

On the Autonomy and Territorial Interests of the Indigenous Peoples of the North, Siberia, and the Far East of Russia at the Present Stage

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Abstract: This paper considers challenges of ethnic and territorial autonomy, and the various models for protecting territorial interests at the present stage of development of the Russian Federation and of the Indigenous small-numbered peoples of the North, Siberia, and the Far East. The 2005 amalgamation or merger (*'ukrupnenie'*) of some regions and autonomous districts presents a series of challenges concerning crucial issues of preservation and development for the Indigenous ethnic groups in the North of Russia. The results of the 2005 referendums on merging these subjects (jurisdictions) of the Russian Federation, which passed by a significant margin, demonstrate the democratic standards and procedures underlying the attempt to abolish the ethnic and territorial autonomies. However, the inadequacy and inefficiency of state security and protection of Indigenous peoples' rights to use natural resources becomes more complex when the subject jurisdictions are merged. This paper studies the issues relating to different forms of autonomy; the constitutional and legal understanding of the autonomy; the validity of ethnic and territorial autonomy as a special political-legal method to protect ethnic groups; as well as legal mechanisms for ensuring the interests of the Indigenous peoples in deciding territorial issues. The paper is part of a special collection of brief discussion papers presented at the 2014 Walleye Seminar, held in Northern Saskatchewan, which explored consultation and engagement with northern communities and stakeholders in resource development.

Introduction

The realization of the right of a nation to self-determination, and the approach it chooses to take, is based on the universal categories of "culture" and "territory"—in the past (shared historical memory); present (current

multi-faceted identity and communication with other communities); and future (desired development model). Depending on the combination and the correlation between the categories of “territory” and “culture,” and whether ethnic identity claims are acknowledged by the law and/or implemented in the state’s public policy, we can consider both territorial and extraterritorial autonomy as diverse forms of self-determination. However, one does not exclude the other.

A comparative law approach allows for the differentiation amongst these categories in the legislation of European states. For example, based on a study of European legislation, M. B. Napso (2007) states: “With all the positive achievements of the European Union ... and European legislation in the field of protection of minority rights, it is obvious that the problem of territories are almost never considered in relation to ethnic problems” (100).

V.A. Kryazhkov (2010: 309–310) draws attention to the ethnic-territorial formations of Europe as a special public law remedy for Indigenous ethnic groups’ protection: “the statehood of Monegasqueians [Monégasques of Monaco], Sanmarinians [Sammarinese of San Marino], Liechtensteinians, Andorrans, Gibraltarians allows them to keep their ‘specialness’ and solidarity, provides them with the attitude that their land is the motherland.” In the Russian Federation, the rights to self-determination of Indigenous small-numbered peoples of the North, Siberia, and the Far East are possible within the frameworks of either ethnic-territorial or ethnic-cultural autonomies.

Constitutional Law Approaches to Understanding the Rights of Indigenous Peoples to Territorial Self-Determination

In modern Russia, the civil understanding of “people’s right to self-determination” is quite common (Umnova, 1998; Boltenkova, 1995; Karapetyan, 1996). Meanwhile, the understanding around the right to an ethnic form of self-determination continues to exist in law. According to some researchers, the vitality of the ethnic form of self-determination is rooted in the peculiarities of the Russian public consciousness due to “the eastern ethnic identity” in contrast to the western “civil” (nation-state) identity (Napso, 2007; Tishkov, 2014).

V.A. Kryazhkov (2010) highlights that despite the national debates on the rights of peoples to self-determination, there is no threat to the sovereignty of Russia and its territorial integrity. Rather, he states that “it is only about internal self-determination, in accordance with which the peoples, including Indigenous small-numbered peoples of the North, are granted a certain amount of jurisdiction in matters within the internal affairs of the state,

which allows for their participation in the socio-political process, and for them to be able to meet their basic needs” (185). This sentiment has been echoed by others in the literature (Mihaleva, 2012; Petrov, 1998).

The Purpose of Protecting the Territorial Interests of the Indigenous Peoples of the North, Siberia, and Far East

In my view, the determining factor for the model of autonomy and self-determination that is chosen should be the purpose served, which is based on the specific and present stage of Indigenous peoples of the North, Siberia, and the Far East. Through acknowledging and guaranteeing the rights of Indigenous peoples in a certain light, they become an “equal partner” of the state, which can then create a framework for asserting the latest legal claims. Hence, having peoples’ right to self-determination recognized and facilitated in the Russian Federation serves as a way of self-expression and socialization for Indigenous peoples and becomes a way to encourage appropriate attitudes for the state.

Here, legal self-expression and socialization are indicators of two deeper phenomena. The first is the fundamental goal of any organized community to maintain its unity and its free, autonomous development in providing a dignified life for its citizens. The second is the current activity of Indigenous peoples, such as to protect their territories; protect the traditional settlement areas of their ancestors; preserve the traditional ways of life, unique culture, social organization, traditions, customs, and beliefs; develop capacity to address threats; and provide necessary levels of communication between representatives of ethnic groups that inhabit areas that are sparsely populated or separated by various borders.

Choosing the Approach for Protecting Territorial Interests: Ethnic-Territorial Autonomy or the Territory of Traditional Nature Use?

Ethnic interests are derived from the nature of our highly social-ethnic human organism. These ethnic interests are formed as the result of a certain struggle between the private interests of members of the collectivity, and are aimed at achieving the security of different material and spiritual benefits emanating from the distinctive features of their ethnicity and, at the same time, their current way of life. Territorial interests provide access to natural resources, which can offer a certain quality of life; this becomes a good starting point to start the process of claims.

In accordance with Article 65 of the Constitution of the Russian Federation, autonomous districts are subjects¹ of the Russian Federation.

According to Article 67, part 1, each subject, including the autonomous districts, has its own territories. As compared with other federations, the Russian state has a unique administrative division of jurisdictions that can be called a “compound structure.” Autonomous districts (*okrug*), except for Chukotka, are part of the territory of a larger federation subject called an *oblast*; autonomous districts’ borders do not cross oblasts’ borders and, in some places, the borders of both subjects are shared. For instance, the territory of the Arkhangelsk Region (oblast) includes the territory of the Nenets Autonomous District (okrug); the Tyumen Region includes the Khanty-Mansiysk and the Yamalo-Nenets Autonomous Districts (see Article 65). Thus, the federal structure of Russia is some kind of a reflection of the “matryoshka” (nest doll), a symbol of Russian folk art.

Initially, subjects, in the form of autonomous areas, were created as a way to protect minorities. However, we are seeing a gradual shift away from the original goals. The evidence is the federal government’s merging (*ukrupnenie*) of the Taimyr (Dolgan-Nenets) Autonomous District and the Evenki Autonomous District into the Krasnoyarsk Krai, and the Kamchatka Oblast and the Koryak Autonomous District into the Kamchatka Krai—regions and oblasts that previously included these as autonomous districts. Over the last decade, since 2005, the federal government has not attempted to initiate any new integrations of Russian Federation subjects, confining a possible merger of the Arkhangelsk Region with the Nenets Autonomous District to discussions in the federal mass media. At the same time, suspension of the region’s amalgamation process shall not lead to rejecting attempts to create guarantees for the territorial interests of Indigenous peoples, or the actual mechanisms for protection such as Territories of Traditional Nature Use (TTNU). The establishment of TTNUs for Indigenous peoples had to be preceded by a discussion of issues surrounding the integration of the autonomous districts and to be one of the fundamental guarantees for development of Indigenous peoples’ communities that were abolished in the autonomous districts, to be fixed in subsequent federal constitutional laws.

Unfortunately, the state power, using the political alienation and low legal culture and literacy of the Indigenous peoples combined with the limited resources of their representative institutions, substituted the genuine forms of protection of territorial interests with the quasi-autonomy of administrative-territorial entities that have a special status (Federal Constitutional Law of 12, 2006; Federal Constitutional Law of 14, 2005). The urgency of protecting territorial interests of Indigenous peoples still remains; moreover, with the prospects of amalgamating the Arkhangelsk Region (Oblast) and Nenets Autonomous District (Okrug), the issue has become even more acute.

The current Russian policy raises a number of questions, in light of the amalgamations. First, how do minority peoples realize their own territorial interests? Second, are the minority peoples, and their associations and representative institutions, able to deal with threats and protect their territorial interests on their own?

Despite the political absenteeism of Indigenous communities, there are no formal grounds in the ethnic legislation for the approval of the loss of territorial interests. The objectives of the ethnic legislation are derived directly from the need to protect traditional territories, or areas of traditional lifestyles, livelihoods, and crafts. Leaders of minority ethnic communities give priority to territorial interests, and their threats, over other problems. Therefore, the predictions of some scholars who suggest the possibility that autonomous areas will transition, in the coming decades, from legal reality to “archaic record” in the constitutional text (Dudko, 2010: 224), are very questionable.

Despite the evidence indicating the intention of the Russian highest authority to integrate Russian regions, autonomous areas as constitutional and legal phenomena will not disappear from the real juridical and political lexicon; i.e., they won't become “archaic records.” “Autonomous district” (okrug) as a type of Russian Federation subject and a constitutional idea comprises one of the foundations of the modern social and political system of Russia. If autonomous districts were to be eliminated from the political map, we would have to adopt a new legal language under Chapter 9 of the Constitution, which would lead directly to a change of the constitutional order. At the present stage, the Russian state cannot afford the political and legal risks that would accompany such changes of the Fundamental Laws of 1906. On the other hand, there is no dispute about the difficulty of adequately protecting any minority rights, whether they are grounded on race, nationality, language, gender, or age.

Unfortunately, there is no data at our disposal from exit or opinion polls after the referendums (of 17 April 2005 and 23 October 2005) that voted for amalgamation, which could reveal a rough picture of how Indigenous peoples' representatives voted and the motives of their decisions. The results are extremely confusing, both in the context of Indigenous communities as a whole and their individual representatives who voted at the referendums “for” the integration of the regions, while others voted “against” (Election Commission Evenk Municipal District of the Krasnoyarsk Territory, 2014; Election Commission of the Koryak Autonomous Okrug, 2014; Election Commission of the Taimyr Dolgano-Nenets Municipal District of Krasnoyarsk Krai, 2014).

Our analysis of the referendums’ data (see table 1) draws the following conclusion. The status of the okrug, set in the modern Russian Federation, is not an effective form of protecting territorial interests, and small-numbered Indigenous peoples do not see the prospects in political and legal forms of their protection. However, the better choice of protection for Indigenous peoples leans toward the territories of traditional nature use. In other words, protection of territorial interests from political forces gradually transforms from the notion of autonomy to an economic claim. By making the claims on an economic basis, the claims of Indigenous peoples on the federal status of the corresponding territories of traditional nature use in other cases becomes more favourable.

Table 1. Results of referendums on merging subjects of the Russian Federation, in the Taimyr, Evenki, Koryak autonomous districts.

Autonomous Area	Population				Number of Voters			
	Total	In cities	In villages	In territories of traditional settlements	On the Lists (Eligible Voters)	Voter Turnout	Voted “for”	Voted “against”
Taimyr	39,786	26,330	13,456	9,839	29,164	59%	70%	29%
Evenki	17,697	5,836	11,861	4,013	11,529	74%	80%	19%
Koryak	25,157	6,517	18,640	10,195	18,256	72%	89%	10%
	Source: Russian Census, 2002				Source: Referendum Commission’s Data			

TTNUs for ethnic minorities appeared for the first time in the Russian jurisprudence in 1989–1992. They were described as the inherent and inalienable heritage of Indigenous peoples, with a special legal regime and clear of industrial activities in the absence of consent from the Indigenous inhabitants. The current Russian legislation refers TTNUs to the category of “specially protected lands.” According to V. A. Kryazhkov, creation of such specially protected areas is the last resort of protection against threats to traditional nature use, when external conditions and general civil protection measures cannot prevent the destructive impact of modern industry on the lives of the Indigenous population (2010: 245).

In addition, Y. P. Shabaev (2006) and A.V. Makarov (2012) argue that the focus for the peoples’ choice should not be “declaration of ethnic autonomy,” but, rather, the advantages of economic well-being. While I disagree with the

approaches proposed by these two authors to achieve this goal, I do agree with the goal itself.

As part of the political-legal approaches to protecting their rights, Indigenous communities prefer local government instead of territorial autonomy. Russian political and legal practice shows that, given a conflict of public interests, federal and regional authorities take one side, while the local authorities and associations of Indigenous peoples take the other. And there is a certain logic, based on an understanding of autonomy as discrete public authorities, limited and controlled in functions and powers, dependent on the discretion of the central government and local government, which is separate from the state sphere of public power, and which is guaranteed by the constitution and the law (Bogdanova, 2006: 47).

Conclusion

The problem of ethnic-territorial autonomy, guaranteeing the establishment of territories of traditional nature use (i.e., lifestyle) at the federal level, and, ultimately, the effective protection of the territorial interests of the Indigenous peoples of the North, Siberia, and the Far East in the ethnic Russian legislation, is currently very clearly evident. And to solve the problem, we must build on the foundation of the welfare state's core principles, with the simultaneous participation of ethnic communities as partners in the various sectors of public jurisdiction throughout their area of traditional occupation and economic activity, and primarily in the field of environmental protection.

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Notes

1. According to the Constitution of the Russian Federation (article 65), the Russian Federation consists of 85 subjects. Each subject comprises a territorial unit, the internal and territorial seas and their air space over them (article 67). See <http://www1.umn.edu/humanrts/research/constitution-russia.html>.

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