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## مجلس حقوق الإنسان

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البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

### تقرير المقرر الخاص المعني بحالة حقوق الإنسان والحريات الأساسية للسكان الأصليين، السيد جيمس أنايا

إضافة

#### حالة الشعوب الأصلية في الاتحاد الروسي\*

موجز

وضع هذا التقرير في أعقاب زيارة إلى الاتحاد الروسي قام بها المقرر الخاص المعني بحالة حقوق الإنسان والحريات الأساسية للسكان الأصليين، ويبحث التقرير حالة السكان الأصليين في الاتحاد الروسي في ضوء ما يتصل بالموضوع من المعايير الدولية لحقوق الإنسان. ويركز التقرير على الجماعات التي يقل عدد أعضائها عن ٥٠.٠٠٠ فرد ويعترف بها الاتحاد الروسي بوصفها من "الشعوب الأصلية الصغيرة العدد" التي يحق لها الحصول على أوجه حماية خاصة، وإن كان التقرير يلاحظ أن جماعات أخرى ذات خصائص لها جذور تاريخية من الحرمان الاقتصادي والاجتماعي، تتعرض ثقافتها وطرق حياتها للتهديد أيضاً، في حاجة بالمثل إلى أن تولى الاهتمام وفقاً للمعايير الدولية.

\* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيعمم باللغة التي قُدِّمَ بها، وبسبب طول التقرير لم يجرر رسمياً.

ويلاحظ المقرر الخاص أن حكومة الاتحاد الروسي قد أبدت التزاماً بتحسين ظروف معيشة الشعوب الأصلية والنهوض بثقافتها ومشاركتها في صنع القرار، وفقاً للحماية الدستورية وغيرها من أوجه الحماية القانونية المكفولة لها، وأنها وضعت سياسة شاملة تخصص عدداً من المبادرات البرنامجية للشعوب الأصلية، على النحو المحدد في "ورقة المفاهيم" لعام ٢٠٠٩ المعممة على نطاق واسع. وعلاوة على ذلك، فإن بعض الحكومات الإقليمية تبدي مستوى ملحوظاً من الاعتبار إلى قضايا الشعوب الأصلية في مبادراتها التشريعية والإئتمانية. ومع ذلك، يشير المقرر الخاص إلى أن الشعوب الأصلية في روسيا لا تزال تواجه عقبات متعددة تحول دون تمتعها الكامل بحقوق الإنسان المكفولة لها، ولا سيما في بعض المناطق. ويتطلب الأمر بذل المزيد من الجهود لضمان تنفيذ القوانين القائمة التي تضمن حقوق المجتمعات الأصلية في الأرض والموارد الطبيعية تنفيذاً كاملاً ومستمرّاً في سائر أنحاء روسيا وجميع الشعوب الأصلية، ولكفالة تمثيل الشعوب الأصلية، تمثيلاً كافياً على مستويات الحكومات البلدية والإقليمية والاتحادية؛ وإيلاء الاحترام الكامل لحقوق الشعوب الأصلية في التشاور بشأن القرارات التي تؤثر فيهم، بما في ذلك القرارات المتعلقة بالتنمية الصناعية للموارد الطبيعية، ولحقهم في تقرير هياكلهم القانونية والحكومية وتحديد أولوياتهم الاقتصادية.

ويقدم المقرر الخاص، وعياً منه بهذه التحديات، عدة توصيات يمكن أن تؤدي إلى تعزيز الاعتراف بحقوق الشعوب الأصلية في روسيا وحمايتها تمشياً مع التزامات الحكومة والمعايير الدولية، بجانب التوصية بأن تنظر الحكومة في إعلان تأييدها إعلان الأمم المتحدة بشأن حقوق الشعوب الأصلية.

## Annex

### **Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, James Anaya, on the situation of indigenous peoples in the Russian Federation**

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## I. Introduction

1. In this report the Special Rapporteur examines the human rights situation of indigenous people in the Russian Federation, on the basis of research and information gathered, including during a visit to the Russian Federation from 4 to 16 October 2009. The visit followed requests by various indigenous peoples' organizations throughout the country and was carried out with the cooperation of the Government of the Russian Federation, which took the initiative to arrange almost all aspects of the agenda for the visit.

2. During his visit to the Russian Federation, the Special Rapporteur consulted with Government officials, indigenous peoples and their organizations, representatives of the United Nations and members of civil society. In Moscow, the Special Rapporteur held meetings with officials from the Committee on Nationalities Issues of the State Duma, the Committee on Northern Territories and Indigenous Peoples Issues of the Council of the Federation, the Ministry of Regional Development, the Department for Humanitarian Cooperation and Human Rights of the Ministry of Foreign Affairs, and the Civic Chamber. He also held consultations with the United Nations Resident Coordinator and with members of the United Nations country team in the Russian Federation. In addition, the Special Rapporteur met with regional government officials in Khanty-Mansiysk, Beloyarsk, Krasnoyarsk and Khabarovsk.

3. The Special Rapporteur met with representatives of various indigenous organizations at the national and regional levels, including the Russian Association of Indigenous Peoples of the North (RAIPON) and several of its regional affiliates; L'auravetl'an Information and Education Network of Indigenous Peoples (LIENIP); the "Salvation of Yugra" regional association of indigenous peoples; Krasnoyarsk Regional Association of Indigenous Peoples of the North; and other non-governmental organizations, including the Krasnoyarsk branch of the Red Cross.

4. The Special Rapporteur conducted field trips to Kazym Village and to the patrimonial land of an indigenous family in the Beloyarsk Municipal District of Khanty-Mansiysky Autonomous Region; Surinda Village and the nearby "Surindinskiy" collective reindeer farm in the Evenkiya Municipality of Krasnoyarsky Krai, or region; and the villages of Sikachi-Alyan and Sinda in Khabarovsky Krai. During these trips he consulted with municipal government officials, hospital and school administrators, indigenous people, and members of civil society.

5. The Special Rapporteur expresses his appreciation to the Government of the Russian Federation, especially the Ministry of Foreign Affairs and the Ministry of Regional Development, to the regional governments of Khanti-Mansiysky Autonomous Region, Krasnoyarsky Krai, and Khabarovsky Krai; and also to indigenous peoples' organizations, for the support they provided for the visit. The Special Rapporteur was unable to visit all of the places he had hoped to, although he was able to visit a number of locations across the vast territory of the Russian Federation. Additionally, while his meetings with a wide range of Government officials at the federal and regional levels were useful, he would have preferred to have more direct encounters with the indigenous communities. Nevertheless, he has endeavoured to obtain a balanced picture of the situation of indigenous peoples in the country.

6. By a note of 19 March 2010, the Special Rapporteur submitted to the Government a preliminary version of the present report and, on 6 May 2010, received comments from the Government. The Special Rapporteur is grateful to the Government for its comments, which have been taken into account in the preparation of the final version of this report.

## II. The small-numbered indigenous peoples of Russia

7. The Russian Federation is one of the most ethnically diverse countries in the world, and includes over 160 distinct peoples. Russian federal legislation protects the “numerically small indigenous peoples” or “small-numbered indigenous peoples of Russia”, defined as those who live in territories traditionally inhabited by their ancestors; maintain a traditional way of life and economic activity; number fewer than 50,000; and identify themselves as separate ethnic communities.<sup>1</sup> The official listing of the small-numbered indigenous peoples of the Russian Federation identifies 46 such groups.<sup>2</sup> The size of these groups varies from fewer than 300 (240 Ent) to more than 40,000 (41,000 Nenet peoples).<sup>3</sup> In total, these groups comprise 244,000<sup>4</sup> people, residing within 28 constituent political-administrative units of the Russian Federation, mainly in the North, Siberia and the Far East of Russia.

8. The scope of the current report is for the most part limited to those groups defined by the Government of the Russian Federation as small-numbered indigenous peoples, and from hereon in the term “indigenous peoples” in this report refers to those groups. It should be stressed, however, that there may be groups that share the characteristics and challenges of small-numbered indigenous peoples but which, because of the numerical population limitation, do not enjoy the corresponding recognition or legal protections. For example, the Altai Kezhi in the Altai Republic number more than 50,000, but share a similar history and way of life to those of the Altai Alengita, who are included in the official list of small-numbered peoples. The Nogay number well over 50,000, and constitute an ethnically differentiated people with many problems similar to those of much smaller indigenous groups in the Russian Federation. Also, the Komi-Izhemtsy or Izvatas, have a traditional reindeer-herding and fishing way of life, but because they are considered a subgroup of the larger Komi national minority, do not meet the numerical criteria. Hence, much of the discussion and recommendations in this report regarding the situation of the small-numbered indigenous people in the Russian Federation may also apply to some of these other groups.

9. Diverse peoples indigenous to the northern, Siberian, and the far eastern regions of territory now within the geographic boundaries of the Russian Federation inhabited these regions long before Tsarist Russia started exploring the territories in the 12th and 13th centuries. They had well-developed communities, subsistence economies and cultures, based on a nomadic or semi-nomadic way of life, fishing, hunting, and reindeer herding. Even though the main Tsarist legal act on indigenous people, the 1822 “Regulation of Indigenous Population”, recognized the role of clan community leadership and even prohibited Russians from settling in the territories of indigenous people without their leaders’ permission, indigenous communities suffered many effects of colonization, including military conflicts, loss of autonomy and lands, and heavy taxation. The 1917 Revolution brought drastic changes to the relationship between the central Government and indigenous communities, and further affected the situation of indigenous people in Russia.

10. The rise and fall of communism carries epic historical significance for all Russians, but was especially traumatic to the situation of indigenous peoples. Soviet leaders were known to take pride in the diversity of ethnicity and culture in the Soviet Union, and the

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1 Federal Law on Guarantees of the Rights of Numerically Small Indigenous Peoples of the Russian Federation.

2 Common List of Numerically Small Indigenous Peoples of Russia, N255 of 2000, and N760 of 2008.

3 Concept Paper on the Sustainable development of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation (N132-p, 2009).

4 Ibid.

ruling party encouraged and sponsored indigenous performers and artists. Nevertheless, the policy of Sovietization envisioned that indigenous peoples would continue to develop the aesthetic features of their cultural traditions, while integrating into mainstream society in every other way.

11. Thus, indigenous peoples' traditional leadership structures and communities, their religion, customary law and traditional medicine, and their capacity for self-reliance and economic subsistence built up over hundreds of years were radically affected by the paternalistic and intrusive management and control, forced integration, and "collectivization" during communism. For example, reindeer farming and all other economic activities were transformed into Government-run enterprises; indigenous children were mandatorily placed in boarding schools and taught by Moscow-trained educators; and nomadic communities were forced to settle, leading to increased urbanization.

12. Following the fall of communism, and the abrupt transition to a market economy during *Perestroika*, indigenous peoples were in a particularly vulnerable position. Communities experienced something of an organizational void, lacking the former structure imposed by the communist Government, yet unable to shape or define their new role in a drastically shifting political and economic atmosphere. Many indigenous communities suffered extreme hardship with some reaching the brink of extinction during this time, while unemployment, poverty and alcoholism soared.

13. Despite this, the small-numbered indigenous peoples of Russia have been able to preserve their unique and distinctive identities, cultures, languages and traditions. However, notwithstanding governmental and non-governmental efforts to improve the situation of indigenous peoples in the last two decades, and despite some signs of success, deep-rooted problems remain. According to various sources the small-numbered indigenous peoples generally have worse human development indicators than other population segments within the Russian Federation (see part IV.C.4).

14. Additionally, structural conditions complicate the situation of indigenous people in Russia. Indigenous communities are located mostly in the North, Siberia and Far East of Russia: a territory sparsely populated but spanning close to one million square miles and over 60 per cent of Russia. The huge distances that separate indigenous communities from each other and from metropolitan centres, harsh climate conditions, and the lack of easy transportation or communication create conditions of isolation, and present unique obstacles to indigenous peoples' social, political and economic participation in the larger society.

15. The North, Siberia and Far East are also the areas where most of Russia's industrial-grade natural resources are located. Russia is one of the world's top exporters of oil and natural gas, and is understandably continuing to actively explore and develop its rich reserves. Often, this exploitation of natural resources happens close to or on the land indigenous people inhabit or use for hunting, fishing or reindeer herding. The tension between the competing interests of the indigenous peoples and the extractive industries is likely to inform the dynamics of indigenous issues in Russia for a long time in the future.

### **III. Legal and policy framework**

#### **A. Relevant laws and programmes at the federal level**

16. The Russian Federation is a federal, semi-presidential republic with 83 constituent subjects, or political-administrative units. The 1993 Federal Constitution (especially articles

2, and 17–64) articulates a commitment to a range of specific human rights and freedoms. With regard to indigenous peoples in particular, article 69 provides that “[t]he Russian Federation shall guarantee the rights of the indigenous small peoples according to the universally recognized principles and norms of international law and international treaties and agreements of the Russian Federation”.

17. With respect to international law generally, article 15 (4) of the Constitution states: “The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.”

18. The Russian Federation voted in favour of the Universal Declaration of Human Rights, and has ratified most of the core United Nations human rights treaties. Russia has not ratified International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989), and abstained from voting for the United Nations Declaration on the Rights of Indigenous Peoples (“Declaration”), although Government officials have stated that the Russian Federation accepts most of the provisions of the Declaration.

19. The federal legal framework for the protection and promotion of the rights of indigenous peoples consists of three framework laws specifically addressing indigenous peoples: “On Guarantees of the Rights of Numerically-small Indigenous Peoples of the Russian Federation” (“On Guarantees”), passed in 1999; “On Territories of Traditional Nature Use of the Numerically-small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation” (“On Territories”), adopted in 2001; and “On General Principles of Organization of *Obshchina* [clan or clan-type community] of Numerically-small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation” (“On Obshchina”), adopted in 2000.

20. The guarantees set out in the federal legislation include both group and individual rights of indigenous peoples to free-of-charge use of land and renewable natural resources in the territories which they have traditionally occupied and where they engage in traditional economic activities; the rights to establish self-government bodies in places of compact settlement and to form communities and other organizations; the right to reform their educational institutions according to their traditional way of life; the right to receive compensation for damage to their traditional environment due to industrial activities; the right to have courts consider customary law in as far as it does not contradict federal or regional legislation; and other entitlements. However, while the guarantees set out in these federal laws are substantial, there has been widespread criticism of the lack of their effective implementation.

21. The federal Government had provided a series of three consecutive funding initiatives targeting indigenous communities, starting in 1991. Nevertheless, these programmes were also criticized as being grossly insufficient and subject to inappropriate or corrupt use.

22. Perhaps in part motivated by these criticisms, in February 2009 the federal Government adopted a Concept Paper on the Sustainable Development of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation (“Concept Paper”), thereby defining the federal policy from 2009 to 2025 for improving the socio-economic conditions, and for protecting the traditional environments, way of life and cultural values, of indigenous peoples; and specifying time frames and benchmarks for implementation. The policy identifies the following seven objectives: protecting the natural environment and traditional use of land and natural resources; developing and modernizing traditional commercial activities; increasing the standard of living; improving the demographic

situation to bring it into line with the national average; improving access to educational services taking into account specific ethnocultural needs; support for the development of clan communities and other forms of self-governance; and protection of cultural heritage.

23. The Concept Paper provides that “immediate measures” will be taken during the first stage, 2009 to 2011, to improve and harmonize legislation; providing a better delineation of the jurisdiction of federal, regional and local authorities; solidifying priority access to fishing and hunting grounds, and free-of-charge access to land areas for traditional use. In connection with another goal for this period, the Government has reported that a methodology for assessing damages to traditional use areas by industrial activity has already been adopted by the Ministry of Regional Development.<sup>5</sup> This first implementation stage also envisions the creation of new nomadic schools, trading posts, and other infrastructure in areas of traditional dwelling; increasing the availability of medical services, and cultural and communications services; increasing the size of federal subsidies given to regional budgets to support reindeer husbandry and other types of stock breeding; the formation of a federal statistics-gathering system to monitor the condition of indigenous peoples, and carrying out analyses of demographic factors and indicators of the living standards of indigenous peoples after the 2010 census.

24. The Concept Paper is an ambitious and comprehensive document, and demonstrates that the federal Government is responding to many of the specific concerns raised by indigenous organizations and representatives. The Special Rapporteur heard expressions of enthusiasm about the Concept Paper from federal and regional Government officials, and also from some members of indigenous communities. One concern indigenous advocates voiced, however, was that many of the provisions are too general, which could inhibit the potential for speedy implementation or effective accountability.

25. Currently the federal Ministry of Regional Development provides 600 million roubles (about \$20 million) annually, which both federal officials and indigenous representatives agreed is insufficient, to be distributed among Governments of the regional federal constituent units that apply and qualify. Funds are distributed according to the regions’ budgetary needs in relation to the size of the regions’ respective indigenous populations, and have to be used to further the seven goals of the Concept Paper; regional governments are also required to reach agreements with indigenous peoples in their territories on how to use federal subsidies before they can apply to receive those subsidies. However, the Special Rapporteur heard concerns that in some cases the opinions of indigenous peoples were not adequately considered; that despite the requirement that fund allocation decisions be made together with indigenous organizations, the money was spent on general problems of the municipalities that had little to do with indigenous issues, or, due to insufficient oversight, became subject to corruption and inappropriate uses.

## **B. Federal structure and regional legislation, policies and programmes**

26. The Russian Federation is a State with a strong federalist structure of government, with 83 constituent units under various denominations (republics, regions, autonomous areas, autonomous regions, and federal cities), generally referred to comprehensively as “subjects of the federation”, or “federal subjects”.<sup>6</sup> Federal law is supreme throughout Russia’s territory, but federal subjects enjoy significant levels of autonomy and self-governance. Because the current federal structure in Russia is relatively young, based on

<sup>5</sup> By decree No. 565 of 9 December 2009.

<sup>6</sup> The terms “region” and “regional government” are used in this report to refer to any of these federal subjects and their governments.



the Federal Constitution enacted in 1993, many subtle areas of delineation of authority between the federal Government and federal subjects are still in flux, especially within the sphere of joint or concurrent powers, including that of indigenous issues.

27. The federal Government determines some general legal principles and development policies for indigenous people in Russia, while the regional governments implement and may in addition legislatively apply, specify and refine these general principles. Federal subjects vary significantly in their size, economic and political development, and ethnic composition. They also vary significantly in their approach and the degree of attention to indigenous issues.

28. Several regions of the Russian Federation have established well-developed and comprehensive legal frameworks for the protection of indigenous peoples' rights. However, close observers agree that most of the regions in Russia have not. Khanti-Mansiysky Autonomous Region is often cited as the region with the best laws, programmes and relationship between regional authorities and indigenous peoples. The main indigenous organization there, "Salvation of Yugra", has been working with and within the regional government for the past 15 years to establish a relatively high level of political representation and to ensure legislative attention to indigenous issues. In contrast, many regions have only recently experienced indigenous political activism and have started to frame a legislative approach and policy regime towards indigenous people.

## **IV. Major issues**

### **A. Land and resources**

29. Indigenous peoples' ways of life, cultures and traditions in the Russian Federation, as elsewhere in the world, have evolved over hundreds of years through a very close connection to nature and land. Access to land and natural resources is essential to the ability of indigenous peoples to maintain and develop their distinct identities and cultures, as well as to develop economically. Indigenous peoples throughout Russia have engaged in and depended on activities such as reindeer herding, hunting and fishing in the same or adjacent territories for centuries, and today, as many indigenous peoples continue these activities, they are looking to further develop them and engage in other resource uses for the future. Secure land and resource tenure is one of the most basic human rights for indigenous peoples, as emphasized by articles 25–30 of the United Nations Declaration on the Rights of Indigenous Peoples, and it is a right grounded in general human rights principles of equality, property and cultural integrity incorporated into multilateral treaties to which the Russian Federation is a party.<sup>7</sup> Several federal and regional laws and government programmes in the Russian Federation provide some protection for this right but, nonetheless, effective enjoyment of the right remains precarious in many if not most situations.

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<sup>7</sup> In particular, the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and the International Convention on the Elimination of All Forms of Racial Discrimination, as made clear by the treaty-monitoring bodies that oversee compliance with these instruments.

## 1. Relevant legal framework

30. Post-Soviet Russia has been undergoing a complex and prolonged land reform, defining and redefining property and land relationships. According to the federal constitution, land and other natural resources may be under private, State, municipal or other form of ownership. Most of the land and subsoil resources in Russia are currently the property of the State. All issues concerning ownership, use and allocation of land, mineral resources, water and other natural resources are jointly administered by the federal and regional Governments. Agricultural, forest, pasture and other land parcels are currently utilized by private entities primarily on a lease basis from the Government.

31. Consistent with this general framework, indigenous peoples in Russia are accorded rights to use the land and its renewable and common resources, while title ownership remains with the State. The Special Rapporteur holds the view that such use rights could be sufficient to comply with relevant international standards, if they are well established, implemented, judicially protected, and working in concert with other entitlements such as those of consultation and consent, compensation, environmental protection and development.

32. Indigenous peoples' rights to lands and natural resources are promoted by the federal law "On Territories". The law provides that the land an indigenous community utilizes for traditional economic activities may be granted a special legal designation of "territory of traditional nature use", and be assigned to that community to use free-of-charge for a certain renewable period of time. Once created, the indigenous people living in these territories are guaranteed the right to continue to occupy the land and use its renewable resources for traditional activities, the right to participate in decision-making when industrial development in the territory is considered, and the right to receive compensation when industrial development that interferes with their access to land or damages the environment occurs there.

33. However, a common criticism of the federal law "On Territories" is that no territories have been established directly under it, and that to date the federal law is lacking by-laws or procedures specifying methods for its direct implementation. In response, the Ministry of Regional Development reports that it is currently working on a proposal for amending the law "On Territories" in order to strengthen the law's effectiveness and means of implementation. Additionally, the Committee on Nationalities at the State Duma is working on a new draft law "On the protection of the environment for traditional way of living and traditional nature use of indigenous small-numbered people of the Russian Federation".

34. Although no indigenous territories have been established under the federal law, regional laws have, to varying extents, within 28 regions of the Russian Federation, protected territories for indigenous traditional use, which are documented in an official federal listing.<sup>8</sup> The regional regimes have functioned well in many cases, for example in the Khanti-Mansiyski Autonomous Region where there are 523 traditional use territories created under regional law.

35. Nevertheless, most indigenous communities across the Russian Federation still do not enjoy designated territories, and due to ongoing reforms to the land regime at the federal level, which affect regionally created territories, the status of existing territories is perceived as legally uncertain. For example, in the designated "regional territory of traditional use" in the area spanning over 17,000 hectares along the Amur River

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<sup>8</sup> Common List of Places of Traditional Lifestyles and Traditional Livelihood of Numerically Small Indigenous Peoples of the Russian Federation, N 631-p of 2009.

surrounding Sikachi-Alian village in Khabarovky Krai, indigenous residents currently enjoy de facto free-of-charge use of land resources and receive preferential access to fishing areas. However, concern was expressed to the Special Rapporteur that federal land reforms could have the effect of undermining these currently existing regional entitlements, and in this regard the rights of indigenous peoples within the area are feared to be unstable and not legally defensible.

36. Compounding a lack of implementation and clarity in the legal arrangements intended to secure land and resource use are conflicting or inconsistent legal and regulatory regimes, such as the relatively new systems of auctioning hunting and fishing licences. In many places, including in areas already designated as areas of traditional nature use, indigenous peoples are subject to licensing and auctioning regimes that force them to auction for hunting and fishing licences in competition with non-indigenous, usually commercial, interests, without any priority given to traditional hunting or fishing practices. As a result, indigenous communities experience problems realizing their access to the resources they have depended on for their livelihood. There are multiple reports of indigenous communities that have applied for fishing grounds with no success, especially in Buryatia and Kamchatka.

37. Further, in some places, fishing and hunting licences are issued with quotas that are grossly insufficient to meet nutritional needs, and some indigenous communities are only able to obtain licences to fish long distances away from their villages, because licences to fish in their traditional fishing areas have been granted to other, often commercial, enterprises. Moreover, indigenous people reported difficulties with the application process for hunting and fishing licences, including extensive documentation and expensive expert report requirements. The Special Rapporteur heard numerous concerns that a newly adopted federal law, “On Hunting”, to take effect in 2010, does not provide for free-of-charge hunting for indigenous peoples, although the Government has taken some steps to modify this: upon an official recommendation of the Civic Chamber, the Council of the Federal Assembly of the Russian Federation has created a working group to modify the law. Similarly, a working group was created within the Federal Agency for Fishery, to introduce proposals for modifications of the normative framework regulating fisheries.

38. Another factor affecting indigenous peoples’ access to lands and natural resources has been the establishment of parks or nature reserves on the basis of overriding conservationist objectives. In some areas, such as in the Beloyarski municipality in Khanti-Mansiyski, the establishment of State nature parks has been viewed as positive, since it has kept areas free from industrial development and resource extraction, while allowing traditional activities to continue. However, in other areas, such as the Sinda village in Khabarovsky Krai, specially protected nature parks have been in conflict with the interests of the indigenous peoples who traditionally have used resources from these areas.

39. Importantly, the federal Government seems to be taking steps to address some of the concerns raised regarding land use. In its Concept Paper, the Government states that “it is essential” for changes to be made to the Land Code and to fishing and wildlife legislation to include free-of-charge use of land for traditional activities, and to increase the authority of local governing bodies to protect the local environment. Additionally, the federal Government has prepared a draft law modifying the Land Code and has created a working group to review this law and introduce proposals for modifications consistent with indigenous land use guarantees.

40. In addressing indigenous land and resource issues, it is necessary to ensure an overall regime of access to lands and natural resources for indigenous peoples that is forward-looking, taking into account the evident evolving nature of indigenous cultures, land-use patterns and economic relationships. Existing guarantees appear to focus on “traditional uses” — such as subsistence or relatively small-scale reindeer herding, hunting

and fishing — without ensuring that indigenous peoples have secure rights to use and develop their lands and resources for purposes beyond such uses as can easily be described as “traditional”, such as commercial purposes. In this regard, the Special Rapporteur notes that the Declaration on the Rights of Indigenous Peoples affirms that “indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development” (art. 23).

## **2. Extractive industries, dams and industrial development affecting indigenous people**

41. The North, Siberia, and the Far East — the regions where most indigenous people in Russia live — are also those where most of Russia’s industrial-grade natural resources are located. Extensive oil and gas exploration and extractive activity is currently under way in the Khanti-Mansiysky Autonomous Region, the Yamal Peninsula, Sakhalin Island, and East Siberia, among other areas. Very often oil development occurs on, and transportation pipelines are built through, the areas indigenous peoples use as reindeer pastures, or as fishing and hunting grounds.

42. The law “On Territories” provides that where designated traditional nature use territories are established, oil and other industrial development may occur only after consultation and agreement with the indigenous communities living there. This requirement has given rise to many instances of agreements between oil companies and indigenous people, in areas where territories of traditional use are established. In at least some instances, if coupled with adequate governmental oversight, such agreements could constitute good practice in keeping with articles 28 and 32 of the Declaration, which provide that indigenous peoples have the right to consultation and informed consent regarding any development activity which affects their environment and the land they use, regardless of the legal status of that land.

43. The Khanti-Mansiysky Autonomous Region, where more than 60 oil companies operate, has adopted a regional law to regulate and standardize oil company activities in relation to indigenous peoples’ rights and practices in the region. Many heads of families there have entered into agreements with, and currently receive compensation from, oil companies which explore or extract on “territories of traditional nature use” or patrimonial land. The Khanti-Mansiysky regional administration has provided a model agreement and oversees these individual agreements; it acts as an arbiter when conflicts arise, and has established a legal department under its executive branch specifically for the purpose of representing indigenous people in court.

44. One criticism of the current practice that the Special Rapporteur heard from heads of families in this region is that they would like to have the opportunity to discuss and negotiate all terms of their agreements with oil companies, rather than being presented with a model and inflexible contract, preprinted and ready to sign.

45. Sakhalin Island was cited as another example of successful cooperation between oil companies and indigenous people. After a turbulent relationship with indigenous and environmental groups for several years in the early part of the decade, Sakhalin Energy, operator of the Sakhalin II project, signed a tripartite agreement with the regional administration and the regional council of representatives of the indigenous peoples on Sakhalin Island. Sakhalin Energy now participates in the Indigenous Minorities Development Plan, and since 2005 has invested US\$ 300,000 in projects chosen and developed by indigenous people, related to assisting the health, education, research and preservation of indigenous peoples’ languages, and the support and preservation of traditional culture. There are reports, however, that despite the apparent success of the Sakhalin agreement, there remain many problems in the relationship, including the oil producer’s fulfilment of its obligations under the agreement.

46. The Special Rapporteur emphasizes that in light of the scope of indigenous peoples' right to self-determination with regard to their economic development and the scope of their right to participate in decisions about industrial enterprises which affect them, a broader understanding of cooperation is warranted. Rather than limiting the interaction of oil companies and indigenous people to discussion on compensation, both sides and administrators should allow for and encourage possible ownership interests and profit-sharing in extractive industries, where indigenous communities are so inclined.

47. There are also reports of serious negative environmental impacts of extractive industries. For example, in the Yamal-Nenets Autonomous Region, an area rich in natural gas and the site of extensive exploration, some 2,500 km<sup>2</sup>, which is expected to increase to 5,500 km<sup>2</sup>, of plant cover has been completely destroyed, severely affecting reindeer-herding activities, in which approximately half of the region's 9,000 indigenous inhabitants engage. The environmental damage has occurred despite the fact that there are 25 regional laws allowing reindeer herders to request and participate in ethnological impact assessments for land development. However, the Special Rapporteur notes that hospitals, schools, and certain employment opportunities for indigenous people have apparently improved with the presence of the industrial development in this area.

48. Federal Government officials have reported that they are working on preparing a federal law that would require ethnological impact assessments for any industrial development. Indigenous advocates have noted that this law has been long awaited and is essential for assessing the effect of extractive and other enterprises on indigenous peoples, and for enabling the exercise of the right to consultation and compensation.

49. Indigenous organizations in Russia expressed deep concern about the planned large hydroelectric dam in the Evenkiya district of Krasnoyarsky Krai. In 2008, the Russian Government approved plans for the construction of the dam to be built by RusHydro (a more than 60 per cent government-owned company). The dam is expected to flood about one million hectares of forest and six villages, and require the resettlement of about 5,000 people, including over 1,600 Evenks. The construction of the dam would result in significant environmental changes to the surrounding areas, including increases in the temperature and humidity levels, changes in biological diversity and the availability of plant and animal species on which Evenks have traditionally depended. The Special Rapporteur received reports that administrators are engaging in tactics of intimidation and investigation of the most vocal activists opposing this project. According to a 2009 poll, over 90 per cent of the residents of Evenkiya municipal district would vote against the construction of the dam.<sup>9</sup>

50. The project has already generated heated public debate locally and nationally and has gained attention internationally. In 2008, the United Nations Committee on the Elimination of Racial Discrimination urged the Government of the Russian Federation to withdraw support for the project (see CERD/C/RUS/CO/19). There is concern that the project would be carried out in violation of article 18 of the Declaration, which affirms the right of indigenous people to participate in decision-making in matters which would affect their rights; and in violation of article 10 of the Declaration, which provides that "no relocation shall take place without free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation".

51. Federal Government officials reported taking steps to ensure that indigenous people from the affected communities would be consulted and that studies will be done to properly predict the impact of the dam on the local environment and communities. The Ministry of Regional Development assured the Special Rapporteur that public hearings will be held to

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<sup>9</sup> Information from NGO LIENIP.

discuss compensation and the negative effect of the construction, that the federal Government will oversee RusHydro's consultation process with indigenous people in the region, and that the Government is committed to finding solutions to the concerns of the affected communities.

## **B. Political participation, consultation and self-governance**

52. Indigenous peoples have the right to participate fully in the political life of the State, and to participate in decision-making in matters that would affect their rights, including, but not limited to, the right to free, prior and informed consent in legislative and administrative measures that may affect them.<sup>10</sup> Additionally, as a part of their right to self-determination, they have the right to self-government in matters relating to their internal affairs and the right to maintain and develop their own decision-making institutions.<sup>11</sup> In the context of the Russian Federation, these entitlements relate to indigenous political representation at the federal and regional levels, and to autonomous governance at the local and community level.

53. Several factors, in addition to the small size of their populations, impede the ability of indigenous peoples in Russia to engage in effective political participation. Indigenous people live in remote areas, far from urban centres and from each other, without easy access to transportation or means of communication, and live in small, often single-family, groups. Additionally, the traditional indigenous leadership structures were severely damaged in the 1940s as a result of the Soviet regime's anti-insurgency activities and the subsequent totalitarian regime. Compounding these factors is that in many places negative attitudes and stereotypes about indigenous people appear to persist, making indigenous identity a liability in political processes.

54. Federal officials assured the Special Rapporteur that when federal executive bodies make critical decisions affecting the interests of indigenous people they seek the participation of indigenous representatives; they have further stated that the cooperation between federal governing authorities and indigenous associations is regarded as one of the priorities of the national policy of Russia. Consultations with indigenous peoples on legislation affecting them are not legally secured, however, and consist mainly of extending opportunities for indigenous representatives to participate in consultative working groups whenever such groups are created to review new legislation.

55. Currently, the policy areas that affect indigenous peoples are dealt with by various ministries and departments without any strategic coordination focused on indigenous issues or direct indigenous representative participation. Federal policy and social programmes are developed by the Ministry of Regional Development, fishing policies and regulations are developed by the Ministry of Natural Resources, while hunting is within the jurisdiction of the Ministry of Agriculture; further, according to close observers, most legislative processes occur with no consideration of, or expertise on, indigenous issues.

56. While in many parts of the Russian Federation indigenous peoples remain underrepresented in executive and legislative bodies, some regional governments have shown sensitivity to the factors affecting indigenous peoples' ability to fully participate in political processes at the regional level, and have attempted to facilitate and ensure such participation in various ways. For example, in 1996 the Khanti-Mansiysky Autonomous Region was the first region in the new Russian Federation, only two years after its

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<sup>10</sup> Articles 5, 18 and 19 of the Declaration.

<sup>11</sup> Articles 2, 3, 4, 5 and 18 of the Declaration.

formation, to formalize representation of indigenous peoples through legislation by statutorily creating the Assembly of Indigenous Peoples as a part of the structure of the regional Duma (parliament). The region's administration works closely under a formal agreement with the indigenous organization "Salvation of Yugra" (which has 22 offices throughout the region with over 3,000 active participants) when making any decisions affecting indigenous peoples. Together, they have adopted a general policy on indigenous peoples' rights, and over 10 laws and 40 normative acts guaranteeing the rights of indigenous peoples to priority and free-of-charge use of land, language education, self-organization, development of reindeer herding, and promoting the pursuit of traditional activities. This region is the only federal subject in the Russian Federation to have legislated a quota of indigenous representation at the regional Duma (3 out of 21 seats there are reserved for indigenous people).

57. Khabarovsk Krai has established an indigenous body with consultative status in the Governor's office, the Regional Council of Representatives of Indigenous Peoples of the Governor's Office, which was created in 2003 under the regional law "On Representation of Indigenous Peoples". Each village elects representatives for its municipal council, and the heads of municipal councils sit on the Regional Council of Representatives of Indigenous Peoples, currently consisting of 15 members. All decisions of the Government of Khabarovsk Krai that have to do with indigenous peoples are discussed in consultation with the Council, and the Council can make proposals to regional and federal legislative bodies.

58. With regard to indigenous peoples' right to autonomous governance, the federal Law "On guarantees" affirms that indigenous people may set up territorial self-government bodies in places of compact settlement, form communities and other organizations, and have courts consider their customary laws provided these are not contradicted by federal or regional legislation. In particular, the law "On Obshchina" specifies the formation of "obshchina", or clan community, "created for the goals of defending their age-old surroundings, and the maintenance and development of traditional ways of life, economy, trades and culture". Obshchinas may group together a single family, a few families, or a whole village, and are entitled to receive use rights for allotments of land parcels, and quotas for fishing and hunting, accommodating their traditional practices. However, the Special Rapporteur heard concerns that in practice the obshchina system does not function to adequately or consistently secure indigenous self-governance in accordance with customary patterns of community organization and leadership, and that the activities under obshchina authority are limited to those considered traditional, and thus do not include commercial activities.

### **C. Socio-economic concerns**

59. The indigenous people of Russia continue to experience deep-rooted and complex socio-economic problems due largely to the disruptive management of their communities during communism and the crippling effects of post-communist transition to a free-market economy. The socio-economic indicators for indigenous peoples are dramatically inferior to those for other Russians (see paragraphs 66 and 74). Some improvements have been achieved in the last 10 years, but efforts should continue and be strengthened especially in the areas of job creation and economic development, education, and health care in order to enable the potential for vibrant and self-sufficient indigenous communities.

## 1. Long-term strategies for economic development

60. The Government's principal policy with regard to indigenous peoples is to ensure the preservation of their unique cultures by supporting their traditional economic activities. In this connection, the Special Rapporteur observed that many Government officials with whom he met seemed to operate under the assumption that if indigenous people carry out non-traditional, mainstream economic activities, their cultures and identities, and, consequently, their status as protected small-numbered indigenous peoples will be threatened.

61. Nevertheless, the Special Rapporteur notes that examples in Russian and other parts of the world have shown that indigenous communities are able to enter into successful entrepreneurship that extends beyond traditional economies, without having to sacrifice their unique cultures. In this connection, articles 3, 20 and 23 of the Declaration state that indigenous peoples have the right to "freely pursue their economic, social and cultural development", to maintain and develop their economic systems, and "to determine and develop priorities for exercising their right to development". The right to development includes the right to preserve and continue traditional economic activities and the right to choose to develop those activities in the modern world and participate in broader spheres of economic life.

62. In fact, indigenous communities in Russia with whom the Special Rapporteur spoke expressed a strong desire to participate much more actively in economic activities that are not considered traditional, such as oil development or other commercial and industrial enterprises, or development of tourist destinations around historic sites. They view this as a way to ensure the economic viability of their communities without a long-term dependence on Government subsidies.

63. For example villagers from Surinda Village in Krasnoyarsky Krai, where about 500 Evenks live, explained that their community cannot survive on reindeer herding alone. Currently the village depends on regional and federal subsidies, but the budget allocated to the village is largely insufficient to meet the community's needs for new housing and infrastructure, inter alia. The villagers expressed the hope that in the future they would be able to start commercial enterprises and thereby create an independent revenue stream for their community and enable it to develop and thrive without long-term reliance on governmental support.

64. Another example is the village of Sikachi-Alian in Khabarovsk Krai, with a population of 312, mostly Nanai, residents, which is situated near 12,000 year-old petroglyphs, remnants of an ancient Nanai settlement. The village subsists primarily on financial assistance from the regional government, although 60 per cent of the villagers work in a nearby city. The officials of the village expressed an interest in developing the historic petroglyph site as a tourist destination, complete with tours and souvenir and traditional crafts gift shops, in order to enable the village to be self-sufficient economically. However, this is currently not possible, because all historical heritage locations are the property of the federal Government and not within the village's control.

65. Some Government officials in Moscow expressed openness to the idea that indigenous peoples could participate actively in the mainstream economy, but stated that there are many obstacles to this. Because of the location of indigenous settlements, remote from urban centres, transportation costs for what they produce are often prohibitive or render production non-competitive. The Special Rapporteur hopes that Government officials will nevertheless develop a long-term vision of economic development in indigenous areas, and strive to support and encourage various models of economic exchange and enterprises, including support for and development of non-traditional economic activities.



## 2. Education

66. While there are many positive developments in the area of indigenous education, problems remain. As of 2002, 48 per cent of indigenous people in Russia had only elementary education and 17 per cent were illiterate, compared respectively with 8 per cent and 0.5 per cent for all of Russia.<sup>12</sup> In many communities, only between 15 and 50 per cent study their native language.

67. Given the remoteness of indigenous settlements, most indigenous children are taught in boarding schools. However, in conversations with the Special Rapporteur, teachers shared the view that boarding schools are not an ideal model for indigenous education since they uproot indigenous children, physically and culturally, from their traditional environments and families. Some regional governments have explored educational opportunities that are better suited to indigenous communities than the boarding school model, such as itinerant schools, which travel with reindeer herders.

68. More generally, the quality and relevance to the indigenous communities of the schools that serve them would be improved if those communities, especially the parents among them, had more control over the curriculum and administrative decisions. The school curriculum is determined by regional administrators who are required to follow a core federally defined curriculum for each grade. Indigenous children follow this curriculum, with an added indigenous language course. Regional administrators have some flexibility, and some schools try to recreate traditional rituals and teach traditional activities, but parents and local communities have very limited input into curriculum decisions.

69. Article 14 of the Declaration states that indigenous people have the right to establish and control their own educational institutions, teach children in their native language and choose the manner of education that is appropriate to their cultures and communities. While there may be multiple obstacles to providing education to small and remote settlements, and communities that practise a nomadic way of life, there should be determined efforts to foster a flexible educational framework, allowing for stronger control by indigenous communities.

70. Several non-governmental sources have pointed out that certain federal policies have had a negative effect on indigenous educational institutions. For example, the federal policy of “optimization”, which aims to consolidate certain municipal services in concert with the local self-government reform under the federal law “On general principles of local self-government in Russia”<sup>13</sup> have resulted in school closings in many small settlements. The Special Rapporteur heard testimony about Baklaniha village in Krasnoyarsky Krai, and a Shor village in the Kemerovski Region, which remain without schools due to school closings. Concerned individuals and NGOs argue that such school closings leave no option for families with children but to relocate and abandon their communities. While the extent of this problem is unclear, school closings should be carefully considered in light of their potential disparate impact on indigenous communities.

71. Additionally, in recent years, on the basis of the federal law “On Education”, many regions have started financing schools on a per capita basis, resulting in disproportionate disadvantages to schools in small settlements, and the elimination of positions for school psychologists, social pedagogical workers, or special needs teachers. In many institutions,

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<sup>12</sup> “On Federal Targeted Program Economic and Social Development of Numerically Small Indigenous Peoples of the North until 2011” (with changes and amendments as of 6 June 2002), N 564, 2001.

<sup>13</sup> Federal law “On General Principles of Local Self-government in Russia” N 131, 2003.

extracurricular arts, crafts and performance courses have also been eliminated, and for certain courses, children in first through fourth grades are taught together.

### 3. Language

72. Article 68 of the federal Russian Constitution guarantees the right of people to preserve and develop their native languages. Importantly, federal Government officials strongly expressed recognition of the importance of preserving and enabling further development of indigenous peoples' languages. The Russian Federation is currently discussing the possibility of ratifying the European Charter for Regional or Minority Languages. The Government is consulting with European partners on how the Charter could be adapted to the large number of indigenous languages in the Russian Federation; pilot programmes have been initiated in Dagestan, Altai and Mordovia.

73. The Special Rapporteur witnessed several successful and positive initiatives enacted by regional governments and educational institutions to document, preserve and teach native languages, but also heard accounts of endangered and dying languages. There are efforts to support publishing of books and textbooks in native languages, and to develop a methodology for teaching indigenous languages. Many institutions of higher learning and cultural centres have set up laboratories or departments for the study of indigenous languages. Even when textbooks and books in native languages are printed, however, they may not reach the remote settlements where the languages are used.

### 4. Health

74. As of 2002, the average life expectancy of indigenous people in Russia was 15 years less than the Russian average,<sup>14</sup> the unemployment rate was above 50 per cent in places, and the suicide rate up to four times the Russian average.<sup>15</sup> Despite some signs of improved health indicators for the indigenous population over the last few years, there are still some alarming reports of the health situation of indigenous communities.

75. In part as a result of the health situation of indigenous communities, many indigenous groups have experienced a drastic decline in population, and some have reached the brink of extinction. Even though the populations of the Nenets, Orok, Selkups, Khanty, Yukaghirs, Negidals, Tofalars, Itelmen, Kets, together with the overall population of indigenous people are slowly growing, some indigenous groups are still endangered.<sup>16</sup> Academic literature notes that several indigenous groups have already become extinct in the past century in Russia; there exists a disagreement, however, about whether certain groups have disappeared or are being included as subgroups under larger related ethnic groups. Better information should be available after the results of the forthcoming nationwide census to take place in October 2010, which will provide an opportunity for all Russians to indicate their ethnic identities.

76. The challenges in health care are largely related to the remoteness and small size of settlements, which affect access to and the expense of medical care. In many instances, regional governments provide access to health in remote areas by building medical clinics headed by nurse practitioners in compact settlements, and by flying in periodic shift medical brigades via helicopter periodically to administer routine exams, vaccinations, and

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<sup>14</sup> Aleksandr Shapovalov, Straightening Out the Backward Legal Regulation of "Backward" Peoples' Claims to Land in the Russian North: the Concept of Indigenous Neomodernism, 17 *Geo. Int'l Envtl. L. Rev.* 435 (2005).

<sup>15</sup> *Ibid.*

<sup>16</sup> Concept Paper, above.

other care. In emergency situations, telephone and satellite communication are utilized, medical brigades are flown to remote settlements, or patients are flown to nearby hospitals. However, there are many reports of villages, specifically in Kamchatka, that have not had these regular visits by medical brigades and at least one village, the very small Pareni village in Kamchatka, has had no access to medical care for two years.

77. Environmental contamination has significant negative impact on the health of indigenous people. The contamination of the river Amur, which flows from China, has been a major concern in Khabarovsk Krai. The pollution of the river causes a much higher than natural occurrence of parasites in fish, and raw fish is a main staple of food for the indigenous people in the region. The regional government has enacted the “Clear Water” and “Fresh Bread” programmes to attempt to make clean drinking water available and encourage consumption of grains in addition to the heavily meat-based diet of indigenous people, and so far the region has established water purification stations and built 22 bakeries in compact settlements.

78. Traditional methods of healing are not rejected by the official health institutions; however, hospitals and medical centres are not directed to take traditional medicinal methods into account when prescribing medications or issuing diagnoses. Persons may be considered “traditional healers” if they have formal medical education, and acquire a licence to practise alternative medicine from the regional health department. Shamanism, the traditional practice of using spiritual healing methods, is studied academically, but the practice itself is suffering. In Evenkiya, for example, the Special Rapporteur was informed that there are only two practising Evenki shamans left.

## V. Conclusions and recommendations

### *General legal and policy framework*

79. **The Russian Federation has taken important steps towards ensuring the realization of the human rights of the country’s “small-numbered indigenous peoples”. However, continuous and focused attention is necessary in order to accelerate positive developments, to ensure better implementation of existing legal guarantees, and to ensure that the Russian Federation’s commitment to human rights principles and to specific policy benchmarks are realized for all indigenous peoples throughout Russia.**

80. **Moreover, the federal and regional Governments should work together to establish optimal and harmonious legislation and policy on indigenous issues, allowing sufficient flexibility for regional authority without compromising federal priorities and guidance. Special attention should be paid to ensuring the successful implementation of legal guarantees at the local level for all indigenous communities, such as by establishing reliable ways to monitor implementation and to remedy breaches of the guarantees.**

81. **The rights of ethnically distinct indigenous groups that do not meet the legislative criteria for designation as “small-numbered indigenous peoples”, but that nonetheless have characteristics similar to those within this category, should be protected. Consideration should be given to adapting this category, or to otherwise extending special protections for the benefit of such groups, in accordance with relevant international standards.**

82. **The federal Government should consider declaring its support for the United Nations Declaration on the Rights of Indigenous Peoples, engage in a comprehensive**

review of the laws and policies of the Russian Federation to ensure their compatibility with the Declaration, and take further coordinated action to implement the standards of the Declaration within the particular context of indigenous peoples in Russia.

*Lands and natural resources*

83. It is essential that the State urgently bring coherence, consistency and certainty to the various laws that concern the rights of indigenous peoples and particularly their access to land and resources. In accordance with international standards, guarantees for indigenous land and resource rights should be legally certain; implemented fully and fairly for all indigenous communities; consistent between federal and regional frameworks; and consistent throughout various legislation dealing with property rights, land leases and auctions, fisheries and forestry administration, national parks and environmental conservation, oil development and regulation of commercial enterprises.

84. Legislated land and resource use guarantees for indigenous people should be able to withstand any future land reform, hunting or fishing law amendments, and any other new laws that affect indigenous communities. Urgent attention should be paid to ensuring proper modifications or revisions to the land code, the federal law on hunting, and other legal provisions that currently contradict or hinder indigenous land and resource rights.

*Extractive and other industrial activities*

85. Additional federal legislation is needed to regulate the interaction between industrial and extractive enterprises and indigenous communities, with a special emphasis on the right of indigenous peoples to be effectively consulted about industrial activities affecting them, and the right to compensation and mitigation measures. The federal legislature should develop standards and models for consultation mechanisms between indigenous peoples and industrial and extractive industries, in accordance with relevant international standards, and should enact a requirement for ethnographic impact assessments and ensure that ecological resources are shared with a view towards their sustainable long-term usefulness. It is essential to note that indigenous peoples' right to be consulted about decisions that affect them should be protected whenever industrial development affects their communities, even when there is no established territory of traditional nature use or other recognized land use entitlement.

86. In many instances agreements have been concluded for the development of natural resources on or near indigenous lands, bringing some benefits to the indigenous peoples concerned. However, a broader understanding of cooperation is called for: rather than limiting the interaction between extractive industries and indigenous people to compensation agreements, administrators should encourage ownership interest and profit-sharing in extractive industries, when indigenous communities are so inclined.

87. The federal Government should establish reliable methods of monitoring the development of industrial projects, such as the Evenkia Dam, to ensure that indigenous people's rights to effective consultation, compensation and mitigation measures are fully respected. This is especially crucial for Government-approved projects requiring relocation – an especially intrusive and disruptive measure, which should be implemented only with the free, prior, and informed consent of the indigenous peoples affected. It is essential that the Government authorities and the indigenous community in question agree together on a relocation site, that their land

use rights are legally guaranteed, and that they receive all necessary support to be able to establish their new community in a manner they choose.

*Political participation and self-governance*

88. Generally, indigenous peoples are underrepresented in State institutions at the federal and regional levels. To address this, steps should be taken to strengthen and further develop official mechanisms to ensure that indigenous people receive adequate opportunity for political participation, and legislation should be enacted to ensure that indigenous people are consulted, in accordance with international standards, when legislative, policy or administrative decisions affecting them are undertaken. Federal and regional Governments should provide encouragement and support for the creation of indigenous civil society organizations to improve their participation in all aspects of society.

89. The federal and regional Governments should consider establishing indigenous parliamentary councils or assemblies to represent indigenous peoples and participate in ongoing legal and policy developments, as has already been done at least to some extent in some regions. Traditional leadership structures and customary law, to the extent that they are experiencing a revival and growth, should be effectively recognized in developing mechanisms to ensure indigenous participation and local self-governance.

90. Governing institutions at every level should demonstrate a respect for indigenous peoples' right to develop and be governed by their own customary law and decision-making institutions, and enable customary law to be considered by courts in adjudicating disputes when indigenous people or issues are involved. Legal protections for the effective exercise of indigenous local self-governance should be strengthened.

*Economic development*

91. In light of the scope of indigenous peoples' right to self-determination with regard to their economic development, it is necessary to ensure an overall legal and policy regime that is forward looking, taking into account the evolving nature of indigenous cultures, land use patterns and economic relationships. A number of important protections for reindeer herding and other traditional economic activities are in place, and these should be strengthened and effectively implemented. The federal and regional Governments should also consider providing encouragement and support for indigenous entrepreneurship in economic activities not necessarily limited to smaller-scale traditional activities, as a way of strengthening communities and enabling self-governance, job creation and self-sufficiency.

*Education and language*

92. Further efforts should be made to strengthen educational opportunities for indigenous people, who as a whole in Russia have higher levels of illiteracy than other members of the population. The federal and regional Governments should support indigenous peoples' efforts to establish educational institutions that best suit their communities. The Governments, together with indigenous peoples, should continue to experiment with new models of education more suited to indigenous peoples' needs and priorities and also continue to improve the boarding school model. Mechanisms should be developed to enable indigenous communities, especially parents, to have greater and more regular input in curriculum decisions for schools, and allow

sufficient flexibility for parental participation in decisions regarding subjects that are taught, the language in which these subjects are taught and other matters.

93. Reports of school closings and the negative effects of these on small indigenous communities should be thoroughly investigated and remedied, and any government policies that have the effect of encouraging such closings or reduced educational opportunities for communities should be closely reviewed.

94. Several significant initiatives are in place to preserve and promote indigenous languages, although further efforts may be needed to address endangered or dying languages. Priority should be given to ensuring indigenous control over language preservation and development programmes.

#### *Health*

95. Overall, the situation of indigenous health in Russia is precarious due to a number of historical factors. Government initiatives to address this situation should be strengthened, with mechanisms put in place to enable indigenous communities to participate fully in institutional decision-making regarding their health care. Indigenous representatives have indicated that federal and regional health-care programmes should ensure and provide more frequent regular medical brigades to visit remote areas for regular health checks and enable easier access when medical services are needed. The potential of new technology to provide solutions to some of the problems of accessing medical care should be examined and utilized. Alcoholism and the health consequences of environmental contamination should receive special attention. Both the revival of traditional medicine and the training of more indigenous doctors in mainstream medicine should be encouraged.

96. Special attention should be paid to the well-being of women and children, and more data should be collected on women's and children's specific health and social indicators during the next nationwide census (scheduled for 2014).