

# The Impact of the War in Ukraine on the Indigenous Small-numbered Peoples' Rights in Russia

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## Abstract

This article discusses how the war in Ukraine, started by Russia, impacts the lives of Russian Indigenous small-numbered peoples. First, one can observe Russia's growing disregard for its international legal obligations. Second, the Russian State is continuously introducing new sanctions against persons and organizations who do not support the Russian regime. Third, the pressure on Indigenous peoples' representatives is increasing. Fourth, a significant number of members of Indigenous small-numbered peoples actively participate in the war due to, *inter alia*, socio-economic problems and lack of reliable and objective information about it. Fifth, there is a decline in international cooperation with the Indigenous small-numbered peoples of Russia. Finally, it is visible that the role of Indigenous peoples, including Russian Indigenous peoples, in international decision-making changes.

**Keywords:** *Indigenous small-numbered peoples of Russia, war, Ukraine, human rights*

The war in Ukraine, started by the Russian Federation (RF), has further complicated the fulfillment of the human rights of Russian citizens, *inter alia* the rights of Indigenous small-numbered peoples of Russia. Among these various rights are the right to freedom of expression, guaranteed by Article 19 of the International Covenant on Civil and Political Rights (ICCPR), the right to enjoy their culture, regulated in Article 27 of the ICCPR, and the right to life, liberty and security stipulated by Articles 2 and 5 of the European Convention on Human Rights.<sup>1</sup> These

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same rights are also regulated by other international legal acts. Article 69 (1) of the Constitution of the RF guarantees the rights of Indigenous small-numbered peoples according to the universally recognized principles and norms of international law and international treaties of the RF. In addition to Russia's international legal obligation to fulfill these rights, Russian federal legislation also provides for these rights.<sup>2</sup>

The war has triggered different reactions among the 47 Indigenous small-numbered peoples recognized as such by the Russian State.<sup>3</sup> State representatives supporting Indigenous peoples' organizations have supported the war in Ukraine.<sup>4</sup> Some other representatives of Indigenous peoples have condemned the Russian Federation's aggression.<sup>5,6</sup>

This review focuses on some of the significant impacts on the lives of Indigenous peoples in Russia caused by the war in Ukraine.<sup>7</sup> These impacts include: Russia's growing disregard for its international legal obligations; the introduction of new sanctions against persons and organizations who do not support the Russian regime and increased pressure on Indigenous peoples' representatives; the active participation of Indigenous small-numbered peoples in the war due to, *inter alia*, socio-economic problems and the lack of reliable and objective information about the war in Ukraine; and a decline in international cooperation with the Indigenous small-numbered peoples of Russia. In addition, I will address the issue of the changing role of Indigenous peoples, including Russian Indigenous peoples, in international decision-making.

### Russia's growing disregard for its international legal obligations

Article 15 of the Russian Constitution states that universally recognized principles and norms of international law as well as international agreements of the Russian Federation should be an integral part of its legal system. Nevertheless, a growing disregard by Russia for its international legal obligations and the prioritization of Russian law over international law has been observed. One example of this tendency (among others) is the relationship between the RF and the European Court of Human Rights (ECHR). A number of major amendments to the Russian Constitution were proposed in January 2020, approved through a national vote and took effect in July 2020, including an amendment to Article 79 concerning the decisions of the international bodies which are no longer subject to enforcement in the RF. The last sentence of the amended Article reflects this idea. The Article reads:

The RF can participate in international associations and delegate to them part of its powers in accordance with international treaties of the RF if this does not entail limitations on the rights and freedoms of man and citizen and does not contradict the foundations of the Constitutional structure of the RF. *Decisions of the international bodies adopted on the basis of the provisions of international treaties of the RF and which in their interpretation contradict the Constitution of the RF, are not subject to enforcement in the RF.*

Although the amendment does not concern Indigenous peoples directly, it is relevant to mention here because Article 79 concerns international bodies to which Indigenous small-numbered peoples of Russia could appeal to protect their human rights. One of these bodies is the ECHR.<sup>8,9</sup>

The war in Ukraine has negatively impacted relations between Russia and the ECHR. On February 25, 2022 the Committee of Ministers suspended Russia's membership in the Council of Europe because of Russia's aggression against Ukraine.<sup>10</sup> On March 15, 2022 the Parliamentary Assembly of the Council of Europe manifested its Opinion recommending that the Committee of Ministers "should request the Russian Federation to immediately withdraw from the Council of Europe".<sup>11</sup> On March 16, 2022 the Committee of Ministers adopted the decision to immediately exclude Russia from the European Council.<sup>12</sup> On March 15, 2022 the RF "informed the Secretary General of its withdrawal from the Council of Europe in accordance with the Statute of the Council of Europe and of its intention to denounce the European Convention on Human Rights".<sup>13</sup> In June 2022, the President of Russia signed the laws that ended ECHR's jurisdiction in Russia.<sup>14</sup> According to these laws, ECHR judgments coming into force after March 15, 2022 are not subject to enforcement in the RF and shall not be grounds for revisions of criminal cases.

Russia's withdrawal from the Council of Europe may prove drastic for the protection of human rights in Russia.<sup>15</sup> Among other groups, this concerns the protection Indigenous peoples' rights. Previously it was possible to apply to the ECHR for the protection of human rights once national mechanisms had been exhausted. At present, this alternative seems to have disappeared.

### **The introduction of new sanctions and increased pressure on Indigenous peoples**

It is worth mentioning that Russia is continuously introducing new sanctions against those persons and organizations who do not support the regime. Among these sanctions one can single out administrative measures (Article 20.3.3 of Code of Administrative Offences of the RF) and criminal responsibility (Article 280.3 of Criminal Code of the RF) for "public actions directed at discreditation of the use of the armed forces of the Russian Federation aimed at the protection of the interests of the Russian Federation and its citizens, maintenance of the international peace and safety or carrying out their function by the State bodies of the Russian Federation aiming at the above mentioned purposes". Criminal responsibility "for public dissemination of deliberately false information about the use of the armed forces of the Russian Federation and carrying out their functions by the State bodies of the RF" (Article 207.3 of Criminal Code) results in different types of punishment, with fifteen years of deprivation of freedom being the maximum punishment. A new law "On the Control of the Activities of Persons under Foreign Influence" defines terms such as "foreign agent", "foreign impact", "foreign source" and "political

actor”. Persons under foreign influence are forbidden to teach at State and municipal educational organizations, or to carry out any educational activity with minors.<sup>16</sup> Moreover, Article 275.1 has been added to the Criminal Code of the RF. This article “Confidential cooperation services of foreign States” mandates punishment in cases of cooperation with foreign intelligence agencies as well as common international or foreign organizations or its representatives.

Thus, in addition to the already existing punitive mechanisms, the State has introduced other legal sanctions to the Code of Administrative Offences and to the Criminal Code regarding those persons and organizations whose opinion about the war in Ukraine differ from the State’s position. This has certainly had a negative impact on human rights, including Indigenous peoples’ rights, in Russia. The introduction of these sanctions has resulted in a lack of freedom of expression, liberty, and security among the Indigenous populations in Russia. Consequently, fearing for their safety some Indigenous small-numbered people have been silenced or have chosen to leave their lands.

Russia’s policy of intimidation has also been observed in international organizations such as the United Nations. In July 2022 at the XV Session of the UN Expert Mechanism on the Rights of Indigenous Peoples in Geneva, Yana Tannagasheva, a representative of Indigenous peoples of Russia who had reported on human rights violations in Russia, was aggressively confronted by a representative of the Russian state delegation. This confrontation raised critical public opinion. For example, Christoph Wiedmer, co-director of the Society for Threatened Peoples, was extremely shocked by this public intimidation of an Indigenous peoples’ representative by a representative of the Russian government. According to him, Russia has crossed a red line. In his opinion, the Russian government is actively intimidating civil society activists from Russia and communication with Russian Indigenous peoples has become almost impossible.<sup>17</sup>

Thus, in addition to newly introduced legal sanctions against those who disagree with the war in Ukraine, the Russian State is using intimidating measures against people and organizations, including Indigenous small-numbered peoples. The Tannagasheva case is one of many examples of this kind of State pressure.

### **Active participation of Indigenous small-numbered peoples in the war**

As previously stated there are 47 Indigenous small-numbered peoples recognized in Russia. The Russian legal term ‘Indigenous small-numbered peoples’ differs from the international legal term ‘Indigenous peoples’ in that it entails a numerical constraint. The Indigenous small-numbered people’s group shall not include more than 50 000 persons. Some groups are substantially smaller in number, encompassing merely a few hundred members. It has been officially recognized that a large number of the Russian soldiers killed in Ukraine are from Indigenous peoples groups.<sup>18,19</sup> There are many reasons for Indigenous peoples participating in this war, among

them economic reasons (poverty and the need for economic rewards for participation in the war) and a lack of reliable and objective information about the war in Ukraine.<sup>20</sup> The death of Indigenous peoples in the war is a tragedy, but this does not erase personal responsibility for participation in the war. According to human rights activist and former member of the United Nations Forum on Indigenous Issues, Oliver Loode, the Russian army mirrors the socio-economic problems of the State, especially where Indigenous small-numbered peoples reside. He observes that most of the army recruits come from peripheral regions where unemployment, drug addiction and criminality are rampant and thus recruitment to the army becomes the only possibility to survive.<sup>21</sup> Another activist, Sires Boliaen, has observed that the share of Indigenous peoples in the total number of deaths in the war is disproportionately high, based on Russian statistics and numbers provided by Russian scientists.<sup>22</sup> To conclude, the war in Ukraine has made Indigenous peoples even more vulnerable and further worsened their unprotected position.<sup>23</sup>

### **International cooperation of Indigenous peoples of Russia with their international partners**

The war in Ukraine has impacted the cooperation of Indigenous peoples of Russia with their international partners. Currently it is hard for international organizations to trust Russian Indigenous people's organizations because of their differing positions on the war.<sup>24</sup> One example of Indigenous peoples of Russia whose cooperation with international colleagues has been impacted by the war in Ukraine is the Sámi peoples. The Sámi are the Indigenous peoples of four countries, namely Russia, Finland, Sweden, and Norway. Traditional Sámi lands are called Sápmi. The Sámi population resided in this territory before the establishment of State borders. The open support of the war in Ukraine by the Russian Sámi organization, namely Kola Sámi Association, has triggered negative reactions from the international Sámi community. For example, the Sámi Council, which is the body which brings representatives of all four Sámi countries together, has put cooperation with Russian member organizations on hold, until the next Sámi Council meeting.<sup>25</sup> For the Russian Sámi, membership in the Sámi Council has been crucial because they have received substantial support for their cultural projects from this organization. Their share of applications for financial support from the Council has always been the highest compared to the other members.<sup>26</sup> Thus, suspension of their membership in this organisation has had a significant negative impact on the protection of culture and language of the Russian Sámi.

Another important cooperation arena for the Indigenous peoples of Russia with international partners, is the Arctic Council. Six Indigenous organizations, including the Russian Association of Indigenous People of the North-RAIPON, are permanent members of the Arctic Council.<sup>27</sup> Due to the special status of Indigenous organizations within the Arctic Council, this is a forum where Indigenous peoples can make their voices heard. At present, the RF is serving as the chair of the Arctic

Council until 2023. Due to the war in Ukraine, the Arctic Council has postponed all official meetings of the Council and its subsidiary bodies until further notice.<sup>28</sup> The decision to do so was made by the member states (except Russia) without consulting the Indigenous organizations who are also permanent participants of the Arctic Council.<sup>29</sup> This decision negates and undermines the special status Indigenous organizations have had in the Council, and may substantially affect the participation of Indigenous organizations in the international arena. Moreover, the suspension of the official activities of the Arctic Council has had a negative impact on the activities of the Indigenous peoples of the Russian Arctic.

The present review has cast a light on some of the impacts on Indigenous peoples of Russia caused by the war in Ukraine. Among these impacts are Russia's disregard of international legal obligations, sanctions against opposing opinions, making the Russian Indigenous peoples even more vulnerable in addition to their unprotected position due to their participation in the war, as well as a substantial decrease in international cooperation, which has negatively impacted the development of languages, culture, and other aspects of life of the Indigenous small-numbered peoples of Russia.

## NOTES

1. Russia ratified ICCPR: Decree of the USSR Supreme Soviet Presidium N 4812-VIII of September 18, 1973 'About the ratification of International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Right'. Russia ratified European Convention on Human Rights: FL N 54-Ф3 of March 3, 1998 'On Ratifying the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols Thereto'.
2. For example, among other acts, the Constitution guarantees the right to freedom of expression (Article 29), cultural rights (Article 69 (2)), the right to life (Article 20), liberty and personal integrity (Article 22 (1)).
3. Regulation of the Government of the RF N 255 of March 24, 2000 'On the Unified List of the Indigenous Small-Numbered Peoples of the Russian Federation'.
4. For the full list of Indigenous organizations supporting the war in Ukraine see: "Ассоциация КМНСС и ДВ РФ выступила в поддержку Президента нашей страны В. В. Путина" ["RAIPON supported President of our country V. V. Putin"], <https://raipon.info/press-centr/novosti/assotsiatsiya-kmnss-i-dv-rf-vystupila-v-podderzhku-prezidenta-nashey-strany-v-v-putina/> (accessed July 11, 2022).
5. Dan Robert Larsen, "Russisk sameleder: – Vi er mot krigen i Ukraina," <https://www.nrk.no/sapmi/samisk-organisasjon-i-russland-erklaerer-motstand-mot-krigen-i-ukraina-1.15929090?fbclid=IwAR2mn72ZTqSpctQ7NTO01m-2vOUIGszAJ1PQ1xjtSdtOOW-F5j6tz5iMPQak> (accessed July 13, 2022).
6. Thomas Nilsen, "War protesting Sámi activist from Kola seeks asylum in Norway," <https://thebarentsobserver.com/en/life-and-public/2022/04/sami-activist-and-war-protester-kola-seeks-asylum-norway> (accessed July 13, 2022).
7. Other opinions regarding the impact of the war in Ukraine on Indigenous small-numbered peoples of Russia can be found here: Dmitry Berezhkov, "How does the militarization of Russia's internal politics, social life and economy affect indigenous peoples' development in

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- Russia?," 15th session of the Expert Mechanism on the Rights of Indigenous Peoples. July 4, 2022, Geneva, <https://indigenous-russia.com/archives/22882> (accessed July 14, 2022).
8. For example, the ECHR accepted for consideration a complaint from a Russian Indigenous people's organization called Center for Support of Indigenous Peoples of the North. ECHR considered the complaint of the Center together with other complaints from non-governmental organizations and ruled regarding the "Foreign Agents" law in Russia. See: Judgment of the ECHR, Case of Ecodefence and Others v. Russia, <https://hudoc.echr.coe.int/eng?i=001-217751> (accessed July 21, 2022).
  9. For more analysis see: Ekaterina Zmyvalova, "Human Rights of Indigenous Small-Numbered Peoples in Russia: Recent Developments," *Arctic Review on Law and Politics* 11 (2020): 350–352.
  10. Decision of the Committee of Ministers CM/Del/Dec(2022)1426ter/2.3 of February 25, 2022, '2.3 Situation in Ukraine – Measures to be taken, including under Article 8 of the Statute of the Council of Europe,' [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a5a360](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a5a360) (accessed July 18, 2022).
  11. Parliamentary Assembly Opinion N 300 (2022), 'Consequences of the Russian Federation's aggression against Ukraine,' <https://pace.coe.int/en/files/29885/html> (accessed July 18, 2022).
  12. "The Russian Federation is excluded from the Council of Europe," [https://www.coe.int/en/web/portal/full-news/-/asset\\_publisher/y5xQt7QdunzT/content/the-russian-federation-is-excluded-from-the-council-of-europe](https://www.coe.int/en/web/portal/full-news/-/asset_publisher/y5xQt7QdunzT/content/the-russian-federation-is-excluded-from-the-council-of-europe) (accessed July 18, 2022).
  13. Ibid.
  14. "В законодательство внесены изменения в связи с признанием не подлежащими исполнению в России вступивших в силу после 15 марта 2022 года постановлений ЕСПЧ" ["Amendments due to recognition of the judgments of ECHR unenforceable in Russia after March 15, 2022 were introduced in the legislation"], <http://kremlin.ru/acts/news/68648> (accessed July 18, 2022).
  15. The situation can get worse. While ratifying the European Convention on Human Rights Russia also signed and ratified Protocol N 6 of it in 1997. Due to this fact a moratorium on the death penalty was introduced in Russia. After Russia's withdrawal from European Convention of Human Rights this punishment can be reinforced in the RF.
  16. Федеральный закон N 255-ФЗ от 14 июля 2022 'О контроле за деятельностью лиц, находящихся под иностранным влиянием' (FL N 255-ФЗ of July 14, 2022 'On the Control of the Activities of Persons Under Foreign Influence').
  17. Sarah Zeines, "Russian Indigenous Spokeswoman Faces Intimidation at the Human Rights Council," <https://us19.campaign-archive.com/?u=b3372615f7a316d6426d48fc4&id=7f77e87a90> (accessed July 13, 2022).
  18. By no means do I want to belittle the suffering of Indigenous peoples of Ukraine.
  19. "Заявление в ООН: Москва уничтожает в мясорубке войны коренные народы" ["Statement in the UN: Moscow destroys indigenous peoples in the meat grinder of war"], [https://idel-ural.org/archives/syres-bolyaen-prizval-oon-obratit-vnimanie-na-ispolzovanie-moskvoj-korennyh-narodov-v-vojne-protiv-ukrainy/?fbclid=IwAR2a5tkYDY6UyHKd8UGiJO4iL0DI-5ZZ8F5dZoB\\_q5jMvEnVqo2s1lfaJ7Lk](https://idel-ural.org/archives/syres-bolyaen-prizval-oon-obratit-vnimanie-na-ispolzovanie-moskvoj-korennyh-narodov-v-vojne-protiv-ukrainy/?fbclid=IwAR2a5tkYDY6UyHKd8UGiJO4iL0DI-5ZZ8F5dZoB_q5jMvEnVqo2s1lfaJ7Lk) (accessed July 13, 2022).
  20. The issue of misinformation deserves special attention. At present, strict censorship has been introduced in the RF regarding spreading information about the war in Ukraine. For example, on June 30, 2022 the deputies of the State Duma approved a law that allows the Public Prosecutors Office to close sources of mass media publishing 'fake' news or news 'discrediting' the use of the armed forces of the Russian Federation or 'urge sanctions'. See: Федеральный закон N 277-ФЗ от 14 июля 2022 'О внесении изменений в отдельные

- законодательные акты Российской Федерации’ (FL N 277-ФЗ of July 14, 2022 ‘On Introducing Amendments into some Legal Acts of the Russian Federation’).
21. “Особое 9 мая. “Раньше Кремлю было достаточно воспевать славные подвиги предков, теперь — надо побеждать самим” [“Special 9th of May. ‘It was enough for the Kremlin to anthem the glorious deeds of ancestors, now- they have to win by themselves”], <https://www.idelreal.org/a/31838711.html> (accessed July 13, 2022).
  22. “Заявление в ООН: Москва уничтожает в мясорубке войны коренные народы” [“Statement in the UN: Moscow destroys Indigenous peoples in the meat grinder of war”], [https://idel-ural.org/archives/syres-bolyaen-prizval-oon-obratit-vnimanie-na-ispolzovanie-moskvoj-korennyh-narodov-v-vojne-protiv-ukrainy?fbclid=IwAR2a5tkYDY6UyHKd8UGiJO4iL0DI-5ZZ8F5dZoB\\_q5jMvEnVqo2s1lfaJ7Lk](https://idel-ural.org/archives/syres-bolyaen-prizval-oon-obratit-vnimanie-na-ispolzovanie-moskvoj-korennyh-narodov-v-vojne-protiv-ukrainy?fbclid=IwAR2a5tkYDY6UyHKd8UGiJO4iL0DI-5ZZ8F5dZoB_q5jMvEnVqo2s1lfaJ7Lk) (accessed July 13, 2022).
  23. Дмитрий Бережков, “Влияние войны на коренные народы России” [Dmitry Berezkov, “Impact of war on Indigenous peoples of Russia”], <https://indigenous-russia.com/archives/22240> (accessed July 13, 2022).
  24. Ibid.
  25. Christina Henriksen, “Cooperation with Russian side on hold,” <https://www.saamicouncil.net/news-archive/cooperation-with-russian-side-on-hold> (accessed July 11, 2022).
  26. Personal communication with Andrei Danilov (March 15, 2022).
  27. “About the Arctic Council,” <https://www.arctic-council.org/about/> (accessed July 15, 2022).
  28. “Arctic Council,” <https://www.arctic-council.org/> (accessed July 13, 2022).
  29. Barry Scott Zellen, “The Arctic Council Pause: The Importance of Indigenous Participation and the Ottawa Declaration,” <https://www.arcticcircle.org/journal/the-importance-of-indigenous-participation-and-the-ottawa-declaration> (accessed July 13, 2022).