

For the 134th session of the UN Human Rights Committee

**Up-dated information
on violations of the rights of indigenous peoples in Russia**

31 January 2022

Anti-Discrimination Center Memorial is a human rights organization focusing on protection of the rights of vulnerable minorities in Eastern Europe and Central Asia, including indigenous people. Myski local civic organisation “Revival of Kazas and the Shor people” is an NGO of the indigenous Shor people protecting their rights and interests. The current submission presents brief information and tendencies regarding the situation of the indigenous people in Russia.

Around 200 indigenous peoples live in Siberia, the Far East and the North of Russia. Together, they number about 260,000 individuals. Many indigenous people live in the territories rich with mineral resources, including coal (Kemerovo Oblast), oil and gas (Yamalo-Nenetsky Autonomous Okrug), and biological resources like fish (Kamchatka, Khabarovsk Krai, Sakhalin, Murmansk Oblast and others).

In the alternative information submitted for the List of Issues in May 2020, the authors of this communication reported about violations of the rights of indigenous peoples living in the Russian Federation, namely

- violation of the right to healthy environment (right to life);
- violation of freedom of religion and cultural development;
- persecution of Human Rights defenders and activists protecting rights of indigenous peoples.

The current submission provides updated information regarding coal and gold mining affecting indigenous peoples living in South Siberia.

The Russian legislation regarding the indigenous peoples does not correspond to the international Human Rights standards, namely the Declaration on the Rights of Indigenous People and the International Covenant on Civil and Political Rights; and first of all, does not provide the procedure and guarantees for free prior and informed consent to all decisions affecting indigenous peoples.

Coal Mining in South Siberia Affecting traditional lands of Khakas, Shors and Teleuts

In August, 2020, Anti-Discrimination Centre Memorial published a [report](#) **“I Won’t Have Any Life Without This Land”** documenting violations of the rights of indigenous peoples of Southern Siberia - the Khakas, Shor, and Teleut peoples - associated with coal mining on their traditional lands. Indigenous communities and the local population have to grapple with the illegal confiscation of their lands. They suffer from systematic environmental pollution and the irreparable harm caused to their habitats. In addition, their cultural and religious objects are being destroyed and activists and defenders of indigenous rights are being persecuted.

The enormous Beysky Coal Deposit, which includes seven open pits, is located in Khakasia. Of these, four - Arshanovskiy, Vostochno-Beysky, Kirbinsky, and Mayrykhsky - operate on Koybalskaya Steppe (the interfluvium between the Abakan and Yenisei rivers). The “Roadmap for the Development of Industry in the Republic of Khakasia” envisages an increase in coal mining from 23 million tons in 2018 to 46 million tons in 2030. Mining causes irreparable damage to the natural world of Koybalskaya Steppe: to the pastures and meadows where the Khakas people farm, to the rivers, which are water sources for drinking, irrigating fields, and flooding pastures, to the relic areas of Sorokaozerki and Trekhozerki, which are included in the Ramsar Shadow List of Wetlands of International Importance.

Kemerovo Oblast’s Kuznetsk Coal Basin has 160 active mines and pits and 106 that are under construction. Kuzbass accounts for almost 60 percent of mining exports and 75 percent of coal exports. A total of 248.7 million tons of coal were mined there in 2019. The largest coal producers of Kemerovo Oblast are Kuzbassrazrezugol (39.1 million tons/year), SUEK-KUZBASS (25.1 million tons/year), Kuzbasskaya Toplivnaya Kompaniya (13.9 million tons/year), Razrez Kiyzassky (8.9 million tons/year), and Chernigovets (7.1 million tons/year).

In many areas of Southern Siberia, coal is located at a depth of less than 30 centimeters from the earth’s surface, which means that it can be mined using a surface technique that employs pits, which are quarries under the open sky. This method is believed to be more productive and cheaper than shaft mining, but it is also harmful in terms of health conditions and environmental impact.

From the perspective of indigenous peoples, the exploration of Siberia and the development of the mining industry are complex and painful processes complicated by the fact that very few peoples have territorial and administrative autonomy or representation in government bodies. While the Khakas have been able to expand their already existing autonomy in post-Soviet times (the Khakas Autonomous Oblast of Krasnoyarsk Krai raised its status and became the Republic of Khakasia within the Russian Federation), the Shors and Teleuts living in Kemerovo Oblast do not have autonomy (the Gorno-Shorsky national district existed for less than 15 years and was liquidated in 1939, the national movement of the late 1980s and early 1990s had no success establishing autonomy, in 2000s the national local councils were liquidated). Together with that, the Shors and Teleuts theoretically have special rights, as they are «small indigenous» peoples, while the Khakas, having the population of more than 50 000 persons, do not have these rights.

The mining of mineral resources and the commercial exploitation of the North, Siberia, and the Far East are connected with forced labor: the regions of Southern Siberia described above contained the Sibltag camp system that from 1930 to 1950 held many thousands of prisoners working in mines and pits, building railroads, and felling timber. For today’s residents of Southern Siberia, work at coal mines is also forced: there are often no other opportunities for employment in the region and it is no longer possible to lead a traditional way of life (nature has been poisoned, traditional trades have been forgotten).

Even though Russian federal and regional legislation enshrines special guarantees for the rights of indigenous peoples, the country's long-term strategic documents do not take their interests into account. For example, the presence of indigenous peoples on the territories of coal mining operations and the need for special support measures for these peoples are not mentioned in the Development Program for the Coal Industry, and the draft strategy for Kemerovo Oblast's socioeconomic development "Kuzbass - 2035" says nothing about the Shors or Teleuts, even though representatives of these peoples submitted amendments to this document in 2018.

Living and engaging in traditional farming on native lands is the foundation of the identity and culture of indigenous peoples. Therefore, the inability to stand up against the destructive activities of powerful corporations supported by and often affiliated with the state and, as a result, the destruction of traditional indigenous habitats and a change in management of natural resources and lifestyle have led to a loss of identity and culture for indigenous peoples.

Alluvial Gold Mining Polluting Rivers and Destroying Traditional Lands of Shors in Southern Siberia

In August, 2021, Anti-Discrimination Centre Memorial published a report "[Alluvial Gold Mining is Destroying the Life of the Indigenous Peoples of the Taiga](#)" documenting damaging impact of alluvial gold mining on the life, routine, and culture of Shors in Kemerovo Oblast and southern Khakassia.

An alarming situation has developed in recent years in the Shor villages of Balyksa, Neozhidanny, Nikolaevka, and Shora in Askizsky District, Khakassia, and Orton, Ilynka, Uchas, and Trekhrechy villages in Mezhdurechensky Municipal District, Kemerovo Oblast. These localities were added to the [Federal List of Places of Traditional Residence and Activities of Small Indigenous Peoples](#) and must be protected from commercial exploitation. In addition, Shor lands within Khakassia were officially included within the borders of specially protected territories of traditional nature use, where any activity that threatens the condition of natural resources is prohibited.

Nevertheless, over the past five years, the scale of gold mining and the number of gold-mining cooperatives in Khakassia and Kemerovo Oblast have increased. This became especially noticeable in 2020, when the price of gold exceeded \$2,000 per ounce and most companies stepped up their mining, including by discovering new deposits.

At the time of this writing, around eight placer mines were operating in close proximity to Shor villages. In Khakassia, these include the Magyzinskaya ploshchad and Balyksinsky plots, which are right next to Neozhidanny, the Bolshoy Nazas plot, the Aleksandrovsky stream, and the Izassky plot. In Kemerovo Oblast, these are plots located on the Zaslonka, Orton, Fedorovka, and Bazas rivers. All of these water bodies are the most important form of sustenance for the Shor, because they are the only source of drinking water for Shor villages, livestock, and the wild animals of the taiga, which are the foundation of the Shor economy. The disappearance of fish due to waste discharged into the rivers by the placer mines deprives the Shor of an irreplaceable element of their diet, and the wild animals that eat the fish have to migrate to remote areas that hunters cannot access.

Residents of Askizsky District say that the cooperative has been regularly discharging untreated water into the Balyksu since the fall of 2020, when the Khakassia Gold-Mining Cooperative started exploiting the Balyksinsky plot. In 2020, the water of the Balyksu River was found to exceed the maximum allowable concentration of pollutants like iron, copper, zinc, and petroleum products, as well as baseline indicators, by a factor of five. In June 2021, laboratory analysis showed that the level of zinc and other suspended particulate matter in the

Balyksu River was three times higher than allowed. In June 2021, the Yeniseyskoye Interregional Department of the Federal Service for the Supervision of Nature Use conducted an unscheduled check of the Magyzinskaya ploshchad plot. This check was based on the preliminary results of a check conducted by the chief specialist at the Department of State Environmental Supervision for the Republic of Khakassia following a complaint from a Neozhidanny resident. No violations were identified, but local activists did document pollution in the river.

In May and June of 2021, WWF experts [identified](#) 30 cases of complex river pollution resulting from placer gold mining in four regions of Siberia on plots along a total length of 1,474 km. Of these cases, five occurred along 203 km in Khakassia, and five were found along 218 km in Kemerovo Oblast.

In this connection the question of the property rights of Indigenous peoples to their traditional territories and their official registration remains extremely important. The UN Declaration on the Protection of the Rights of Indigenous Peoples, ILO Convention No. 169, and customary international law enshrine the right of Indigenous peoples to land, territory, and other resources. The ILO convention uses the term “lands” to include the total environment of the areas which Indigenous peoples occupy or otherwise use. They [have the right](#) to ownership, possession, use, development, and control of the lands, territories, and other resources they possess on the basis of traditional rights and other forms of traditional possession or use.

Contrary to international standards, the Russian law on small Indigenous peoples does not recognize their right to own traditional territories and only enshrines their right to use the land free of charge and participate in monitoring the use of various categories of land (Art. 8 of the Federal Law “On Guarantees of the Rights of Indigenous Peoples in the Russian Federation”). Article 7.3 of the Land Code states that a special legal regime may be established for land use—namely, territories of traditional nature use—in places where small Indigenous peoples and ethnic communities traditionally reside or are active. These territories are regulated by a special law, No. 49-FZ “On Territories of Traditional Nature Use of Small Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation,” which has been widely criticized. Amendments to this law, which have also been sharply rejected by experts and members of Indigenous peoples, have been stalled for several years. Clause 5, Article 10 of Federal Law No. 101-FZ of July 24, 2002 “On Agricultural Land Transactions” stipulates that state and municipal agricultural land plots cannot be transferred to small Indigenous communities and that these lands may only be leased.

In reality, the Shor have been almost completely excluded from the process of whether or not to put a territory of traditional activities up for auction. Gold-mining companies have no trouble acquiring the right to develop placer mines within these territories. The Shor use their native lands on the basis of traditional law, which is not legally recognized in disputes with commercial companies.

At the same time, Russian legislation is extremely loyal to the activities of gold mining companies: the law does not even require an environmental impact assessment for a license to mine gold. Moreover, At the end of January 2022, the State Duma of the Russian Federation adopted a bill on the right of citizens and businesses to privatize land adjacent to rivers, canals, reservoirs and lakes. Prior to the adoption of this law, plots located in the water protection zone and being state or municipal property could not be transferred to private ownership. There is every reason to believe that the adoption of this law will contribute to the privileged position of gold mining companies and will have an extremely negative impact on the interests and rights of indigenous people.

Naturally, the entire population suffers from mining’s impact on nature. The environmental pollution and destruction have catastrophic consequences for the Shor because

they are particularly dependent on the ecosystem and on the preservation of flora and fauna, which provide the foundation for their traditional livelihoods and diet, but gold-mining companies bear virtually no liability for numerous violations of environmental laws, while Indigenous residents do not receive fair compensation for damages. The main environmental problems caused by placer mining on traditional Shor lands are:

- destruction of the fertile layer of topsoil;
- pollution of the soil with industrial waste;
- changes in the migration paths of wild animals due to the construction of dumps, ditches, and service roads.
- noise pressure during the operation of mining, automotive, and auxiliary equipment leading to the migration of wildlife populations;
- pollution of the atmosphere with harmful emissions from mining, automotive, and auxiliary equipment, as well as dust from waste dumps, ore stockpiles, and ore roads;
- pollution of rivers with unpurified technical water, use of bodies of water without permits or contracts for water use, unauthorized transfer of part of bodies of water without the corresponding transfer of land;
- no remediation of disturbed lands.

Moreover, a numerous dumping grounds and wastelands have formed on Shor territories of traditional activities because of gold mining. In accordance with current environmental protection laws, to reduce stress on the environment gold-mining companies must remediate the land (Article 13.1.6 of the Land Code). Expenses for remediation are the full responsibility of subsoil users. However, these large-scale and expensive works are generally never done after mining, in spite of the gold miners' assurances that they have an interest in restoring nature to its previous state.

Under Article 20 of the Federal Law "On Subsoil," the right to subsoil use may be terminated, suspended, or restricted prior to the scheduled date by the licensing bodies if a direct threat to the life or health of people working or living in the area impacted by the subsoil operations arises. Even though residents have complained and there have been clear cases of environmental pollution, the licenses of gold-mining companies operating near Shor villages have never been revoked or suspended.

In spite of the tremendous anthropogenic burden on virtually all components of the environment (the atmosphere, soil, water, flora and fauna), placer gold mining has been left off the list of activities requiring a **state environmental impact assessment** – which is the most important procedure from the standpoint of environmental protection that explains why licenses for prospecting, geological exploration, and development of a placer gold deposit must be obtained and provides for mechanisms to account for public opinion on one project or another.

Depriving Indigenous peoples of such an important tool for assessing potential environmental impact has weakened their dialogue with gold-mining companies. For Kemerovo Oblast, which has one of the unhealthiest environments in Russia, the fact that no mandatory environmental impact assessment is required for a gold-mining permit has led to deplorable consequences. In particular, the state program of Kemerovo Oblast "Ecology, Subsoil Use, and Sustainable Water Use" for 2017–2024 recognizes that the environmental situation in the region is strained and notes that long-term socioeconomic development scenarios for Kemerovo Oblast – Kuzbass envisage a heavier anthropogenic burden on all the components of the region's natural environment.

Another important tool for protecting the rights of small Indigenous peoples in their relationships with gold-mining companies could be an **ethnological expert assessment**, which is defined by Part 1 of Article 6 of the federal law "On Guarantees of the Rights of

Indigenous Peoples of the Russian Federation” as a scientific study on the impact of changes in the ancestral living environments of small peoples and the sociocultural situation on an ethnic group’s development. However, even though there is a general agreement on the need for the Russian government to conduct ethnological expert assessments, the procedures for completing one have yet to be enshrined in the law. Right now these kinds of assessments are only being done by enthusiastic volunteers, and their conclusions are rarely taken into account during projects that impact or could impact not just the natural environment of small Indigenous peoples, but also their traditions and lifestyle.

One of the important components of protecting the interests of indigenous peoples in disputes with gold mining companies is the principle of free, prior, and informed consent (FPIC), but the indigenous people are practically deprived of the opportunity to use it.

The UN Declaration on the Rights of Indigenous Peoples enshrines the principle of free, prior, and informed consent (FPIC), that is, the right of Indigenous communities to fully and effectively participate in the adoption of any decisions, whether legislative or administrative, that affect their lands. Observation of this principle of is a necessary condition for managing any activity relating to traditional lands, territories, and other resources.

Individual provisions of FPIC are included in various regulations and legal acts. For example, Article 39.14 of the Land Code establishes that land plots in areas where small Indigenous peoples traditionally reside can only be granted to business entities with account for the results of citizen assemblies and referendums, because this affects these people’s legal interests. The need for members and associations of small Indigenous peoples to participate in the adoption of decisions affecting their rights and interests is mentioned in the Roadmap for the Sustainable Development of Small Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation, which was approved by order of the Government of the Russian Federation No. 132-r of February 4, 2009. Elements of FPIC are also present in town planning laws, which ban mining on agricultural lands. For mining to be possible from a legal standpoint, Article 5.1 of the RF Town Planning Code requires local governments to make changes to their locality’s land-use plan and general plan that must be coordinated with the local population through public discussions and hearings.

Nevertheless, FPIC principles are not observed. Since the law does not recognize FPIC and does not provide a mechanism for its application, officials and members of the business community can act in an arbitrary manner. With help from affiliated government agencies, mining cooperatives receive permits to mine gold without involving the Shor, who are directly affected by this, in any discussions.

At the end of January 2022, the State Duma of the Russian Federation adopted a bill on the right of citizens and businesses to privatize land adjacent to rivers, canals, reservoirs and lakes. Prior to the adoption of this law, plots located in the water protection zone and being state or municipal property could not be transferred to private ownership. There is every reason to believe that the adoption of this law will contribute to the privileged position of gold mining companies and will have an extremely negative impact on the interests and rights of indigenous people.

Recommendations to the government of the Russian Federation:

- Bring national legislation into line with international legislation and ratify ILO Convention No. 169;
- Assign special status to territories of traditional residence and nature use by indigenous peoples at the federal level and enshrine the procedure of free and informed consent in relation to any legislative and administrative measures that relate to indigenous peoples;
- Heighten control over coal and gold mining companies' compliance with national and environmental laws and human rights norms;
- Take measures to recultivate and restore territories destroyed by industry and provide restitution to members of indigenous peoples and local communities whose rights have been violated;
- Review priorities in the energy and mining sectors and develop alternative energy sources for implementing obligations to prevent climate change;
- Provide conditions for the robust and unhindered work of environmental and human rights organizations.

Districts and indigenous peoples of Southern Siberia affected by coal mining

The Khakas are a Turkic-speaking people whose numbers reach 72,000. Of these, 63,000 live in the Republic of Khakasia (2010 census) and comprise from eight to 12.5 percent of the republic's population.

The Shors are a Turkic-speaking small indigenous people living in southern Kemerovo Oblast and in neighboring districts of the Republic of Khakasia, the Altai Republic, and Krasnoyarsk and Altai krai. There are almost 12,000 Shor people, and 24 percent of them live in cities (2010 census). The drop in the number of Shor people is linked to coal exploitation in the areas where the Shors reside, which began in the 1970s (14,049 Shors lived in Kemerovo Oblast in 1970; this fell to 12,585 in 1989 and 10,672 in 2010).

The Teleuts are a Turkic-speaking small indigenous people with 2,643 members (2010 census) living mainly in Kemerovo Oblast (Belovsky District).

Locations of Shor indigenous people in Southern Siberia affected by alluvial gold mining

Villages of Balyksa, Neozhidanny, Nikolaevka, and Shora in Askizsky District, Khakassia,

Villages of Orton, Ilynka, Uchas, and Tryokhrechye in Mezhdurechensky Municipal District, Kemerovo Oblast.