players and encompasses different levels of governance mechanisms, working “*across differing demographics, disparate cultures and political systems*” (Grenoble, 2013, p.80).

Since the Arctic has become an important arena for energy resource extraction, these activities are predicted to expand over the next decade (Evengård et al., 2015). Importantly, the large-scale consequences of industrial expansion in the Arctic are felt more immediately and more dramatically by indigenous peoples who are also the first victims of climate change while contributing the least to it. And for all the shifting paradigms, the clash between industrial development and indigenous people appears to remain and be reinforced by more challenges to

come. There is, thus, the urge for reconciliation of industrial sectors' interests with indigenous issues. For scholars working on resource politics it would be crucial to bring the human dimension into the field. Examination of agreements between indigenous peoples and industrial companies and re-framing concepts of justice and participation will allow to pay greater attention to reconciliation of incompatible narratives, address specific effects of energy development, including impacts on culture, look beyond damages and elaborate strategies that can eventually lead to empowerment of indigenous communities. The research findings can provide impetus for articulation of practices that can simultaneously foster economic development, empower indigenous groups and conserve traditional indigenous livelihoods. By revealing advantageous models of industrial-indigenous relations, results of the research should be of interest to those examining the power dynamics of cooperation between unequal partners and those promoting partnerships between government, private sector, non-governmental organizations and disadvantaged communities.

Current research tells the story of hidden indigenous peoples of the Russian Northern regions; through voices of residents it testimonies existing challenges; it reframes and connects the dots between various types of disempowerment and actors; it intervenes in a debate on Russian Arctic-embracing power; it celebrates indigenous survival; it manifests, remembers and, probably, represents the silenced indigenous population of the Russian North. Yet, albeit the research provides some impetus to find alternatives to problem-solving of indigenous policy crisis in Russia, it fails to propose measures for (re)empowerment of indigenous groups. Nor it is a restoration project.

Furthermore, initiation of a detailed comparative analysis of indigenous empowerment/disempowerment in other Arctic countries with the aim to uncover the best practices is of major importance. In the same vein, there is an urge to develop and strengthen the knowledge base about indigenous peoples of the Russian North, and most importantly, to

promote indigenous-led research that can emphasize a sense of immediacy and call for changing institutions working with indigenous peoples instead of changing indigenous peoples to the existing structures. Examination of alternative methods to ensure empowerments in forms of nature parks should also be at the center of future studies. As an illustration, recently, in Primorsky Krai of the Far East region of the Russian Federation, Bikin Nature park was created with participation of local indigenous peoples Udege.

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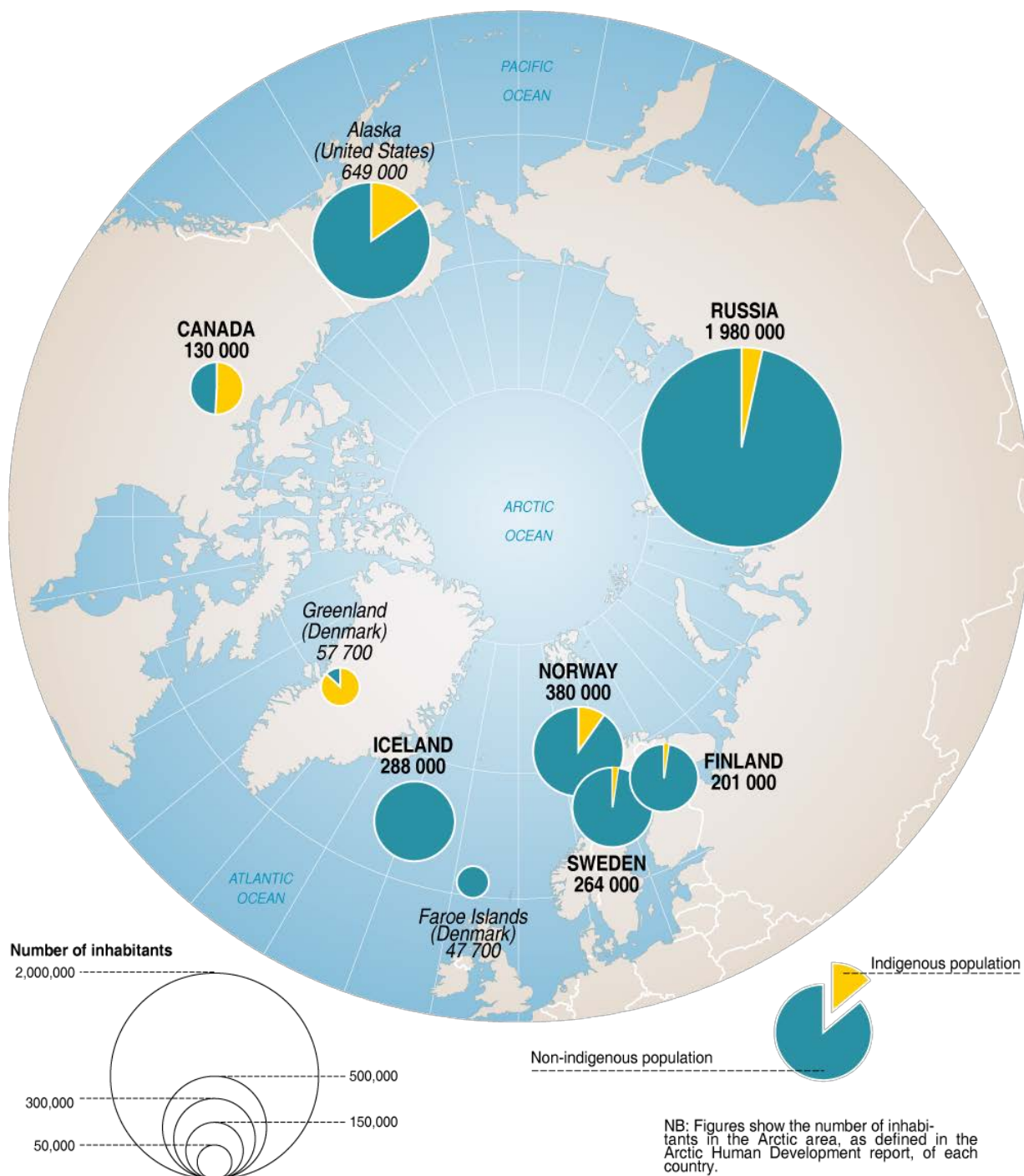
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# Annexes

## Annex 1: Indigenous peoples in Arctic vs Non-Indigenous population



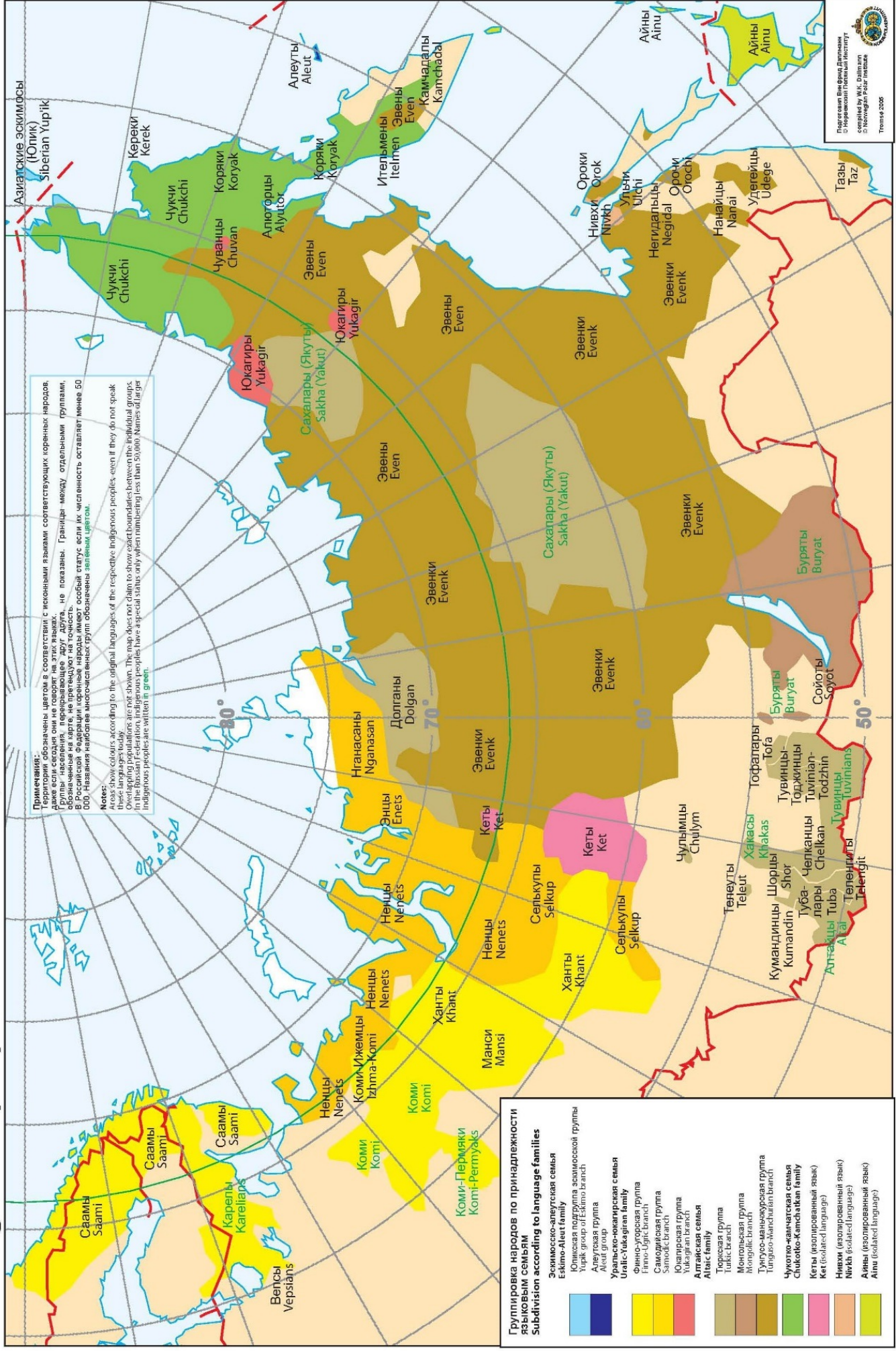
Sources : United States: US Census Bureau, 2002 and United States department of commerce 1993; Canada: Statistics Canada, 1995 and 2002; Greenland: Statistics Greenland, 1994 and 2002; Faroe Islands: Faroe Islands Statistics, 2002; Iceland: Statistics Iceland, 2002; Norway: Statistics Norway, 2002; Sweden: Statistics Sweden, 2002; Finland: Statistics Finland, 2002; Russia: State Committee for Statistics, 2003; Republican information and publication center, 1992; State committee of the Russian Federation for statistics 1992; AMAP, 1998. AMAP Assessment Report: Arctic Pollution Issues, AMAP, 1997. Arctic Pollution Issues: A State of the Arctic Environment Report. Stefansson Arctic Institute, 2004. Arctic Human Development Report.

## **Annex 2: Questionnaires**

### **Indigenous peoples: Land rights, TTNU, Obshchinas and Companies**

1. Name
2. Age
3. Occupation / position
4. Region of residence and nationality
5. What are the most important problems / challenges related to the land rights of indigenous peoples in your region?
6. What are the most important problems / challenges associated with the implementation of the law on TTNU, their creation and functioning?
7. What are the most important problems / challenges associated with the indigenous peoples' communities and their functioning?
8. What are the most important problems / challenges associated with industrial companies operating in your region?
9. How do you rate the work of the industrial company (s) in your region?
10. Give a positive example of the work of the industrial company (s) in your region. What has improved with the arrival of the industrial company (s) in your region?
11. Give a negative example of the work of the industrial company (s) in your region. What has worsened with the arrival of the industrial company (s) in your region?
12. How do you assess the state of the environment in your region? Does the work of the industrial company (s) affect its condition? If so, how?
13. Are you (your family, friends, acquaintances, etc.) informed about the work / project of the industrial company (s) in your region? Have they been consulted?
14. In your opinion, what is the biggest problem that you / your people face?

# Коренные народы Севера, Сибири и Дальнего Востока Российской Федерации Indigenous peoples of the North, Siberia and Far East of the Russian Federation

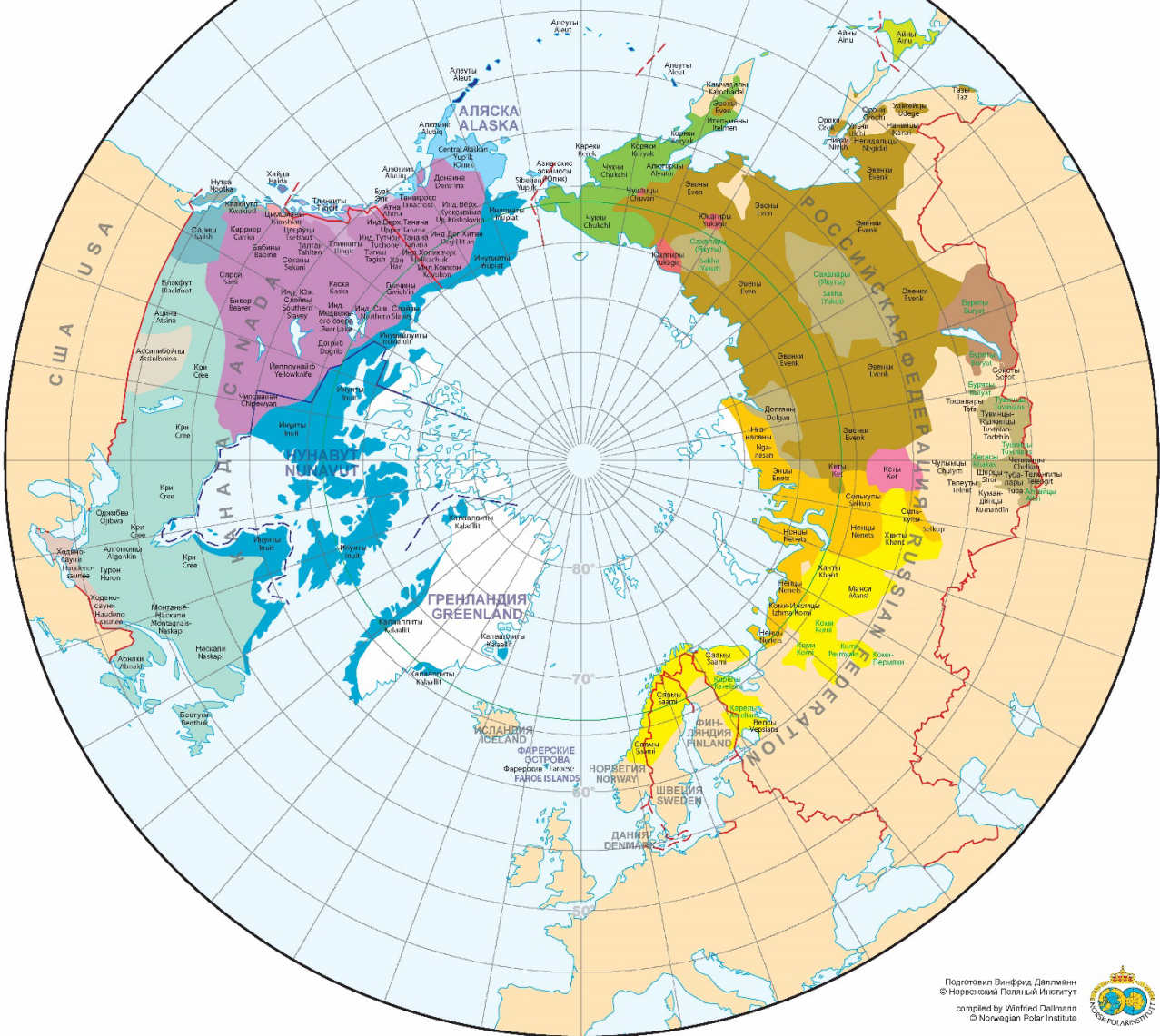


**Annex 3: Indigenous Peoples of the Russian North**

Source: Norwegian Polar Institute (n.d.). Maps Arctic indigenous peoples. [online] Ansipra.npolar.no. Available at: [https://ansipra.npolar.no/english/Indexes/Maps\\_Arctic%20.html](https://ansipra.npolar.no/english/Indexes/Maps_Arctic%20.html) [Accessed 16 May 2019].

# Коренные народы арктических стран

# Indigenous peoples of the Arctic countries



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 © Норвежский Полярный Институт  
 compiled by Winfried Dailmann  
 © Norwegian Polar Institute

## Группировка народов по принадлежности языковым семьям Subdivision according to language families

- |   |  |
|---|--|
| <p><b>Макросемья на-дене</b><br/> <b>Na-Dene family</b></p> <ul style="list-style-type: none"> <li>Атабаскская группа<br/>Athabaskan branch</li> <li>Эвекская группа<br/>Eyak branch</li> <li>Тлингитская группа<br/>Tlingit branch</li> <li>Хайдская группа<br/>Haida branch</li> </ul> <p><b>Пенутская языковая семья</b><br/> <b>Penutian family</b></p> <ul style="list-style-type: none"> <li>Алгонкианская группа<br/>Algonkian branch</li> <li>Вакашская группа<br/>Wakashan branch</li> <li>Салишская группа<br/>Salish branch</li> </ul> <p><b>Макросемья сиу</b><br/> <b>Sioux-Sioux family</b></p> <ul style="list-style-type: none"> <li>Группа сиу<br/>Sioux branch</li> <li>Ирокезская группа<br/>Iroquois branch</li> </ul> <p><b>Индоевропейская семья</b><br/> <b>Indo-European family</b></p> <ul style="list-style-type: none"> <li>Германская группа<br/>Germanic branch</li> </ul> | <p><b>Эскимосско-алеутская семья</b><br/> <b>Eskimo-Aleut family</b></p> <ul style="list-style-type: none"> <li>Инуитская подгруппа эскимосской группы<br/>Inuit group of Eskimo branch</li> <li>Юпикская подгруппа эскимосской группы<br/>Yupik group of Eskimo branch</li> <li>Алеутская группа<br/>Aleut branch</li> </ul> <p><b>Уральско-юкагирская семья</b><br/> <b>Uralic-Yukaghir family</b></p> <ul style="list-style-type: none"> <li>Финно-угорская группа<br/>Fino-Ugric branch</li> <li>Самодийская группа<br/>Samodic branch</li> <li>Юкагирская группа<br/>Yukaghir branch</li> </ul> <p><b>Аттайская семья</b><br/> <b>Altaic family</b></p> <ul style="list-style-type: none"> <li>Тюркская группа<br/>Turkic branch</li> <li>Монгольская группа<br/>Mongolic branch</li> <li>Тунгусо-маньчжурская группа<br/>Tunguso-Manchurian branch</li> </ul> <p><b>Чукотско-камчатская семья</b><br/> <b>Chukotko-Kamchatkan family</b></p> <ul style="list-style-type: none"> <li>Кеты (изолированный язык)<br/>Ket (isolated language)</li> <li>Нивхи (изолированный язык)<br/>Nivkh (isolated language)</li> <li>Аины (изолированный язык)<br/>Ainu (isolated language)</li> </ul> |
|---|--|

**Примечания:**  
 Для США показаны только народы штата Аляска. Для Российской Федерации показаны только народы Севера, Сибири и Дальнего Востока.  
 Основное население независимых государств не показано, даже если оно составляет национальное меньшинство в соседних странах (например, финны в Норвегии).  
 Территории обозначены цветом в соответствии с исконными языками соответствующих коренных народов, даже если сегодня они не говорят на этих языках.  
 Группы населения, перекрывающиеся друг друга, не показаны. Границы между отдельными группами, обозначенные на карте, не претендуют на точность.  
 В Российской Федерации коренные народы имеют особый статус если их численность составляет менее 50 000. Названия наиболее многочисленных групп обозначены зеленым цветом.  
**Notes:**  
 For the USA, only peoples in the State of Alaska are shown. For the Russian Federation, only peoples of the North, Siberia and Far East are shown.  
 Majority populations of independent states are not shown, not even when they form minorities in adjacent countries (e.g. Finns in Norway).  
 Areas show colours according to the original languages of the respective indigenous peoples, even if they do not speak these languages today.  
 Overlapping populations are not shown. The map does not claim to show exact boundaries between the individual groups.  
 In the Russian Federation, indigenous peoples have a special status only when numbering less than 50,000. Names of larger indigenous peoples are written in green.

## Annex 4: Indigenous Peoples of the Arctic countries

Source: Norwegian Polar Institute (n.d.). *Maps Arctic indigenous peoples*. [online] Ansipra.npolar.no. Available at: [https://ansipra.npolar.no/english/Indexpages/Maps\\_Arctic%20.html](https://ansipra.npolar.no/english/Indexpages/Maps_Arctic%20.html) [Accessed 16 May 2019].

## Annex 5: Indigenous Population of the Arctic

### Indigenous population of the Arctic

(Source: AHDR, 2004, p. 29. Available online

[http://hdr.undp.org/en/reports/regionalreports/other/arctic\\_2004\\_en.pdf](http://hdr.undp.org/en/reports/regionalreports/other/arctic_2004_en.pdf))

#### Indigenous Population of the Arctic Region

Arctic Region or Country	Date	Population (1,000) Total	Indigenous	Share of Indigenous (%)
USA (Alaska)	Census 2000	627	98 (119)*	15.6 (19.0)
Canada: Arctic region	Census 2001	130	66	50.8
Denmark: Greenland	2003	57	50	88.1
Iceland	2003	288	NA	
Denmark: Faroe Islands	2003	48	NA	
Norway: Arctic region	2003	463		
Sweden: Arctic region	2003	254	50**	~5
Finland: Arctic region	2003	188		
Russia: Arctic region	Census 2002	1982	~90***	>4

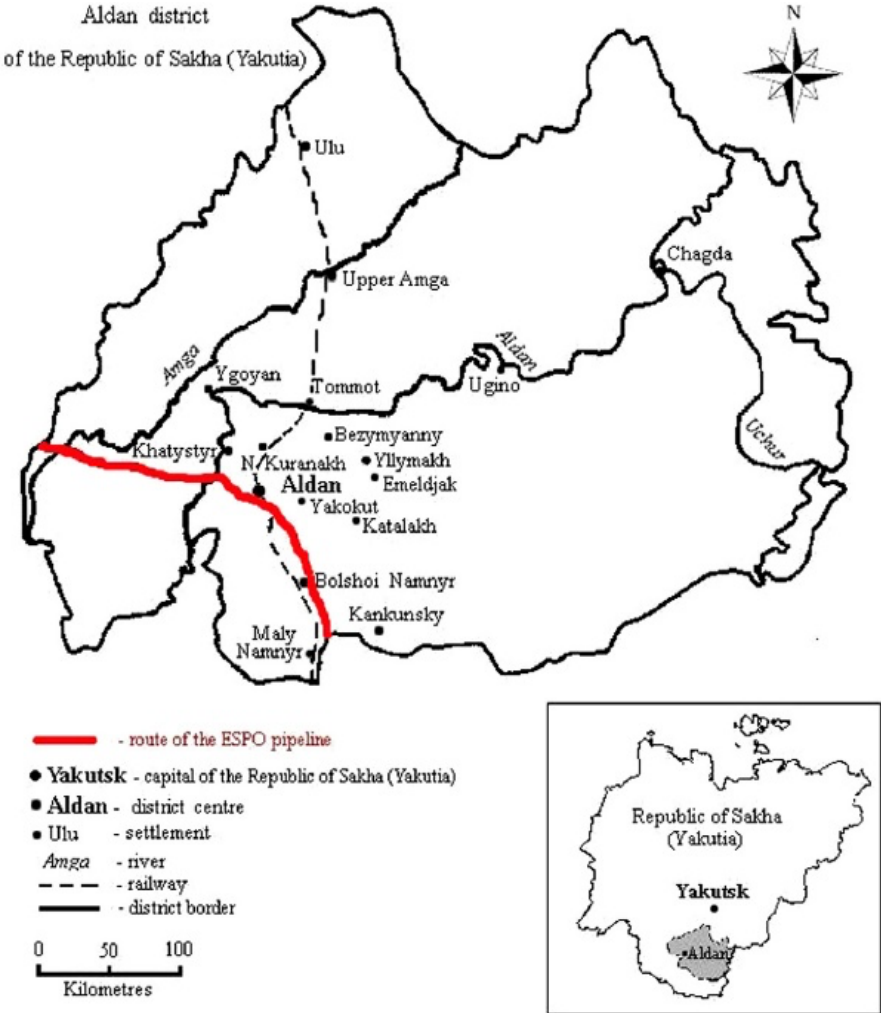
Notes:

\* Just American Indians & Alaska Natives (American Indians & Alaska Natives and some other race)

\*\* Estimate for Nordic Saami (AMAP, 1998)

\*\*\* Estimate author (D. Bogoyaviensky, Census 1989 = 77)

**Annex 6: ESPO in Southern Sakha**



Source: Yakovleva, N. (2011). Oil pipeline construction in Eastern Siberia: Implications for indigenous people. *Geoforum*, 42(6), pp.708-719.

## Annex 7: Sakhalin projects stakeholders and areas of operation

Project	Project operator	Investors	Field/contract territory
Sakhalin I	Exxon Neftegaz Ltd. (Bahamas)	<ul style="list-style-type: none"> <li>• Exxon Neftegaz Ltd. (Bahamas) (a subsidiary of Exxon Mobil (USA)) - 30%</li> <li>• Consortium SODECO (Japan) - 30%</li> <li>• JSC Rosneft (Russia) acting via its affiliates RN-Astra (Russia) - 8,5% and Sakhalinmorneftegaz-Shelf (Russia) - 11,5%</li> <li>• ONGC Videsh Ltd. (India) - 20%</li> </ul>	Chayvo, Odoptu and Arkutun-Dagi fields
Sakhalin II	Sakhalin Energy Investment Company Ltd. (Sakhalin Energy) (Bermuda)	<ul style="list-style-type: none"> <li>• Gazprom Sakhalin Holdings B.V. (Netherlands) (a subsidiary of JSC Gazprom (Russia)) - 50% + 1 share</li> <li>• Shell Sakhalin Holdings B.V. (Netherlands) (a subsidiary of Royal Dutch Shell plc. (Netherlands/UK)) - 27,5% - 1 share</li> <li>• Mitsui Sakhalin Holdings B.V. (Netherlands) (a subsidiary of Mitsui and Co., Ltd. (Japan)) - 12,5%</li> <li>• Diamond Gas Sakhalin B.V. (Netherlands) (a subsidiary of Mitsubishi Corporation (Japan)) - 10%</li> </ul>	Piltun-Astokhskoye and Lunskoye fields

Source: Central Bank.(2011) Production Sharing Agreements. In: *Twenty-Fourth Meeting of the IMF Committee on Balance of Payments Statistics*. [online] Moscow: Central Bank of Russia. Available at: <https://www.imf.org/external/pubs/ft/bop/2011/11-17.pdf> [Accessed 16 May 2019].

### Annex 8: Respondents Information

Regions	Total	Name	Occupation
Sakha and Komi Republics	24	Kai A.	Leader of Obshchina “Kutu”
		Shadrin V.I.	Researcher
		Vasil’eva I. N.	Retired
		Afnas’eva L.D.	Human rights activist
		Afnas’ev D.N.	Human rights activist/Indigenous NGO
		Ohlopkova O. S.	Human rights activist/Indigenous NGO
		Ohlopkova I. N.	Human rights activist/Indigenous NGO
		Atlasova, E. S.	Chair of Nomadic Ancestral Community of Indigenous Peoples of the North (Yukagirs) “Keigur”
		Anisimov I. M.	Ecologist
		Anisimova T.M.	Human rights activist/Indigenous NGO
		Polenina V.N.	Human rights activist/Indigenous NGO
		Milkushina O.P.	Human rights activist/Indigenous NGO
		Anonymous	Ecologist
		Anonymous	Ecologist
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Retired
		Anonymous	Retired
		Anonymous	Retired
Anonymous	Student		
Anonymous	Human rights activist/Indigenous NGO		
Anonymous	Human rights activist/Indigenous NGO		
KHMAO and Chukotka	26	Sopogin S.I.	Reindeer herder
		Ovchinnikova A.O.	Ecologist
		Lebedev J.I.	Human rights activist/Indigenous NGO
		Kanin V. N.	Human rights activist/Indigenous NGO
		Burildina T. I.	Human rights activist/Indigenous NGO
		Vonin A.V.	Researcher
		Netlepkina G. P.	Student
		Dorogina D. B.	Student
		Korlina E. L.	Human rights activist/Indigenous NGO
		Laptina S. S.	Student
		Senin E. A.	Human rights activist/Indigenous NGO
		Mitvienko D. N.	Researcher
		Fidena E. D.	Human rights activist/Indigenous NGO

		Adapteva O.P.	Researcher
		Korvilov G. A.	Human rights activist/Indigenous NGO
		Belov A. V.	Human rights activist/Indigenous NGO
		Sinitsyn V. F.	Student
		Pavlova T. I.	Ecologist
		Petin V.B.	Ecologist
		Anonymous	Retired
		Anonymous	Retired
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
Murmansk and Sakhalin	21	Danilov A.F.	Director of Sami heritage and development Fund
		Psyagin G.N.	retired
		Raudina O.V.	Member of Council of Authorized Representatives of Indigenous Peoples
		Dilaev I. N.	Human rights activist/Indigenous NGO
		Komikin P.T.	Human rights activist/Indigenous NGO
		Labilova E.V.	Human rights activist/Indigenous NGO
		Panfilova N.P.	Student
		Grigor'ev A. A.	Human rights activist/Indigenous NGO
		Alekseev N.V.	Researcher
		Mitina E. D.	Researcher
		Sazonova V. T.	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Retired
		Anonymous	Retired
		Anonymous	Ecologist
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Businessman
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO
		Anonymous	Human rights activist/Indigenous NGO

## Annex 9: Russia's oil and gas production by region, 2016

**Russia's oil production by region, 2016**

Region	Thousand b/d
West Siberia	6,294
Khanty-Mansiisk	4,830
Yamal-Nenets	977
Other West Siberia	487
Urals-Volga	2,498
East Siberia and the Far East	1,338
Krasnoyarsk	426
Irkutsk	364
Sakhalin	344
Yakutia	204
Arkhangelsk	328
Komi Republic	284
Caspian	41
Arctic offshore	36
Other	57
<b>Total</b>	<b>10,875</b>

Source: U.S. Energy Information Administration based on Eastern Bloc Research

**Russia's natural gas production by region, 2016**

Region	Tcf
West Siberia	19.3
Yamal-Nenets	17.9
Khanty-Mansiisk	1.2
Tomsk	0.2
East Siberia and the Far East	1.7
Sakhalin	1.0
Krasnoyarsk	0.5
Irkutsk	0.1
Yakutia	0.1
Urals-Volga	1.1
Orenburg	0.7
Astrakhan	0.4
Komi Republic	0.1
Others	0.4
<b>Total</b>	<b>22.6</b>

Source: U.S. Energy Information Administration based on Eastern Bloc Research