



"I WON'T HAVE ANY LIFE  
WITHOUT THIS LAND":

**VIOLATIONS OF THE RIGHTS  
OF INDIGENOUS PEOPLES  
RESULTING FROM COAL MINING  
IN SOUTHERN SIBERIA**

2020

## **“I Won’t Have Any Life Without This Land”: Violations of the Rights of Indigenous Peoples Resulting from Coal Mining in Southern Siberia. 2020.**

The report was prepared with the participation of activists of the “Revival of Kazas and Shor people” movement.

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Cover photos:

The upper photo made by Eugenia Pruss in Khakasia

The lower photo made by ADC Memorial in Khakasia

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# INDIGENOUS PEOPLES OF SOUTHERN SIBERIA AND COAL MINING OPERATIONS: REVIEW

This report describes 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. This report is based on field materials collected by ADC Memorial experts in the Republic of Khakasia and Kemerovo Oblast in 2019 and 2020.

The enormous Beysky Coal Deposit, which includes seven open pits, is located in Khakasia. Of these, four - Arshanovksy, 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.<sup>1</sup> 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<sup>2</sup> because birds stop and nest there during seasonal migration.

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1 Resolution of the Presidium of the Government of the Republic of Khakasia No. 164-p "On the Approval of the Roadmap for the Development of Industry in the Republic of Khakasia for 2017–2030" of November 15, 2017 <https://r-19.ru/authorities/ministry-of-economy-of-the-republic-of-khakassia/useful/6206/58323.htm>

2 Wetlands included in the Prospective List of the Ramsar Convention (the "shadow list" of wetlands of international importance), <http://www.fesk.ru/tom/3.html>

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).<sup>3</sup>

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 Siblag 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):

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3 Administration of the Government of Kuzbass, Ministry of Natural Resources and the Environment of Kuzbass. Report on the State and Protection of the Environment in Kemerovo Oblast - Kuzbass in 2019. Kemerovo, 2020. pp. 176-177.

***“We are quietly dying off. Most of us are just trying to survive physically. The only work left for young people is slogging away at coal pits, which are robbing our land, draining it of natural resources.” (Lyubov Chulzhanova, Shor journalist)***

***I myself spent almost 20 years working at a coal pit that was next to Kazas; I spent all those years destroying my native village. But there were no other jobs in Kazas.” (Shor writer Veniamin Boriskin)<sup>4</sup>***

Commercial companies are not the only ones to blame for irresponsible coal mining in Southern Siberia: it has become a part of Russia’s state economic policy. At a time when many countries are trying to restrict or completely stop coal mining, the Russian government continues to support the coal mining industry in spite of colossal damage to the environment and people’s health and in defiance of any economic rationale. This interest in supporting coal companies is primarily connected with the needs of the Russian economy: the fuel and energy sector accounts for approximately 22 percent of the GDP, almost 60 percent of exports, and 40 percent of budget revenue annually. According to Institute of the problems of natural monopolies, the coal industry contributes 1% to GDP of Russia, and will continue to increase.<sup>5</sup> Over the past several years, the Russian government has adopted a number of strategic measures geared to extensive support for the coal industry. According to the Development Program for the Coal Industry through 2035 (approved June 13, 2020),<sup>6</sup> there are plans to increase coal production by a factor of 1.5 and exports by a factor of two by 2035. Government bodies are now closing their eyes to coal companies’ violations of current environmental protection laws and human rights for the sake of achieving these ambitious tasks.

Despite state support, the coal industry is losing profitability due to the steady decline in world coal prices, the efforts of many countries that use coal to switch to alternative energy sources, and the high cost of transporting coal (the largest coal mines are located far from industrial centers, and infrastructure is poorly devel-

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4 We are Quietly Dying Off. How an Indigenous People of Siberia is Disappearing. Report of Sibreal, December 11, 2019, <https://www.sibreal.org/a/30317951.html>

5 Institute of the problems of natural monopolies, Russian coal industry and issues of carbon regulation, February 20, 2020, [http://ipem.ru/files/files/research/20200220\\_ipem\\_coal\\_carbon\\_regulation\\_perspectives.pdf](http://ipem.ru/files/files/research/20200220_ipem_coal_carbon_regulation_perspectives.pdf)

6 Development Program for the Coal Industry through 2035, June 13, 2020, <https://www.rosugol.ru/programme/%D0%9F%D0%A0%D0%A3%D0%9F-2035.pdf>



oped). Russia, however, is seeking new markets for coal: in 2019, VostokUgol reached an agreement concerning the large-scale export to India of coal from the little-developed Taymyrsky Coal Basin, which required the construction of two new terminals in the Kara Sea. This project is part of Russia's ambitious plans to develop a northern sea route and further exploit the Arctic,<sup>7</sup> so it's not surprising that the Ministry of Natural Resources changed the boundaries of a nature reserve for the project's needs.

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. According to A.M. Todyshev, president of Ene-Bayat, the association of the Teleut people:

***"Coal mining companies have occupied almost all the native land, and that's not even the end of it - after all, there is a program for increasing coal mining by a factor of two. We are in a state of indirect genocide. This means 'targeted action (failure to take action) directed at certain groups (the Teleut people) by changing natural conditions, the cultural and historical environment, and biological and economic factors in a way that creates living conditions for these groups (the Teleut people) that could lead to (and this is the desired result) the group's complete or partial annihilation." This is the definition of the International Criminal Court. We have an environmental catastrophe. Unfortunately, the international community does not know that here, in Kemerovo Oblast, a unique peo-***

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<sup>7</sup> Russia Finds Market for Enormous Reserves of Arctic Coal, November 3, 2019, Barents Observer: <https://thebarentsobserver.com/ru/promyshlennost-i-energiya/2019/11/rossiya-nashla-rynok-dlya-ogromnyh-zapasov-arkticheskogo-uglya>

***ple with a unique culture and language is being lost because the government has failed to do anything about the aggressive actions of subsoil users. We have the Constitution of the Russian Federation, we have federal laws, we have the Strategy for State National Policy, we have the Roadmap for the Sustainable Development of Small Indigenous Peoples of Russia, we have international legal norms that Russia has adopted, but nothing is working to protect the small indigenous Teleut people.”<sup>8</sup>***

This was also addressed in a statement prepared on behalf of the indigenous peoples of Siberia for the High-level Political Forum for Sustainable Development (HLPF, July 14, 2020), to which the Russian Federation submitted a Voluntary National Review on Sustainable Development Goals until 2030 for the first time:

***“...the Russian government’s current policy is clearly aimed at violating our rights to land, territory, and natural resources. Because of corruption and the policies pursued, our traditional lands and waters are being transferred to the state and private businesses. At the same time, indigenous peoples’ access to traditional food is being limited, leading to a rise in the number of poor and hungry in our environment, making our peoples feel like pariahs on their native lands.”<sup>9</sup>***

Leaders of indigenous communities stress that they are not able to attain protection of their rights on their own lands and in their own regions:

***“...the conflicts between the Shor community in Kuzbass and the coal mining companies should be reviewed not at the regional level, but at the level of the United Nations. For example, in 2017 the conflict between residents of the village of Kazas and the Yuzhny coal company (the company simply set fire to the homes of residents who did not want to ‘free the space’ for coal mining) was reviewed by the Committee on the Elimination of All Forms of Racial Discrimination, but not by the district administration or oblast government. This is not surprising: No one in the regions seems to recognize members of small peoples” (Mikhail Todyshev, honorary member of the Council of Shor Elders, expert in laws on the rights of small indigenous peoples of the***

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8 Interview with A.M. Todyshev, president of Ene-Bayat, the association of the Teleut people, March 15, 2019, <http://tadarlar.ru/teleuty-okazalis-lisheny-iskonnoi-sredy-obitaniya.htm>

9 This forum took place online and the statement was published on the website <https://indigenous-russia.com/archives/4934>.



*North, Siberia, and the Far East of the Russian Federation for dedicated committees of the State Duma and the Federation Council).*<sup>10</sup>

Members of indigenous peoples often encounter racism:

*"When I worked at a school, I remember that the Shor children were embarrassed and blushed when we started speaking about the indigenous peoples of our region, about them, the Shors and Teleuts, in class. "Slant-eyed," "small," "short-legged," "black," "stupid," "drunks" – these were synonyms for the word "Shor" in our region. When Russians want to offend each other, they say: 'Why you act like Shor?' Shors are associated with stupid, uncultured, dirty people, second-class people. That's why many Shors listed their nationality as Russian during Soviet times." (Yana Tannagasheva, Shor women. Published on her personal Facebook account, July 2020).*

The attempts to report manifestations of racism result in retaliation. In 2017, Lidiya Bainova, a resident of Abakan, took to social media to express her indignation about an incident that occurred when she and her daughter were entering a game room and the children there said: "Only Russians can enter," while their parents started to attack her verbally. After Bainova's emotional post, a criminal case under Article 280.2 (public calls to extremist activity online) was opened against her. The case was closed in 2018 for lack of elements of a crime, and the prosecutor's office issued an official apology to Bainova. Bainova believes that she was prosecuted because she was working to popularize the Khakas language and culture.<sup>11</sup>

The character of violations of the rights of indigenous peoples in Russia allows to state that they face systemic discrimination.<sup>12</sup> International organizations have repeatedly noted that the Russian government is not fulfilling its obligations to protect the rights of indigenous peoples: national laws are declarative in nature and do not

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10 People Outside the Law. How Indigenous Peoples Became Outsiders on their own Land. Interview with M. Todyshev, Sibreal, 12.28.2019, <https://www.sibreal.org/a/30321964.html>

11 Interview with Lidiya Bainova, July 30, 2018, KavkazRealii <https://www.kavkazr.com/a/aktivistka-extremizm-hakasia/29398520.html>

12 ADC Memorial, Alternative Report to the UN Committee on Social, Economic, and Cultural Rights (2017): [https://adcmemorial.org/wp-content/uploads/ADC-Memorial-LOI-RF\\_UN-CSECR\\_Feb-2017\\_60-Session\\_EN.pdf](https://adcmemorial.org/wp-content/uploads/ADC-Memorial-LOI-RF_UN-CSECR_Feb-2017_60-Session_EN.pdf); ADC Memorial, List of issues regarding the rights of indigenous peoples in Russia, for the UN Human Rights Council, May 2020: [https://adcmemorial.org/wp-content/uploads/int\\_ccpr\\_ico\\_rus\\_42067\\_e.pdf](https://adcmemorial.org/wp-content/uploads/int_ccpr_ico_rus_42067_e.pdf)

provide for procedures for the exercise of indigenous rights; the specially protected status is too narrow - in Russia, it only applies to “small indigenous” peoples numbering less than 50,000 people.

Meanwhile, the special status and rights of indigenous peoples have been recognized by international treaties and customary law. The UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 enshrine human rights norms and adapt them to the special needs and problems of indigenous peoples. These norms center on nondiscrimination obligations, the right of indigenous peoples to self-determination and development, and the right to the effective participation of indigenous peoples in all matters relating to them. In its General Recommendation XXIII on the rights of indigenous peoples (1997), the UN Committee on the Elimination of All Forms of Racial Discrimination called on states parties to the Convention on the Elimination of All Forms of Racial Discrimination to recognize and protect the rights of indigenous peoples and ensure equality and non-discrimination.<sup>13</sup>

The culture and way of life of indigenous peoples of Russia are of worldwide cultural and historical value. Their sustainable farming activities, which do not deplete natural resources and help to protect the environment, are particularly important in a time of climate change and environmental pollution that puts the future of all of humankind under threat.

## **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 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;

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<sup>13</sup> CERD, General recommendation 23, adopted in 1997: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7495&lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7495&lang=ru)

- 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.

### **Recommendations to the governments of other countries, including EU countries, and international intergovernmental organizations:**

- Reduce the consumption of coal, the mining of which violates the rights of indigenous peoples and local communities and causes irreparable harm to natural areas;
- Support the Russian government as it develops alternative energy sources and overhauls the energy and mining industries;
- Support the activities of environmental and human rights organizations monitoring the environmental situation at coal mining sites and working to protect the rights of indigenous peoples and local communities.
- Include on the agenda of international conferences and meetings matters related to observing the rights of indigenous peoples and preserving their traditional living environment in the context of coal mining; develop recommendations for the Russian government to improve the situation in coal mining regions.

### **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).

# VIOLATION OF THE RIGHTS OF INDIGENOUS PEOPLES OF SOUTHERN SIBERIA TO LAND, TERRITORY, AND RESOURCES, VIOLATION OF INDIVIDUAL LAND RIGHTS AND THE RIGHT TO PROPERTY

For many indigenous peoples, ancestral lands serve not just as a place to live, but also as the foundation of their identity and well-being. Land is a part of their worldview and spirituality and a place for engaging in traditional economic activities and preserving culture. When isolated from their traditional lands, indigenous peoples are vulnerable to assimilation and loss of identity and culture. This is why the collective right of indigenous peoples to land, territory, and other resources is fundamental in nature.

The UN Declaration on the Protection of the Rights of Indigenous Peoples (articles 3 and 26), 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 the peoples concerned 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.<sup>14</sup> Even if the right to ownership and possession of lands is not formally recognized, the government must still protect it.

The government must ensure that indigenous peoples can participate fully and effectively in the adoption of any decisions, whether legislative or administrative, that affect their lands. According to the UN Declaration on the Rights of Indigenous

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14 Indigenous peoples’ collective rights to lands, territories, and resources. The United Nations Permanent Forum on Indigenous Issues. The United Nations Permanent Forum on Indigenous Issues Indigenous peoples’ collective rights to lands, territories and resources: <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/04/Indigenous-Peoples-Collective-Rights-to-Lands-Territories-Resources.pdf>

Peoples, the principle of free, prior, and informed consent is a necessary condition for managing any activity relating to traditional lands, territories, and other resources. The relocation of indigenous peoples to other places cannot take place without the free, prior consent of these peoples or without just and fair compensation. In these cases, the option of return must be considered. Indigenous peoples whose lands have been confiscated or damaged have the right to compensation and restitution. Even though Russia has not ratified ILO Convention No. 169, these norms are mandatory because they relate to norms of customary international law.

In contravention of international standards, Russian laws on small indigenous peoples do not recognize their right to property in relation to traditional territories. The federal law "On Guarantees of the Rights of Small Indigenous Peoples in the Russian Federation" enshrines only the right to land use. Under Article 8, indigenous peoples have the right to use, free of charge, various categories of land required for performing their traditional farming activities and trades in places where small indigenous peoples have traditionally lived or farmed and to participate in monitoring the use of various categories of land. The Land Code (Article 39.10.13) establishes a timeframe of 10 years for this land use.

Land rights and the right to property are generally protected as individual rights by the civil and land codes. Some additional guarantees that are not related to the special status of indigenous peoples are granted by environmental protection laws.

Russian legislation does not regulate or enshrine the principle of free, prior, and informed consent (hereinafter - FPIC), even though the government has reported to international bodies that this principle is in effect in relation to matters of small indigenous peoples (in particular, official information about Russia's implementation of recommendations made by the UN Committee on the Elimination of All Forms of Racial Discrimination (2019)). The Land Code contains certain provisions about FPIC. Article 39.14 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 the legal interests of these peoples; the need for members and associations of small indigenous peoples to participate in the adoption of decisions relating to matters affecting their rights and interests is noted in the Roadmap for the Sustainable Development of Small Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation (approved by order of the Government of the Russian Federation No. 132-r of February 4, 2009).

Indigenous organizations are attempting to get the principle of FPIC added to regional laws. For example, in 2020, the Council of Elders of the Shor People launched a legislative initiative to add a FPIC provision to Article 26 of the by laws of Kemerovo Oblast:

**4. Kemerovo Oblast guarantees observance of the principle of free, prior, and informed consent in all decisions affecting its small indigenous peoples.**

**Government bodies of Kemerovo Oblast must consult and cooperate in good faith with the appropriate indigenous peoples through their representative institutions to secure their free and informed consent prior to the approval of a new project that affects their lands, territories, or other resources, in particular in connection with the exploitation, use, or processing of mineral, water, and other resources.<sup>15</sup>**

Federal 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” (of May 7, 2001) creates certain, although limited, opportunities for enshrining the land rights of indigenous peoples. For example, traditional lands of Shors in Tashtypsky and Askizsky districts, Khakasia, which border Kuzbass, were included within the borders of a combined territory of traditional nature use of regional importance. Kemerovo Oblast, however, has not created a territory of traditional nature use for the Shors in spite of numerous requests submitted to various levels of government:

***“The main sticking point in Kemerovo Oblast has become the List of Places of Traditional Residence and Traditional Activities. The name of this governmental document seems to imply that this list should indicate places of traditional residence and traditional activities for the Shor people, but specialists with the oblast administration understood it in their own way and included only places of traditional residence, that is, individual Shor villages, and did not bother to include places of traditional activity. They neglected to include territories where Shors have long conducted traditional nature use (hunting, fishing, collecting wild crops, beekeeping, vegetable gardening), which is a fundamental, inalienable human right... It seems like it should have been clear that the areas of traditional nature use and traditional activities of entire municipal and urban districts, and not just of individual villages, should have***

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15 Draft law “On the Introduction of Amendments to Article 26 of the Bylaws of Kemerovo Oblast - Kuzbass” prepared by the grassroots movement Council of Elders of the Shor People of Kemerovo Oblast and sent to governor of Kemerovo Oblast S.E. Tsivilev and chair of the Kemerovo Oblast legislative assembly V.A. Petrov on May 12, 2020. <http://shor-people.ru/news/proekt-zakona-o-vnesenii-izmenenij-v-statju-26-ustava-kemerovskoj-oblasti-kuzbass.html>



*been included, but no one at the Department of Culture and National Policy wants to understand this. On top of this, several remote Shor villages were excluded from the list, which was unpleasant news for many residents.*

*"In sum... the rights of Shors enshrined in federal law are being violated, and this is reflected in their lives in a very specific manner: If you live in a village that is not on the list, then you don't have the right to receive a social pension, and a hunter cannot freely engage in traditional hunting to provide food for his family and does not have the right to harvest timber or use land plots free of charge. But the Shors used to have hunting lands, often far from the villages where they lived. And even today they travel dozens of kilometers from their homes to hunt." (Lyubov Chulzhanova, Shor journalist)<sup>16</sup>*

It was only in February 2020 that the Working Group on Pressing Matters of the Sustainable Development of Small Indigenous Peoples of Kemerovo Oblast, which consists of the Council of Representatives of Small Indigenous Peoples under the governor of Kemerovo Oblast (this council was created in late 2019 at the initiative of the Council of Elders of the Shor People) adopted a decision to create one more working body - an interagency group on the formation of a territory of traditional nature use. For some Shor and Teleut people, this decision provides hope for the long-awaited legitimization of the use of ancestral lands, even though no concrete actions have been taken.

The ambiguousness of land rights means that members of small indigenous peoples cannot use the land free of charge even within the boundaries of their territory of traditional residence.

*In the late 1990s, N., a Teleut, bought a warehouse for his business activities in Zavodsky District, Novokuznetsk, Kemerovo Oblast - the Novokuznetsky urban district is on the list of places of traditional residence and traditional activities of the Teleut people. In 2008, the administration filed a claim demanding payment of a land tax, but the court did not grant this claim, citing the law "On Guarantees of the Rights of Indigenous Peoples." In 2015, the administration filed a claim regarding unauthorized seizure of a land plot and unjust enrichment and the court took its side, ruling that N. had to pay land taxes covering three years in the amount of 601,000 rubles. The ad-*

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16 Lyubov Chulzhanova Will the Land Problem in Shoria be Resolved? <https://indigenous-russia.com/archives/3819>

*ministration filed another claim regarding unjust enrichment over the period of 2015–2017 in 2017; the court granted the claim, this time in an amount of almost 990,000 rubles, and court bailiffs confiscated N.'s property.*

*The warehouse was located on the lands of the sanitary protection zone of the Western Siberian Metallurgical Plant in Zavodsky District, Novokuznetsk. The Teleut village Ortodogy-ail (later called Teleuty) was previously located on this territory; the Stalin kolkhoz was formed there in 1932, and construction on the metallurgical plant started on the farm's lands in 1957. The village of Teleuty ceased to exist as an administrative unit in the early 1960s, and its residents were pushed out into the city because the road was never repaired and the school and stores were closed. The last of the residents moved into city apartments in the 1980s, but many kept gardening and raising animals on the lands of the former village, which were their ancestral lands.<sup>17</sup>*

The federal law "On Territories of Traditional Nature Use of Small Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation" is currently being amended: the draft amendments proposed for discussion in 2017<sup>18</sup> were sharply opposed by indigenous peoples. In their opinion, the proposed amendments did not eliminate legal lacunae and created new risks for ensuring the rights of indigenous peoples: The law is not compliant with provisions of international documents on indigenous rights or the Russian Constitution; various provisions of the law on territories of traditional nature use are primarily aimed at protecting the interests of businesses and not the population living on them; the participation of members of indigenous peoples in the creation and functioning of territories of traditional nature use is minimal; the distribution of powers between regional and federal authorities during the creation of territories of traditional nature use indicated in the bill does not correspond to the interests of indigenous peoples; the bill does not regulate the status of territories of traditional nature use already created in the region; and

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17 This information was provided by Shor and Teleut activists. See also, media coverage: Kuzbass Teleuts want to be added to the Red Book, March 28, 2019 <https://www.mk-kuzbass.ru/social/2019/03/28/kuzbasskie-teleuty-prosyatsya-v-krasnuyu-knigu.html>

18 The bill "On the Introduction of Amendments to the Federal Law 'On Territories of Traditional Nature Use of Small Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation' and other individual acts of the Russian Federation" <https://regulation.gov.ru/projects#npa=66793>

the territories of traditional nature use exclude “specially protected territories,” which lowers the degree of protection for the traditional living environment of the indigenous peoples.<sup>19</sup>

In November 2019, the Working Group on improving laws on the rights of small indigenous peoples (under the Federation Council) submitted another version of amendments to the law on territories of traditional nature use; at the time of this writing, amendments to the law “On Territories of Traditional Nature Use” are being finalized by the Federal Agency for Ethnic Affairs and have yet to be adopted.

The so-called “Far Eastern Hectare” law has also complicated life for indigenous peoples<sup>20</sup> (in effect since June 1, 2016 for residents of the Far Eastern Federal District, which was expanded to include Buryatia and Transbaikalia in 2019; the Free Hectare Program was opened to all residents of Russia since February 1, 2017). Indigenous communities were skeptical of this law from the beginning because in a number of cases territories of traditional nature use were transferred as “hectares.” In July 2020, there was a proposal to extend this law to “Arctic hectares” in Murmansk Oblast, Nenets and Yamalo-Nenets autonomous okrugs, and 23 municipal districts in Krasnoyarsk Krai, Arkhangelsk Oblast, the Komi Republic, and the Republic of Karelia. Under this law, land (one hectare per person) is granted free of charge for five years of use and then registered as property or under a long-term lease. The plot can be used to build a home or conduct any type of economic activity.

The Land Code provides for the seizure of land plots from individuals to further public interests (Article 49). Such a decision may only be adopted by federal executive branch bodies, executive branch bodies of constituent entities of the federation, or local self-government bodies for state or municipal needs. To implement large-scale projects, on April 1, 2015 an addition was made to the Land Code under which federal, regional, and local government bodies may decide to seize land not just at their own initiative, but also at the petition of agents of natural monopolies, subsoil users, and other organizations (Paragraph 4 of Article 56.3

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19 See, for example, Conclusion of the Standing Committee of the State Assembly (Il Tumen) of the Republic of Sakha (Yakutia) on Matters of Small Indigenous Peoples of the North and Arctic Affairs on the draft amendments to this law, June 14, 2017, <http://yaku-tiakmns.org/archives/7207>

20 Federal Law No. 119-FZ “On the Special Aspects of Granting Land Plots Owned by the State or a Municipality and Located within Constituent Entities of the Russian Federation Comprising the Far East Federal District to Citizens, and on the Introduction of Amendments to Certain Legal Acts of the Russian Federation.”

of the Land Code). During the seizure process, the grounds, terms, and procedure for adopting a decision on seizure must be closely complied with. For example, a site proposed for seizure must be listed in land-use planning documents (Part 10 of Article 45 of the RF City Planning Code), while the ownership right to the seized site may only be transferred after advance payment of equal compensation, which must include the market value of the land plot, losses caused by the seizure, and lost profit (Article 279 of the RF Civil Code, Article 56.8 of the RF Land Code).

To mine coal on a certain territory, a company must prepare a project design for the coal field and obtain a subsoil use license and a positive conclusion from an environmental impact assessment confirming that the planned activities meet state environmental standards. Environmental protection laws also contain norms stating that any decisions to open a site that could potentially harm the environment must take the population's opinion into account. After the company receives these permits to mine coal, it must obtain the right to land of the appropriate category and designated use. For example, agricultural lands cannot be used to mine minerals. For this to be possible from a legal standpoint, local governments must make changes to the locality's land-use plan and general plan that, according to town planning laws, must be coordinated with the local population through public discussions and hearings (Article 5.1 of the RF Town Planning Code).

Few lawsuits trying to stop land seizure for coal mines have been successful in court. One important court decision was adopted in 2018: The Belovsky District Court found orders of the Subsoil Department (Sibnedra in the Siberian Federal District) concerning the confiscation of four private plots of land for mines in Mencherep Village, Belovsky District illegal and did not find a "state need" for this seizure. The plots were planned to be used for surface mining after they were transferred to the private company Stroypozhservis for use.<sup>21</sup>

## **VIOLATIONS OF LAND RIGHTS IN THE REPUBLIC OF KHAKASIA**

The territories of coal mines in Khakasia have been expanding in recent years. The lands coal companies are interested in are largely held by private individuals and farmers, whose sole source of income is agriculture. Because of this, most of

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21 Kemerovo Court Finds Orders to Seize Land for Mines Illegal, media report, April 13, 2020, <https://tayga.info/139974>

them have spoken out against the coal industry and refuse to transfer ownership of their lands to coal companies, which, in turn, are attempting to gain possession of new land by any, and often illegal, means, violating the individual and collective rights of indigenous peoples.

Indigenous peoples first encountered violation of the right to ownership and the right to land in 2013–2015 with the arrival of two large coal companies - Mayrykhsky Mine and Arshanovsky Mine - to Koybalskaya Steppe.

Mayrykhsky Mine started mining coal in 2016 without any permits or state assessments. After deputies of the Supreme Council of the Republic of Khakasia and representatives of the Khakas people appealed to regulatory agencies, the Investigations Department of the Investigative Committee of the Republic of Khakasia opened a criminal case against the mine's director, Viktor Kozmin. Regulatory agencies put the total amount of damages done to the state at 175 million rubles. According to the investigation, almost 120,000 tons of coal were illegally mined at the deposit.<sup>22</sup> Kozmin was found guilty, but instead of sentencing him to a multimillion fine, the court limited itself to a fine of 150,000 rubles, and the mine continued operations after payment. Immediately following this, Kozmin's company occupied, without authorization, a federal site - an irrigation canal that was used for wastewater disposal from the mine, and also used agricultural lands for purposes other than their intended purposes.

Arshanovsky Mine was opened in 2015 in spite of mass protests by the local population:

***Arshanovsky Mine was opened fraudulently. The local residents did not want coal to be mined next to their homes and voted against this at public hearings. Following the vote, the coal companies promised free coal to every resident in the district. When they brought the coal, they asked people to sign blank sheets of paper, and the residents, who had no legal knowledge, signed. Then it turned out that ballots for opening the mine were later printed on these sheets with the signatures. So almost the entire population of the district voted for opening the mine without even suspecting it. (Activist from Arshanovo Village. Interview with ADC Memorial, March 15, 2020, Abakan.)***

After permission to open was fraudulently obtained from the population, Arshanovsky Mine started operations without commissioning an effluent treatment facility. This meant that untreated industrial waste exceeding the maximum permitted con-

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22 Forbidden Coal. Management of Mayrykhsky Mine Caught Illegally Developing Subsoil, April 20, 2016, Kommersant (Novosibirsk) No. 68.

centration for hazardous substances was discharged into the soil and Arshanovsky stream, which flows into the Abakan River. According to calculations by the Federal Service for Supervision of Natural Resource Usage for the Republic of Khakasia, harm in an amount of over 2.4 million rubles was caused to the soil. The Investigative Committee of the Republic of Khakasia opened a criminal case against the acting director of Arshanovsky Mine, but the mine continued operations after paying a fine. As it turned out later, staff members at the Federal Service for Supervision of Natural Resource Usage knew about the violations at the mine, but concealed these violations from the public. Moreover, they warned mine administrators in advance about the checks. As a result, a criminal case under Part 1 of Article 286 (abuse of power) of the RF Criminal Code was opened against Igor Pushpashev, deputy head of the Environmental Supervision Department at the Federal Service for Supervision of Natural Resource Usage for the Republic of Khakasia.

In 2018, both mines started to exploit new territory to expand coal production. Mayrykhsky was granted a license to develop the subsoil<sup>23</sup> on a new plot - Beysky-Zapadny, which had an area of 97.5 km<sup>2</sup> and coal reserves exceeding 1.134 billion tons. This plot includes part of the land being exploited by Arshanovsky Mine, private farms of Beysky District, and irrigation canals that supply water to the Sorokaozerki area.

In accordance with the law, representatives of both mines organized public hearings in Beysky and Altai districts, where they had plans to mine coal, to clear construction with the local population. During the public hearings, which were held between October 2018 and March 2019, residents of villages located in direct proximity to the coal mining zone voted against opening the mine because the coal companies had not presented any design plans or information about the mine's environmental impact. In spite of this, the coal companies were able to obtain permission to make the necessary changes to the general plan with the support of the republic's leaders and in violation of the laws and regulations for holding public hearings. What follows is the story of a witness to the violations:

***"In 2018, the company that owns Mayrykhsky Mine decided to open another pit. They were granted a license and then started to hold public hearings about amending the general plan and land use rules for the territory of the Kuybyshevo Village Council, where the villages of Shalginovo, Kuybyshevo, Uty, Chaptikov, and Koybaly are located. Their goal was to start operations at the pit, but at the first hearing, they did not present residents with a plan, a positive environmental assessment, or***

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23 Subsoil license ABN 16462 TE, registered with the RF Ministry of Natural Resources on July 17, 2018.



an environmental impact conclusion. Nevertheless, mine director VINOGRADOV stated that the mine would be opened 500 meters away from the village and that the licensing proposal contained a plan for relocating all residents to the district center. In exchange, he promised that the village council would receive three million rubles within the next three years. Village residents responded with an adamant refusal.

Mine director Varshavsky and government representatives, including Asachakov, who was the first deputy to Governor Konovalov, were present at the third hearing, which took place in Shalginov Village on February 28, 2019. Over 80 local residents came. Since there were no lights at the club where the hearing was supposed to have taken place, Asachakov proposed dragging benches out onto the street and holding the hearing there in spite of the freezing cold. Varshavsky gave a long speech about how the district would benefit from the mine, and then, when people started to ask for a vote, he started trying to convince them that this wasn't necessary. Asachakov supported him. People started leaving half-an-hour later without waiting for the vote. When 28 people were left, Asachakov proposed starting the voting. Of these 28 people, two voted for amending the general plan and 26 voted against this. However, the minutes and the official conclusion of the hearings state that the 53 people who left the hearing did so with the intention of later expressing their agreement with the amendments.

In accordance with this conclusion, the village deputies adopted a decision to make the amendments to the general plan and representatives of Mayrykhsky and Arshanovsky mines filed a petition with the government to transfer 17 private land plots for agricultural use to industrial use.

The people were incensed by this arbitrary behavior. Activists immediately appealed to the prosecutor's office and started collecting signatures from local residents demanding that the decision be cancelled. The prosecutor's office issued an order that the results of the public hearings could not be counted and should be cancelled. However, on April 15, 2019, Deputy Governor Yury Kurlaev, who had previously led Beysky District, ignored the order issued by the prosecutor's office and the falsification of results and signed resolutions of the Government of Khakasia nos. 151 and 152 on the transfer of 17 land plots located in Beysky District from the category of lands designated for agricultural use to the category of lands designated for industrial use. Later, the prosecutor's office responded that the legality of the resolutions that were adopted could not be disputed because the decision of the village deputies adopted after a vote by local residents was in effect at the time of their adoption. (Activist from Abakan. Interview with ADC Memorial, March 15, 2020.)



Pasture with the coal waste piles at the background, Aal Khizil Salda of Altai district of Khakasia. Photo by ADC Memorial

On March 15, 2019, the Subsoil Use Department of the Central Siberian District published an order concerning the seizure of 36 land plots for the state needs of the Russian Federation in connection with the use of subsoil. Thus, by falsifying the results of the public hearings, neither the coal company nor the regional authorities obtained the de facto consent of the local population to make amendments to the locality's general plan and Mayrykhsky Mine did not have the right to seize the territories. The prices offered by the coal companies for the plots were below their cadastral values. The owners were not offered any additional payments over these amounts. This meant that people working in agriculture and providing for themselves and their families in this way were forced to cut back on or entirely liquidate their farming activities:

*"I have lived in Shalginov for over 70 years, my entire life, and have provided for myself with my own labor on this land, which I still farm. Even though I worked for over 40 years, my pension is still small and the only thing that helps me get by is my livestock. I make hay to feed my livestock and live out the rest of my life in comfort from the meadow that they want to take away. If they do take away this meadow, I'll have to*

*buy hay. And that will be several times more expensive for me. I was one of the first owners to learn that our lands would be seized for the coal companies. My meadow fell right within the territory that the mine wanted to take. I keep almost 10 heads of livestock on my plot. Right after this decision, I decided to appeal to the district court. I lost, but my lawyer helped me file an appeal with the oblast court. The oblast court issued a partial decision in my favor. This means that part of my land still has to go to the mine, but the rest stays with me. I didn't appeal anywhere else after that. Even though I won't have any life without this land, I also don't have strength or means to go on fighting. I've become accustomed to working all the time, so losing this land is like death for me." (N., resident of Shalginov Village. Interview with ADC Memorial, March 16, 2020.)*

Thus, acting in a situation of lawlessness and with the full support of the local and republican authorities, Mayrykhsy Mine started exploiting new plots in 2019 without a positive conclusion from a state environmental assessment:

*"Mayrykhsy bought the land of one farmer in Beysky District for next to nothing. Right after this purchase, they started large-scale construction work without any permits and without changing the category of the land. We wrote to the Federal Service for Veterinary and Phytosanitary Supervision. They responded that ponds were being dug for carp culture on this territory, since the mine had presented them with the corresponding documentation. But the coal companies erected booths for treatment facilities there and laid pipes in the river. Almost immediately after our appeal, they announced plans to hold public hearings about changing the designation of these lands from agricultural to industrial to erect treatment facilities. This means that they had already started building these facilities, but hid this by saying they were building ponds for carp culture. (Environment activist. Interview with ADC Memorial, March 15, 2020.)*

In the same way, Mayrykhsy Mine started geological and exploration work and drilling on privately-owned agricultural lands near Shalginovo Village in the summer of 2019. According to the owners of these plots, the coal companies had no permits for these activities, but workers showed the owners documentation from the mine indicating that these lands were designated as industrial and belonged to the mine:

*Our hayfields are located two kilometers from the southwestern border of Shalginov. In August, we noticed that drillers were working there. It turned out these were drillers from Kemerovo. We called the local police officer to figure out what was going on, what right they had to*

*do something on our land without our permission. They said they were contract workers for the mine and had no idea that this was private land. They showed us a map where all our lands were marked as places for mining. We learned from the workers that all our lands and meadows were subject to seizure. No one informed us of this. Our family has three plots. That's about 75 hectares. All of our fellow villagers have meadows on that side and all of their plots are also subject to seizure. If they are seized, we won't have anything to live on, since they are our only source of income." (T., resident of Shalginov Village. Interview with ADC Memorial. March 16, 2020.)*

The local authorities support the coal companies and believe that coal mining is in the public interest and is a ground for seizing land and disregarding the safety of people's lives and health and of the environment. The position of officials is that coal mining and the expansion of coal mining are a source of taxes and revenue for their subsidized region.

Innokenty Stryapkov won the April 22, 2019 election for head of Beysky District. One of his first initiatives was to cancel the agreement between the administration of Beysky District and local deputies stating that all matters related to amending the locality's general plan and land-use rules would be resolved at the village council level. Stryapkov transferred these powers to the Beysky District Council, whose deputies adopted a new procedure for public hearings and secured their right to adopt decisions concerning the introduction of amendments to the locality's general plan and land-use rules by secret ballot, thus depriving the local population of the right to vote. Therefore, the question of disagreement with the mine's opening was not reviewed at all during the subsequent hearings, which took place on August 22, 2019. According to information obtained from residents of Arshanov Village, one month after the hearings Mayrykhsky Mine transferred a new Toyota Camry Executive to Beysky District's administration under a free use agreement. According to Innokenty Stryapkov,<sup>24</sup> the mine donated this vehicle to the administration as part of a "social partnership," but local residents do not trust Stryapkov's statements and believe that there is an element of corruption to the relationship between the officials and the coal companies.

The Subsoil Use Department for the Central Siberian District published 14 orders concerning the seizure of over 50 land plots from 44 owners in favor of the coal mines. With help from attorneys from the regional environmental organization

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24 "Only a Fool Would Refuse": Coal Companies Donate a New Vehicle "Free of Charge" to Officials in Khakasia. Taiga.info. September 27, 2019 r.

Rodnaya Step (Native Steppe), some farmers attempted to appeal these orders in the republic's courts, but most of the courts refused to uphold the claims. In addition, in the fall of 2019, Rodnaya Step activists filed a claim with the Supreme Court of the Republic of Khakasia regarding resolutions of the Government of Khakasia nos. 151 and 152 of April 15, 2019 "On the Transfer of Land Plots Located in Beysky District from the Category of Lands Designated for Agricultural Use to the Category of Lands Designated for Industrial Use." This claim was rejected on November 11, 2019. Rodnaya Step activists filed an appeal with the Fifth Appeals Court of General Jurisdiction, which cancelled the Supreme Court's decision on March 12, 2020 and found resolutions No. 151 and 152 invalid. As grounds for its ruling, the appeals court noted that both mines had committed multiple violations of land laws and regulations for appealing to government bodies when filing their petitions.

*"Resolutions of the Government of the Republic of Khakasia were accepted for the signature of First Deputy Head of the Republic Yuri Kurulaev in record time - a decision to change the designation of 16 land plots from agricultural to industrial was approved and adopted five days after the petitions were received from the coal companies, even though the procedure established by the law 'On the Transfer of Land and Land Plots from One Category to Another' is quite lengthy and usually takes at least several weeks. In addition, the law states that a land reclamation plan must be attached to the petition for the transfer. Mayrykhsy Mine did not submit such a plan. According to the law 'On Environmental Impact Assessments,' the reclamation plan must undergo a state environmental impact assessment, but this assessment was never done. They only mentioned removing the fertile layer of the earth and compacting the territory, and nothing else. There was not one word about building an industrial complex. In addition, a Category I capital construction site, under which coal mines are categorized, must undergo a state environmental impact assessment, which also was not done.*

*"The coal companies did not look at any relocation options for the landowners, even though the petition concerned 17 agricultural plots. Finally, when the petition was accepted, the regulation on the procedure for reviewing petitions, which was established by the Government, was violated. The petition was not registered in the electronic data management system. This was enough for the court, which adopted a decision to uphold our claim in full, finding both the resolutions and the court decision justifying the government's actions illegal. Prior to this we had to prove clear cases of numerous violations in courts of various instances,*

*but our arguments were never heard. We had almost completely lost hope in the force of the law and the court authorities. All of the courts in the republic that we passed through ignored the right to ownership and the legal procedure for transferring land plots from one category to another. All the courts adopted decisions that everything was legal and that no rights had been violated.” (Lawyer from Rodnaya Step. Interview with ADC Memorial, March 15, 2020.)*

Despite the ruling on the refusal to transfer 17 land plots from an agricultural designation to an industrial designation, the coal companies continue to illegally conduct subsurface work on them, and residents of Beysky District say that the Subsoil Use Department for Central Siberian District is preparing new orders concerning the seizure of privately-owned land for coal companies.

## **VIOLATION OF THE LAND RIGHTS OF THE SHORS AND TELEUTS IN KEMEROVO OBLAST**

The Shors first had to deal with the large-scale activities of coal mines in the early 1970s, when the Sibirginsky Coal Mine was opened near the Shor settlements of Kazas and Chuvashka, requiring the razing of the village of Kurya. Resident still have not received just compensation. Later, work was started on new mines - Krasnogorsky and Mezhdurechensky - next to the village of Kazas.

Meanwhile, the Shor self-government body known as the Chuvashinsky National Village Council, which was created in 1992 and united the Shor villages of Kazas, Chuvashka, Toz, and Chauzas, was liquidated in early 2000. This body was one of the main tools for protecting Shor rights and was the center for adopting decisions affecting the territories of this indigenous people. In 1999, the Chuvashinsky National Village Council was included in the Myski municipal district. In 2004, 167,000 hectares of land of the Chuvashinsky National Village Council (historically Shor lands) were transferred to the Orlov rural settlement in Novokuznetsky District. In 2007, the Chuvashinsky National Village Council was dissolved and the villages of Kazas, Chuvashka, Toz, and Chauzas were made administratively subordinate to Myski City. In order to legalize and protect places of traditional activities and traditional residence of indigenous peoples from the barbaric exploitation of mineral resources, the Shorts have been appealing to



the leaders of Kemerovo Oblast on a regular basis since 2001 to form a territory of traditional nature use in the region. However, not one territory of this type has been created in Kemerovo Oblast to this day.<sup>25</sup>

This administrative decision was reflected in the adoption of decisions in favor of the coal companies. After winning a tender to develop the Uregolsky coal deposit, which is located in the middle of traditional Shor lands, in 2011 Kiyzassky Mine (VostokUgol Coal Company) started preparing for construction. Public hearings on this project were held in the village of Krasnaya Orlovka, which is the administrative center of the Orlov rural settlement and is located several kilometers from the industrial site. Four local residents were present at the hearings; they all voted in favor of the project. On the basis of the minutes of these public hearings, the administration of the Orlov rural settlement adopted Resolution No. 18 "On the Consent of Residents of the Municipal Formation Orlov Rural Settlement to the Design and Construction of Kiyzassky Mine Sites on the Settlement's Territory" of December 24, 2012.<sup>26</sup>

In order to adhere to the formal procedure for public hearings, in 2013 the company held a series of consultations in Chuvashka, during which the majority of residents spoke out categorically against this project's realization. At the assembly in Chuvashka (2013), 100 percent of residents came out against the mine's opening; this is reflected in the environmental impact assessment documents relating to the design documentation. Residents collected signatures and sent an appeal to the RF president and to the 7th Assembly of Small Indigenous Peoples of the North, Siberia, and the Far East (March 2013), where participants voted in support of the Shor people.<sup>27</sup> Over the course of five months, the indigenous residents of Chuvashka held one-person pickets every day by the city's administrative building, which had no effect whatsoever on the city's decision. Kiyzassky Mine was put into operation in November, 2014 and began mining coal, causing irreparable harm to the environment.

When a decision to open or build new coal mining sites is adopted, the opinion of indigenous residents of Kemerovo Oblast is ignored. In one case, a Kiyzassky Mine coal loading station was built in the Myski Municipal District near

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25 Appeal of residents of Shoria (Kazas) to the Congress of Indigenous Peoples of Russia, March 21, 2017, <https://www.youtube.com/watch?v=q0ateWlphus>

26 Dmitry Berezhkov. Coal Companies Ravaging Shor Villages in Kemerovo Oblast. 2015. <http://www.csipn.ru/korennye-narody-i-promyshlennye-kompanii/1677-ugolnye-kompanii-unichtozhayut-shorskie-poselki-v-kemerovskoj-oblasti>

27 Dmitry Berezhkov, Speech to the Assembly, October 8, 2015, [https://www.youtube.com/watch?v=nAFbD\\_pa9qM&t=4s](https://www.youtube.com/watch?v=nAFbD_pa9qM&t=4s)

the Shor village of Borodino, which is on the list of places of traditional residence of the Shor people, even though residents gave numerous speeches and held assemblies and meetings protesting this construction.

In 2019–2020, Kuznetsky Yuzhny started to plan new work to build a coal loading station where coal would be unloaded from dump trucks to railway cars near the village of Cheremza, which is on the border of Novokuznetsky District and Myski. According to construction designs, there were plans to load almost 14,000 tons of coal a day. In June 2020, local residents and other activists set up a tent camp to combat the illegal construction that they disagreed with and went on an indefinite hunger strike.<sup>28</sup>

Another case of the destruction of the Shor settlement of Kazas by the coal mine became known to the international community thanks to Shor activists and the human rights defenders supporting them. Kazas is part of Myski municipal district and is on the list of territories of traditional residence and territories of traditional activities of small indigenous peoples of the North, Siberia, and the Far East of the Russian Federation.

In 2012, the construction and commissioning of a new coal mine name Beregovoy (Yuzhny company) was started, including on this village's territory. A condition of the license issued by the Federal Agency for Subsoil Use for the development of the Beregovoy mine was the relocation of the residents of 28 homes in Kazas. Without consulting or notifying village residents, the Myski mayor signed a relocation agreement with Yuzhny, which started to force residents to sell their homes and land plots, offering a price 10 times below their actual value. If residents refused, oil company staff threatened to set fire to their homes and destroy them with bulldozers.<sup>29</sup>

***"People have been forced to sell their land. The companies created a complicated environmental situation, they made people go through checkpoints to reach their homes. It's hard to live in this kind of situation. It's only natural that many people simply sold their homes in these conditions." (Vladislav Tannagashev, Shor man)***<sup>30</sup>

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28 Kuzbass: Protesting Residents of Cheremza Declare Hunger Strike, Sibreal, June 24, 2020 [https://www.sibreal.org/a/30688101.html?fbclid=IwAR3zxTeOcU8wcll7YgPFYpL6nmMQPvj-WnL3rdBpojide1xMaqhyA1\\_nfuo](https://www.sibreal.org/a/30688101.html?fbclid=IwAR3zxTeOcU8wcll7YgPFYpL6nmMQPvj-WnL3rdBpojide1xMaqhyA1_nfuo)

29 Residents submitted a statement to the prosecutor's office about the threats made by Yuzhny CEO I.S. Khalimov; the statement was registered on April 24, 2014. Witnesses spoke about the threats in the documentary "Tsena" ("Price," 2014): <https://www.youtube.com/watch?v=y3VWXcXB4cIw>

30 Vyacheslav Krechetov, documentary film "Tsena" [Price], 2017, <https://www.youtube.com/watch?v=4u3CxdI-hZU>



Destroyed houses of the inhabitants of the Kazas village  
Photo by Nelly Tokmagasheva

These threats were realized: between November 2013 and March 2014, the homes of people who did not agree with the sale were burned down by unidentified people. Criminal cases were opened, but the guilty parties were never found, even though the only way to enter the territory was through a checkpoint equipped with video cameras, which should have been able to record the arsonists' arrival:

*"There were tracks showing how people climbed over the fence, the first snow was still on the ground. They climbed over it, lit up some combustible materials, threw them, and then everything ignited. The arsonists' cars entered the village through the checkpoint. There's one camera at the checkpoint and another right before you enter the village, pointed directly at it. And neither of these cameras caught the license plate number, and the guards didn't write it down." (Nikolai Kastarakov, Kazas resident)<sup>31</sup>*

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31 Vyacheslav Krechetov, documentary film "Tsena" [Price], 2017, <https://www.youtube.com/watch?v=4u3CxdhZU>

***“We never had any cases of arson like that, we never even had any houses burn down through our own fault. And this all started after Yuzhny arrived.” (Vladimir Tokmagashev, Kazas resident)***<sup>32</sup>

In its official responses to letters from Kazas residents, the Kemerovo Oblast prosecutor’s office stated that the public discussions on the relocation of residents under an agreement with the coal company were held with violations and that the decision to dissolve the village was not adopted in the manner established by law. Yuzhny continued mining coal under a license obtained without fulfilling its relocation obligations. Members of the Council of People’s Deputies of the Myski municipal district discussed the question of moving Kazas to a more convenient place, but, as a swampy wetland area, the plot proposed for relocation (Tyrala district) was not suitable for living.

The situation with Kazas was the subject of a number of human rights reports to UN committees and special procedures. Even though the UN Committee on the Elimination of All Forms of Racial Discrimination recommended that the rights of Kazas residents be restored, the problem has yet to be resolved: The relocation program has not yet been adopted and the Russian government has not provided compensation to the Short people for the loss of their land and homes, even in the form of land grants. In early 2020, local authorities and Yuzhny representatives met with Kazas residents following another round of recommendations from the UN Committee on the Elimination of All Forms of Racial Discrimination, but no agreement was reached.

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32 Vyacheslav Krechetov, documentary film “Tsena” [Price], 2017, <https://www.youtube.com/watch?v=4u3CxdhZU>

# VIOLATION OF THE RIGHTS OF INDIGENOUS PEOPLES OF SOUTHERN SIBERIA TO A HEALTHY ENVIRONMENT

Indigenous peoples are especially vulnerable to pollution and environmental destruction due to their special connection with ecosystems and territories of traditional residence and nature use.

The right to a safe, clean, healthy, and sustainable environment is not provided as such in the core human rights treaties, but it is an important component of a number of other rights, including the right to life, to health, to an adequate standard of living, to housing, and to participation in cultural life and development.<sup>33</sup> The government must take all possible measures to observe fundamental human rights, including by protecting the environment and eliminating violations by the commercial sector. In addition, the Framework Principles on Human Rights and the Environment<sup>34</sup> stipulate that private companies have the obligation to avoid making a harmful impact on the environment and must prevent and reduce this impact.

The UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 envisage the right of indigenous peoples to preserve and protect the environment and the productive potential of their lands and to receive assistance and support from the government. The state must ensure that no hazardous materials are stored on the lands of indigenous peoples without their free, prior, and informed consent.

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33 Framework Principles of Human Rights and the Environment, developed by the Office of the UN Special Rapporteur on the Environment, (2018) <https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/FrameworkPrinciplesUserFriendlyVersion.pdf>

34 Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Framework Principles on Human Rights and the Environment, 2011, <https://undocs.org/en/A/HRC/37/59>

In addition, to ensure a favorable environment for indigenous peoples, the government must: recognize and protect the rights of indigenous peoples to traditional lands, territories, and other resources; consult with indigenous peoples to comply with the principle of free, prior, and informed consent in relation to any measures that could impact indigenous peoples and their lands; respect and protect traditional knowledge and practices related to environmental preservation and sustainable nature use; and ensure that indigenous peoples receive benefits from the use of their lands, territories, and other resources in just and equitable shares.

The Rio Declaration on Environment and Development (1992) recognizes the vital role of indigenous peoples in environmental management and development because of their knowledge and traditional practices and obligates states to recognize and support their identity, culture, and interests and enable their effective participation in the achievement of sustainable development.<sup>35</sup>

The Convention on Biodiversity (1992) calls on states to respect, preserve, and support the knowledge, innovations, and practices of indigenous peoples relevant to conservation of biological diversity and the sustainable use of its components.<sup>36</sup>

The RF Constitution proclaims that everyone has the right to a favorable environment, accurate information about its condition, and compensation for damages inflicted on their health or property by environmental violations (Article 42).

The federal law "On Guarantees of the Rights of Indigenous Peoples in the Russian Federation" does not directly enshrine the right of indigenous peoples to a favorable environment, but it does envisage the right of small indigenous peoples to participate in monitoring compliance with federal and regional environmental protection laws when lands and natural resources are used for industrial purposes.

## REPUBLIC OF KHAKASIA

The systematic failure to comply with sanitary norms and rules regulating coal company activities is having a grave effect on the life and health of the population of Khakasia. The mortality rate from cancer in Khakasia grew by 10.3 percent over

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35 Rio Declaration on Environment and Development (1992), [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf)

36 Website of the Convention on Biological Diversity: <https://www.cbd.int/>



five years and 14.2 percent over ten years, with cancer of the lungs, trachea, and bronchial tubes ranked highest (42.1 cases per 100,000 people).<sup>37</sup> According to the Ministry of Health, in 2017 Khakasia ranked third among Russian regions for one-year mortality rate from cancerous diseases.

## Air pollution

Unlike mines, pits spew a tremendous amount of dust into the air during the mining and transportation of coal, and also during its processing at coal preparation plants. This dust contains coal particles, unburned explosives, and mine dust (mineral particles and/or debris) that is toxic for animals and people and gives rise to a whole range of oncological illnesses and other respiratory illnesses like pneumoconiosis, emphysema, chronic obstructive pulmonary disease, asthma, and others. Air pollution has become one of the most acute environmental problems not just on the territory of Koybalskaya Steppe, but also in the Republic of Khakasia in general, since the bulk of the population lives in districts that have a concentration of hazardous substances in the atmosphere that regularly exceeds permissible norms.

At open-pit mines, coal is consistently mined using powerful explosions. During an explosion, about 500 tons of dust rises to a height of 1,500 meters; this dust disseminates within four to six hours within a radius of dozens of kilometers from the pit, falls on soil and vegetation consumed by animals, and pollutes the rivers and wetlands of Koybalskaya Steppe.

The industrial roads used to transport coal are also a problematic source of dust. For example, Arshanovsky Pit built an industrial road for transporting coal along the territory of Shalginovo, right next to the homes and plots of local residents, even though all the rules state that industrial roads should be located outside of residential areas. Village residents get no rest from the never-ending rumble of trucks and feel short of breath from the dust:

***"I was born here, grew up here, have lived here all my life. I'm a pensioner. My parents and grandparents also lived here, we had our own family farm, our own vegetable garden. We have farmed here with our own labor for as long as I can remember. Potatoes, cabbage, carrots, tomatoes, everything grew here. Until 2012, we were surrounded by***

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37 Data from the Republic of Khakasia's regional program "Combatting Oncological Diseases," approved June 28, 2019 <http://docs.cntd.ru/document/553382740>

*the flowering steppe. The skylarks sang, the ducks moved in, and the herd grazed. But nature started gradually dying in 2012. Our village is constantly enveloped in smog, since the pit is too close. Nothing grows well anymore. When you water the vegetable patch in the summer, dirt runs off the leaves. Pesticides build up in the plants, and we don't know if we can eat them. But we do because we have no other choice. Everything is expensive at the market, and we have less and less money, since the expanding pits have forced us to reduce the amount of farming we can do. In addition, the surface of the water that we pump from the ground for our livestock becomes covered with coal dust almost immediately. The animals drink this water, eat bad hay, and don't gain weight, which means that our meat is not sold. Since 2017, another affliction has been the industrial road from Arshanovsky Pit, which heavy load trucks use day and night to transport coal. Sometimes 10 trucks in a row pass by. According to the rules, the road should have been laid no closer than 500 meters to the village, but here it's only 25 to 30 meters from my house. We can't breathe here in the summer because the dust is so thick you can't see the streets. We all breathe this. We always used to dry our laundry outside, but if you hang it out now, it becomes grey within an hour and looks like it was never washed."* (S., resident of Shalginov Village. Interview with ADC Memorial, March 16, 2020)

*"Operations were stepped up at Mayrykhsy Mine in 2018. At about the same time we learned that our lands were subject to seizure in favor of the coal companies. Since then, we've been suffocating and dying from the coal. There was barely any snow this winter, and we were suffocating from the coal dust. In the summer we suffocate at home and at work in the fields. All the hay, all the grass, all the vegetation is always covered in soot. Even the rain doesn't wash off the dirt and the coal dust that covers the entire steppe."* (N., resident of Shalginov Village. Interview with ADC Memorial, March 16, 2020)

In 2019 Mayrykhsy Mine commissioned Chinese-produced FGX-48A separators that local residents dubbed "coal dragons." When these separators are in operation, they discharge a colossal amount of black coal dust containing phenol and other toxic substances. Black smoke can be seen over the steppe in almost any weather. It settles on the land and nearby lakes and also falls on the territories of the Khakas villages of Arshanovo and Shalginovo, which are located two kilometers from the separating plant. According to representatives of Mayrykhsy Mine, an excess of the maximum permitted concentration was not recorded on the borders of the sanitary protection

zone during operation of the separators,<sup>38</sup> but local residents spoke about a black soot that filled the air, covered snow and lakes, and made it difficult to breathe. In the first days of the separators' operation, the Ministry of Natural Resources and the Environment of Khakasia tried to explain the appearance of coal smoke as a result of commissioning work done with the separators and the selection of effective dust separation equipment.<sup>39</sup> However, in March 2020, six months after these statements, Arshanov residents continued to observe black "tails" extending from the separators' pipes:

***"According to all the rules, separating plants must be built to purify the coal. This equipment is in use here. It is located next to the villages of Arshanov and Shalginov. When the separators are operating, they discharge a large amount of coal dust and dirt, as well as phenol and other toxic substances. The emissions threshold allowed under the environmental impact assessment for one separator is 800 tons per year. As of today, four separators are in operation, and not one of them has undergone a state environmental impact assessment and, accordingly, has not been granted permission to operate. Special expensive dust separating filters must be installed in this equipment to obtain a permit. This is not cost effective for the coal companies, so they started using the equipment without these filters, and the Ministry of Natural Resources simply closes its eyes to this." (Resident of Arshanov. Interview with ADC Memorial. March 16, 2020.)***

After environmentalists published a video of the emissions of coal dust from the "coal dragons" online and appealed to the Federal Service for Supervision of Natural Resource Usage, an environmental commission came to work in Abakan in February 2020. During the entire visit, none of the "dragons" was in operation and the air was clean. Around March 11, when the commission had concluded its work, the separators started operating again, but not at full power, thus creating the appearance that the concentration of emissions had been significantly reduced. However, they continue to operate as usual with the onset of darkness and until the early morning.

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38 "Mayrykhsky Mine Shows 'Dragons' to Journalists." Article on the results of a press tour at the mine, February 6, 2020 <http://www.19rus.info/index.php/ekonomika-i-finansy/item/119698-razrez-majrykhskij-pokazal-drakona-zhurnalistam>

39 Report of the press service of the Ministry of Natural Resources and the Environment of the Republic of Khakasia, media report, December 2, 2019, "Ministry of Natural Resources of Khakasia Discloses Owner of Coal-Breathing Dragon." <http://www.19rus.info/index.php/ekonomika-i-finansy/item/111098-minprirody-khakasii-raskrylo-vladeltsa-ugledyshashchego-drakona>



"Coal Dragon" of Mayrykhsky Mine. Photo by Vyacheslav Krechetov

*"You can barely see them during the day, but there's still a lot of dust. I rode my horse on the steppe today. My workers didn't recognize me when I returned to the aul. My whole face was black from the coal dust, like a miner. Only my eyes and teeth were visible. At night, when the "dragons" are turned all the way up, enormous clouds of dust fly across the steppe. If you go out on the street and look at the streetlamp, you can see black flakes. In the morning, the snow and grass are black. When we spoke with representatives of the mines and complained that we were suffocating from the coal dust, the deputy director of Arshansky told us that the coal dust had the same effect as activated charcoal tablets. (Resident of Shalginov Village. Interview with ADC Memorial, March 16, 2020.)*

The mine's activities were reviewed by the Federal Service for Supervision of Natural Resource Usage, whose act of February 20, 2020<sup>40</sup> recorded violations in the separators' operation: The separators owned by the mine can only clean coal with a moisture content of three to five percent, while the actual moisture content

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40 In the possession of ADC Memorial.

of the coal was 15.7 percent; in addition, the mine had never received a comprehensive environmental permit for operation of the separators. Violations were also noted in the operation of dust separators and the cleaning and drainage systems, along with a sizable exceedance of air pollution standards.

There are now numerous modern technologies for dust control at industrial sources of dust that are required by sanitary rules and norms for coal companies.<sup>41</sup> For example, advanced purification filters must be used when coal is cleaned, and special patterns for laying explosive devices must be followed to reduce dust emissions; the explosions themselves can only take place with low winds and with the use of effective means of dust control. To reduce the amount of dust raised during the transportation of coal, heavy load vehicles must limit their speed, truck routes must be moistened or bound by special irrigation equipment, and the roads themselves must be laid far from populated areas. Water jets must be used regularly when coal is loaded into cars or haulers, while the loading itself must take place in a closed enclosure. Coal companies must comply with these and other requirements to ensure favorable conditions for human life and activities and environmental protection. However, not one coal company operating in Khakasia has taken advantage of any of these methods because of their high cost and the general trend to reduce expenses on the environment.

## **Pollution of the aquatic environment and depletion of water bodies**

Because of the heightened anthropogenic burden on the hydrosphere that comes with coal mining, the rivers and lakes of Koybalskaya Steppe have started to grow more shallow, the quality of water has deteriorated, fish have started dying, and birds have been forced to nest in other, less suitable places. Environmentalists say that aside from emitting toxic substances into the atmosphere, Mayrykhsky and Arshanovsky mines have not taken any water treatment measures required by environmental protection laws.<sup>42</sup>

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41 Sanitary Rules and Norms 2.2.3.570-96 "Hygienic Requirements for Coal Companies and Organizational Management." <http://docs.cntd.ru/document/1200031423>

42 Subclause 15.2.1 of Clause 15 of the Sanitary Rules and Norms for Coal Companies: "Drainage and effluent water pumped out of mines and pits after being used in treatment processes at coal-preparation and briquetting plants and utility fluids can only be discharged into reservoirs after these waters have been effectively purified and decontaminated."

Numerous lakes and small rivers have dried up with the development of the coal industry in Koybalskaya Steppe. Of all the bodies of water on the steppe, Lake Mayrykhol, which has served as a fishing ground for the Khakas since ancient times, has suffered the most. This lake is polluted with toxic discharge, and ever-expanding mounds of overburden are encroaching on its shores. The discharge of untreated water and coal dust that falls from the mounds into the water from the loading complex and industrial roads in the immediate vicinity have turned the lake into a “dead zone” where the flora and fauna are dying out.

Under the law, water must be treated by building an entire series of hydraulic structures, some of which are non-freezing clarification ponds that can remove phenols, cyanides, petroleum products, hydrogen sulfide, and arsenic year-round. Coalstar, a company that mines coal on the territory of Mayrykhsy Mine has stated the *“the company has invested three million dollars in environmentally friendly objects and measures, most of which has been put into building treatment facilities for pit water.”*<sup>43</sup> Arshanovsky Mine’s website also states that *“drainage and effluent water from the pit are treated.”*<sup>44</sup>

Environmentalists, however, believe that both coal companies are using the cheapest and least effective water treatment methods. In addition, treatment facilities are not operated correctly and technical regulations are not followed. For example, if artificial clarification ponds where water is supposed to clarify are even present at pits, then they are improperly constructed and can only work during warm times of the year because they freeze in winter. This means that in the winter water bypasses the clarification and purification process and empties directly into bodies of water.

A considerable volume of waste water containing remnants of explosive materials, petroleum products, heavy metals, and other hazardous alloys are discharged into drainage areas and water bodies without being treated, which causes sedimentation, salinization, and acidification, poisons flora and fauna in the water, and almost completely excludes future use of the water from these bodies for household or agricultural purposes:

***“The idea is that the water they drain from the pits should first go to a settling basin for purification, but these basins cannot handle the volume, so they discharge water directly into the river. Arshanovsky’s settling basin is located on an embankment. If you walk up to it, you can see small***

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43 Coalstar’s website, <http://coalstar.ru/responsibility/>

44 Arshanovsky Mine’s website, <http://ra19.ru/ohrana-okruzhayushhej-sredy/>

*streams of cloudy water running right into the Abakan. The rules state that pits must follow the criteria and norms for water discharge given by the Yenisei Basin Authority, but they ignore them. They are sued, then they dispute these instructions, pay some fines, and continue to discharge this water. Because of this, almost all the fish disappeared from the Abakan last year. On December 20, 2019, all of the fish in Lake Turpanye were poisoned. This is a catastrophe for me as a fisherman. I went fishing last week. I made a hole in the ice and started fishing, but I didn't get a nibble for a long time. When I lowered my camera under the ice to see what was going on, I saw that all the fish were floating belly-up and the algae was wilting. Fisherman said the same thing is happening at Sorokaozerki." (N., resident of Arshanov. Interview with ADC Memorial, March 16, 2020.)*

In addition, the explosive work being done at the pits harms the already decrepit underground water supply pipes, which affects the quality of drinking water. The results of a monitoring survey of drinking water quality in Khakasia conducted by the Russian consumer protection agency Rospotrebnadzor in 2019 show that nearly 25 percent of water pipes in rural districts do not meet hygienic requirements.<sup>45</sup>

According to data from the state report "On the Condition of the Environment in the Republic of Khakasia in 2018," water in the Abakan River flowing in the zone of the coal mining companies is classified as polluted.<sup>46</sup> Local residents are convinced that the water pumped from the pits is not treated and is discharged directly into the Abakan, which provides drinking water to hundreds of thousands of residents of the entire republic through water intake facilities.

So-called cones of depression that change the position and level of groundwater started to appear in the coal mining area because of the need to constantly pump millions of tons of water from the open pits. An example of this is the gradual drying up of the ancient riverbed of the Abakan, which flows through sections of the Mayrkhsky Mine. The network of subterranean streams of the Abakan, which formed

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45 Results of a monitoring survey of drinking water quality in the Republic of Khakasia for the first six months of 2019, published on the website of Rospotrebnadzor for the Republic of Khakasia, <http://19.rospotrebnadzor.ru/>

46 Government of Khakasia, RF Ministry of Natural Resources and the Environment. State report "On the Condition of the Environment in the Republic of Khakasia in 2018." Abakan, 2019. <https://r-19.ru/upload/iblock/22d/Gosdoklad-O-sostoyanii-okr-sredy-RKH-v-2018.pdf>



hundreds of years ago as the result of mud accumulation and overgrowth, is part of a single hydrosystem that feeds the lakes and rivers of Koybalskaya Steppe and is under threat of completely drying up. As of today, environmentalists know for certain of at least one case when an unnamed lake located near Mayrykhsy Mine that received water from the ancient riverbed of the Abakan dried up completely.

For this same reason, drinking water in wells has started to vanish and has almost completely disappeared from the villages of Bely Yar and Arshanovo:

*“When a cone of depression forms, all the water flowing under the earth fills up the empty space that was created after the pumping, drying up the soil within a radius of dozens of kilometers. This has a destructive impact not just on plant and animal life, but also on human life and activities. Khakas villages, which never had any problems with water for many centuries, are now watching the water gradually disappear. Water has started to disappear from irrigation canals and wells. Residents of villages not too far from the pits have had to drill deeper wells. Villages located on higher ground no longer have any water at all. It can’t even be reached with deeper drilling. If the coal is continued to be mined, soon there won’t be any water anywhere at all.” (Resident of Arshanov. Interview with ADC Memorial. March 16, 2020.)*

## Pollution of the environment with industrial waste

The coal industry is the source of a tremendous amount of industrial waste, most of which is never utilized and instead remains on the territories of the coal pits and surrounding areas for years. Only 1.5 to 2 percent of raw materials used by the coal industry turns into product, while the remainder forms sludge and other types of waste that pollutes the environment with carbon dioxide, nitrogen, soot, and other harmful substances.

According to data from the state report “On the Condition of the Environment in the Republic of Khakasia in 2018,”<sup>47</sup> coal mining creates over half of the total amount of waste (54.2 percent). The list of companies that are the main source of waste generation was led by several coal companies in 2018: In one year, SUEK-Khakasia generated 141,092.1 tons of waste, Vostochno-Beysky Mine created 44,327.3 tons of waste, Arshanovsky Mine generated 41,270.5 tons of waste, and Mayrykhsy Mine created 18,591.4 tons of waste.

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47 Ibid.



Coal waster piles near the village of Shalginov. Photo by ADC Memorial

In addition, the exploitation of coal leads to the formation of waste piles of overburden - artificial embankments consisting of coal production waste and the waste rock that covers coal deposits and is removed during open-pit mining. The waste piles, like the pits themselves, have forever destroyed the thin, fertile layer of steppe soil and are laying waste to the exceedingly fragile ecosystem of Koybalskaya Steppe. Environmentalists estimate that the over 1,000 hectares of land on the steppe have been disturbed by the exploitation of coal deposits.

The Vostochno-Beysky, Kirbinsky, Arshanovsky, Mayrykhsky, and Beloyarsky mines have added to the area of waste piles every year since coal started to be actively mined on the territory of Koybalskaya Steppe. Areas previously used for grazing, haymaking, and crop growing have started to shrink and are becoming unsuitable for human life and activities. The waste piles also surround many villages.

*"I've lived my whole life in Shalginov, just like my ancestors. I set up a farming business in 2009 and worked as a farmer until 2015, when I started receiving a pension. I transferred everything to my son. In 2018,*

*operations were stepped up at the pit. Several years ago, I used 25 hectares of leased land, but it was seized and is now covered with waste piles and garbage instead of grassy fields.” (Resident of Shalginov. Interview with ADC Memorial, March 16, 2020.)*

In accordance with current environmental protection laws, to reduce stress on the environment coal companies must recultivate<sup>48</sup> the land, that is, restore the productivity and economic value of disturbed lands. The cost of the recultivation process lies squarely on the coal companies.<sup>49</sup> However, since recultivation, like building expensive treatment structures and taking other measures to protect the environment, is a massive, expensive, and unprofitable process for coal companies, the company’s assurances that they will treat the environment with care are generally empty and mean that the waste piles will remain part of the steppe’s landscape forever.

To reduce expenses, coal companies use an approach that envisages cleaning up and recultivating the land only upon completion of the deposit’s development, even though preventive measures should be the main means for reducing the volume of waste. This loophole means that coal companies can circumvent the requirements of the law and, in so doing, avoid any liability as well.

*“I have a peasant farm enterprise in Khyzyl Solda. It is three kilometers from Arshanovo. When I arrived here in 2009, there was a beautiful, flowering steppe with many birds, who rested here during their migration. In 2016, Arshanovsky Mine became part of our territory, and now the pasture is surrounded on all sides by waste piles. Under law, these should be flattened out and recultivated with time. The fine for failing to recultivate is about 700,000 rubles. However, since recultivation cost many millions and the coal companies operating here generally have a charter capital of 10,000 rubles, they don’t do anything. After they finish exploiting the deposit, they just declare bankruptcy and leave, while the waste piles and mining spots remain. At public hearings, our activists demanded that the coal companies create recultivation funds, but they ignored this. (N. resident of Arshanov. Interview with ADC Memorial, March 16, 2020.)*

Many scientists believe that ecosystems disturbed by coal mining cannot be fully restored because the current level of scientific and technological develop-

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48 Subclause 6 of Clause 1 of Article 13 of the RF Land Code.

49 Resolution of the RF Government “On the Recultivation of Lands and the Removal, Preservation, and Sustainable Use of the Soil’s Fertile Layer” No. 140 of February 23, 1994.

ment does not allow for this. This problem could be resolved by “rehabilitating” corrupted lands, specifically through “biological rehabilitation,” which envisages the transfer of disturbed plots to a special nature use regime. The question of this special status was raised with the RF Federal Service for Supervision of Natural Resource Usage in relation to Sorokaozerki, but it was never addressed.

*“The entire coal economy is built on lies, which include promises that will go unfulfilled in the future. When discussing this matter, it’s important to remember that there is no such thing as complete recultivation of the land. It is impossible to fully restore lands that were destroyed for open coal pits. The main postulate for open-pit mining is that the land is destroyed forever. Not one coal company in Russia has restored the soil layer at any waste pile anywhere. There are no examples of this. There have been cases when a waste pile is made more low-pitched using special equipment and planted with trees. But that’s the most recultivation is capable of. At the same time, the pit itself is drowned in water. There cannot be any talk about agriculture on a pit’s territory after the pit is closed. I can use Kuzbass as an example. According to official data from the Coal Industry Department for Kemerovo Oblast, in 2019 less than 1.5 percent of the recultivation work listed in the plan was completed. In addition, recultivation requires colossal expenditures, which no coal company will go for because that will raise the price of coal and no one will buy it.” (Anton Lementuev, Russian environmentalist group “Ecodefense”. Interview with ADC Memorial, March 2020.)*

The expansion of coal waste piles, which could potentially destroy agriculture on Koybalskaya Steppe, is far from the only threat acknowledged by environmentalists and local residents. Khakasia is located in a seismic zone, and the heavy mass of overburden rock moved during the exploitation of mines changes the pressure on the mantle in different parts of the steppe and can cause earthquakes. Earthquakes ranging in magnitude from 3.5 to 6 occur at least once a year in Khakasia. An earthquake with a magnitude of 3.5 was recorded as recently as March 6, 2020. Seismologists classified the cause of this earthquake as “an explosion in a pit.”<sup>50</sup>

Environmentalists fear that frequent earthquakes could cause a true environmental catastrophe in addition to damaging underground communications lines and residential structures. The Sayano-Shushenskaya hydroelectric power station,

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50 Media report citing the Altai-Sayansk branch of the Geophysical Service of the Russian Academy of Science, March 6, 2020<https://tayga.info/152762>

which is the fifth largest hydroelectric power station in the world and is located 70 kilometers from Abakan, is cause for alarm. The coal mines of Koybalskaya Steppe present a danger to this hydroelectric station because of its construction: The station stands on shifting rock formation and provides for approximately 60 percent of its stability and density with its own weight and the support of its upper part by the ridges between which it is located. The mobility of the rock formation makes the station particularly sensitive to external impact, and earthquake shocks could directly impact it, even though its seismic stability is approximately eight points. In addition, microcracks have formed in its body over its years of operation, which makes it unstable and potentially dangerous.

*"In 2013, the largest technogenic earthquake in the world occurred in Kuzbass; it was precipitated by industrial activity. It happened because a fairly large mass of overburden located next to the pit was seized over a short period of time. At the epicenter, the rate of tremor was eight points and the magnitude was 6.1. This is an enormous amount of energy. Since any area with high seismic activity where large-scale stripping work is taking place is prone to earthquakes, no one can guarantee that the earthquakes that happen in Khakasia will not have an impact on the future of the Sayano-Shushenskaya hydroelectric station." (Anton Lementuev, Russian environmentalist group "Ecode-fense". Interview with ADC Memorial, April 2020)*

*"If something happens and the hydroelectric station is destroyed, the water will go to the Krasnoyarsk reservoir, wiping out half of Khakasia and Krasnoyarsk Krai, and then on into the Arctic Ocean." (Environment activist, resident of Abakan. Interview with ADC Memorial, March 2020.)*

## KEMEROVO OBLAST

The environmental situation in Kemerovo Oblast is one of the worst in Russia. The area's high level of industry has led to the irreversible destruction and degradation of the soil, the pollution of subterranean and surface waters, air pollution, and the loss of native flora and fauna.

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 man-made burden on all the components of the region's natural environment.<sup>51</sup>

Life expectancy for the average citizen of Kemerovo Oblast is three to four times lower than for Russians on average, and cases of tuberculosis exceed the average level for Russia by a factor of 1.7. Chronic respiratory illnesses are extremely common and are seen in 23.5 percent of patients seeking medical care. Over the past decade, the frequency of illness among pregnant women has jumped by a factor of five. The maternal mortality rate is twice as high as the average Russian rate.<sup>52</sup> The rate of 15 oncological diseases in the region is higher than the average for Russia, and for seven of these diseases, the rate is higher than the average for the Siberian Federal District).<sup>53</sup>

The region ranks second in cancer mortality rate, which rose by 4.5 percent to 236.1 per 100,000 people between 2009 to 2018 (this is 7.4 percent higher than the average for Russia).<sup>54</sup>

Almost 80 percent of Kemerovo Oblast residents live "on coal" or in an area affected by coal pits. Only 30 percent of the territory, which is home to five to 10 percent of the population, meets satisfactory environmental conditions.<sup>55</sup>

A joint academic study of the environmental state of Kemerovo Oblast conducted by researchers at Saint Petersburg Mining University in 2005-2006 showed that Novokuznetsky District, where many Shor villages are located, is in

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51 Collegium of the Administration of Kemerovo Oblast, Resolution No. 362 on the approval of the state program of Kemerovo Oblast - Kuzbass "Ecology, Subsoil Use, and Sustainable Water Use" for 2017–2024 of September 16, 2016, <http://docs.cntd.ru/document/441678826>

52 Heinrich Böll Foundation, Friends of Earth International, Ecodefense!, "Coal Atlas: Facts and Figures of Fossil Fuels, 2016," <https://tr.boell.org/sites/default/files/coalatlas2015.pdf>

53 Ecodefense!, The Price of Coal: The Impact of Coal Mining in Russia on the Environment, Local Communities, and Indigenous peoples, 2015-2016, <https://ecdru.files.wordpress.com/2016/05/kuzbass-rus.pdf>

54 Government of Kemerovo Oblast - Kuzbass, Resolution on the Approval of the Regional Program "Fighting Oncological Diseases in 2019–2024" No. 385 of June 27, 2019, <http://docs.cntd.ru/document/561432911>

55 Balashova, T.A. "The Environmental Problems of Kuzbass," *Advances in Modern Natural Sciences*, 2004, no. 11, <https://www.natural-sciences.ru/ru/article/view?id=13678>

a zone of active anthropization, where the air, water, and disturbed lands are in catastrophic condition.<sup>56</sup> These data were obtained when the level of coal mining in the region was two times lower than today.

The coal industry's catastrophic impact on traditional places of residence of the Shors has been recently described in a number of human rights reports, speeches, and public appeals, including in the recent Appeal of Deputies of Novokuznetsky District to the Prime Minister and Energy Minister of the Russian Federation (2020):

*"The traditional territories of residence of the Shor small indigenous people and their traditional way of life, farming, and trades are being destroyed in the most direct sense (the village of Kazas has been destroyed, the village of Chuvshka is surrounded by three pits). Ignoring various warnings about the unique aspects of nature and in violation of environmental protection laws, the pits continue their march across specially protected wetland areas. They are destroying and polluting surface water bodies (taiga rivers flowing into the larger Mrassu and Tom rivers and into lakes) without trying to protect them from effluent from waste piles, roads, and the coal dust falling onto the vegetation of the Shor taiga. This takes the land out of circulation for many hundreds of years! There are still corners of the natural world in Kuzbass that can be transformed into a Mecca for tourists, but everything is being handed over for coal mining."<sup>57</sup>*

## Air and noise pollution

According to official data from the Southern Siberian Interregional Department of the Federal Service for Supervision of Natural Resource Usage, in 2019 a total of 1.8 million tons of pollutants were released into the atmosphere of Kemerovo Oblast, which represents a jump of 13.1 percent over 2018. Of these pollutants, 31.6 percent were emitted into the air without being treated and 68.4 percent

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<sup>56</sup> The Environmental Capacity of the Natural Environments of Kemerovo Oblast. Prospects for Industrial Development, 2008. <https://ineca.ru/?dr=library&library=bulletin/2008/0128/009>

<sup>57</sup> Kuzpress, "Seven Deputies from Novokuznetsk District Send Appeal to Prime Minister M. Mishustin and Energy Minister A. Novak, 2020. <https://kuzpress.ru/ecology/14-03-2020/73615.html>



passed through treatment facilities.<sup>58</sup> The bulk of emissions were released by coal production and processing companies, and every additional one million tons of coal mined results in a four percent increase in air pollution.<sup>59</sup> Open-pit mines, explosions at them, industrial roads, and loading stations are the main sources of the coal dust that pollutes the air. It is not surprising that the most common forms of cancers in Kemerovo Oblast are tracheal, bronchial, and lung cancers.<sup>60</sup> From 2004 to 2017, the number of people suffering from bronchial asthma doubled from 19,500 to 33,400.<sup>61</sup>

According to data from the Ministry of Natural Resources and the Environment of Kuzbass, over the past 10 years the total volume of air emissions increased by 5.6 percent. The average level of harmful pollutants in the air exceeded the maximum allowable concentrations in Russia by several times, and the level for a number of other indicators was dozens of times higher.

Novokuznetsk District and Novokuznetsk rank first in emissions (34.7 percent), with Mezhdurechensky District and Mezhdurechensk, which have high Shor populations, in second place.

According to data from the Russian consumer protection agency Rospotrebnadzor, in Kemerovo Oblast 1,818 businesses and factories require a sanitary protection zone, but only 198 of these (10.9 percent) have a resolution or decision

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58 Ministry of Natural Resources and the Environment of Kuzbass, Report on the State and Protection of the Environment in Kemerovo Oblast - Kuzbass in 2019, <http://ecokem.ru/wp-content/uploads/2020/06/gd2019.pdf?fbclid=IwAR266Eb11whVpv-zodEm-1f027716tvPkXKPJLu8f4fpon4o2ctewoAgS5Wl>

59 Ecological Capacity of the Natural Environment of Kemerovo Oblast. Prospects for Industrial Development, 2008 <https://ineca.ru/?dr=library&library=bulletin/2008/0128/009>

60 Government of Kemerovo Oblast - Kuzbass, Resolution on the Approval of the Regional Program "Fighting Oncological Diseases in 2019–2024" No. 385 of June 27, 2019, <http://docs.cntd.ru/document/561432911>

61 ChS-info, "The Blackest Snow," December 20, 2019 <https://4s-info.ru/2018/12/20/samyj-chernyj-sneg/>

concerning the creation of such a zone.<sup>62</sup> Even when companies do install treatment facilities, these facilities are either ineffective or are not in constant operation. For example, Kiyzassky Mine, which operates on Shor lands near Myski, started shipping product in March 2014, but did not commission treatment facilities until 2018.<sup>63</sup>

*“They started to blow up our sacred mountain – Lysaya gora. They say the explosions here were more terrifying than nuclear war, like in Hiroshima. Mushroom clouds sprouted after the explosion. They were yellow, black, there was so much smoke. And this all went to the village.” (Zinaida Sverdlova, Kazas resident)<sup>64</sup>*

*“The cloud rose a hundred meters – it was an orange explosive. And wherever that cloud went, wherever the wind blew it, the forest was on fire. A mine representative said: ‘Well, that’s not our fault, that’s nature, the cloud followed the wind.’” (Kazas resident)<sup>65</sup>*

A coal loading station is operating in the village of Borodino, where Shors and others live, but it has never been officially commissioned and does not have the sanitary protection zone stipulated by law. The situation did not improve even after dust suppression equipment was installed at the station. In 2019, Borodino residents ordered an independent expert assessment of the snow, which they paid for themselves; the assessment found that suspended materials exceed the norms thousands of times over:

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62 The Federal Service for Supervision of Consumer Rights and Human Wellbeing, Department of the Federal Service for Supervision of Consumer Rights and Human Wellbeing for Kemerovo Oblast - Kuzbass. The state report “On the Sanitary and Epidemiological Wellbeing of the Population of Kemerovo Oblast - Kuzbass in 2019,” 2020, pg. 31 <http://42.rospotrebnadzor.ru/upload/iblock/ffc/ffcbe30110e690010e27c89a01bb26e2.pdf>

63 Central Council of the Small Indigenous Peoples of the North, “The Law was not Written for Kiyzassky,” October 2, 2018, <http://www.csipn.ru/korennye-narody-i-promyshlennye-kompanii/4167-kijzasskomu-zakon-ne-pisan>

64 Vyacheslav Krechetov, documentary film “Tsena” [Price], 2017, <https://www.youtube.com/watch?v=4u3CxdhZU>

65 Vyacheslav Krechetov, documentary film “Tsena” [Price], 2017, <https://www.youtube.com/watch?v=4u3CxdhZU>



The smoke from the explosions covers the surroundings of the Shor village Kazas.

Photo by Nelly Tokmagasheva

***“None of these measures have done anything. I can objectively say that it hasn’t gotten worse. But it hasn’t gotten better either, not by an inch. Everything remains as it was. It’s a constant. And all these defensive walls - they need to show people what they’re doing. But there’s no use from them whatsoever.” (Vladimir Salnikov, resident of Borodino.)<sup>66</sup>***

Many companies do not meet sanitary and epidemiological requirements for noise level, which is significantly increased by dump trucks and explosions. The transport of coal also contributes to higher concentrations of fine particles in the air. Coal dust penetrates into homes through cracks, even when the windows are closed:

***“We are being overrun with dirt. The children have nowhere to play, everything is covered in dirt. Mothers complain that they can’t get it all out of the clothes. The windows are always dirty, there’s nothing good. Many people are already trying to flee this place, so there aren’t any conditions.” (Sergey Grazhul, Borodino resident.)<sup>67</sup>***

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66 Interview, April 9, 2020, <https://www.youtube.com/watch?v=YXdLrWsdBmk>

67 Interview, April 9, 2020, <https://www.youtube.com/watch?v=YXdLrWsdBmk>

The falling of black snow containing sulfur compounds, nitrites, nitrates, chlorides, and potassium and manganese ions is the clearest evidence of the catastrophic poisoning of the air.<sup>68</sup>

In recent years there have been underground fires at pits and adjoining territories of waste rock in Kiselyovsk and other cities in Novokuznetsky District. After a fire in Kiselyovsk in June 2019, residents decided on a desperate step: They wrote an open appeal to Canadian Prime Minister Justin Trudeau and UN Secretary-General Antonio Guterres requesting refugee status in Canada. In their letter, they complained of air pollution from coal dust and subterranean fires raging in coal mines that had not been properly closed.<sup>69</sup>

## Pollution of water, rivers, and reservoirs

Every year over half a million cubic meters of dirty effluent is discharged into the water bodies of Kemerovo Oblast.<sup>70</sup> The longest river of Kuzbass, the Tom, is polluted along its entire length by petroleum products, phenols, nitrite nitrogen, ammonium nitrate, iron, manganese, and copper.<sup>71</sup>

Two of the Tom's tributaries - the Aba and the Uskat - have had a detrimental impact on the quality of its water. The Federal Service for Supervision of Natural Resource Usage has categorized both rivers as "dirty." The Inya River is also "highly polluted," mainly with iron and organic compounds. A surfeit of manganese, iron, and organic compounds has been noted in Belovskiy Reservoir. The rivers in the north of the oblast - the Kiya, Yaya, Tyazhin, Baras, and Alchedat - are pol-

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68 Ecodefense!, The Price of Coal: The Impact of Coal Mining in Russia on the Environment, Local Communities, and Indigenous peoples, 2015-2016, <https://ecdru.files.wordpress.com/2016/05/kuzbass-rus.pdf>

69 Residents of Kiselyovsk in Kuzbass Request Refugee States from Canadian Prime Minister, Sibreal, June 9, 2019 <https://www.sibreal.org/a/29989042.html>

70 Heinrich Böll Foundation, Friends of Earth International, Ecodefense!, "Coal Atlas: Facts and Figures of Fossil Fuels, 2016," <https://tr.boell.org/sites/default/files/coalatlas2015.pdf>

71 Ministry of Natural Resources and the Environment of Kuzbass, Report on the State and Protection of the Environment in Kemerovo Oblast - Kuzbass in 2019, <http://ecokem.ru/wp-content/uploads/2020/06/gd2019.pdf?fbclid=IwAR266Eb11whVpv-zodEm-1f027716tvPkXKPJLu8f4fpon4o2ctewoAgS5Wl>

luted with iron, petroleum products, organic compounds, and nitrogen compounds. Local water bodies are polluted with coal dust.<sup>72</sup> Many natural inflows have been polluted, including ones that cover mines and pits. In many cases, coal pits have a depth of up to 350 meters, while aquifers are located 200 meters below the surface. This means that groundwater suitable for drinking also drops lower.

In 2018, Shor activists and environmentalists announced that 10 bodies of water on traditional Shor territories were severely polluted over the five years of Kiyzayssky Mine's operations and that some of these bodies of water were spawning grounds for red list species.<sup>73</sup>

The Kazas and Mrassu rivers, which flow through Shor villages and are formed from sources in the mountains, were pristine before the coal industry arrived. The Kazasik spring used to be the main source of drinking water and a place for fishing. The fish started to disappear after the Mezhdurechensky and Krasnogorsky pits opened, and the water became unsuitable for drinking or food preparation. The wells that people started digging for drinking water also started to collect dirty water:

*"At one time, this was an ideally clean river used for spawning, there were lots of fish. And you could drink from the shore all summer without worrying. People came, cupped their hands, and drank. Now if you look at the grass along the shore, you'll see that it's all coal formations. It's not clay, it's coming from the pit. There are no settling basins - there's nothing. The vehicles are running and their wheels are submerged in water. (Aleksandr Novokshanov, resident of the village of Chuazas, about the Amzas River.)"*<sup>74</sup>

Lake Tayezhnoye was turned into a sludge pit by the coal mine. In 2018, regulatory agencies found concentrations of harmful substances that exceeded maximum permitted concentrations many times over in the Bolshoi Chuzaz because of pollution with effluent from the coal mine; the mine did not rectify these violations.

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72 Ecodefense!, The Price of Coal: The Impact of Coal Mining in Russia on the Environment, Local Communities, and Indigenous peoples, 2015-2016, <https://ecdru.files.wordpress.com/2016/05/kuzbass-rus.pdf>

73 Kiyzassky Coal Mine Cause of River Pollution, October 25, 2018, [https://www.youtube.com/watch?v=\\_gbCwERNyEg](https://www.youtube.com/watch?v=_gbCwERNyEg)

74 Vyacheslav Krechetov, "The Dead Rivers of Shoria," August 22, 2017, <https://www.youtube.com/watch?v=jtNtyyKLTAE>



Water from the Bolshoy Kiyzas River. Photo by Vyacheslav Krechetov

The Bolshaya and Malaya Tetenza rivers are regularly polluted by coal dust from the industrial road laid along the ridge that separates the two rivers. Coal dust covers the ground up to hundreds of meters from industrial roads; this dust then enters rivers from the soil. As required by law, coal collection canals have been built along the roads, but all they do is collect dirt and disgorge it back into the Bolshaya Tetenza.

*"If you walk 100 to 150 meters from the road, all the snow is black, made dirty by the road. Tons of coal dust and dirt seep through the soil into the river in the spring, when the snow melts, poisoning all life. It used to be that when you walked along the taiga, you could collect snow anywhere, melt it, and prepare tea. Now the situation has run to the absurd: when I go to the forest, I bring a bottle of water because I'm scared to drink the water in the forest. If my ancestors knew about this, they would probably make fun of me. (Aleksey Chispiyakov, Shor man, hunter.)"*<sup>75</sup>

In 2019, a landslide triggered by Kiyzassky Mine activities fell into the valley of the Bolshoi Kiyzas River, wiping out and flooding a kilometer-long area and

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<sup>75</sup> Interview, April 9, 2020, <https://www.youtube.com/watch?v=YXdLrWsDbmk>

cedar forest, and thus created a lake. Coal dust and sludge is now collecting in this area. In 2020, a criminal case under Part 1 of Article 217 of the RF Criminal Code “Violation of Industrial Safety Requirements at Hazardous Production Facilities” was opened against the mine. The interdistrict environmental prosecutor’s office is seeking to collect 23 million rubles from the mine for harming the woodlands of Kemerovo Oblast.<sup>76</sup>

On June 9, 2020, the Kuznetsky Yuzhny Mine started construction of a coal loading railroad station near the Shor village Cheremza, at the territories of economic activities of the Shors. A road was chosen for construction that runs up, down, and across the shallow river Kalandas that feeds into the Tom above the Dragunsky water intake facility, which supplies water to Novokuznetsk. However, no special structures were laid across the river and trucks simply drove through it. The path of these heavy trucks was supposed to pass under a railroad bridge, which could have collapsed due to construction works. The coal companies used metallurgical slag with a noxious smell as reinforcing material; this slag was strewn across the road and the bed of the Kalandas.<sup>77</sup>

Opponents of the construction organized an all-night vigil and set up a tent camp; on June 24, they declared a hunger strike. The activists, who cleaned the river of the construction slag, started to have symptoms of poisoning:

***“I went to Cheremza to support the protesters, to report on the events. They said that they themselves had started to pick up the slag in the Kalandas. <...> I started to feel sick. Doctors came and diagnosed a hypertensive crisis. I’d never had blood pressure problems before. It seems the stink from the slag made itself known. Because it was hard to breathe and I got a cough. It appeared to be metallurgical slag because pieces of iron were visible in it. It was like the foam that collects when metal is poured. And it was brought here by the workers who are building the coal loading station and the roads leading to the mine. <...> Many people keeping vigil here say that their health is worsening. (Journalist Larisa Koynova.)”<sup>78</sup>***

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76 Izvestia, “Prosecutor’s Office Demands 23 Million Rubles for Harm to Nature from Bosov’s Companies,” March 31, 2020, <https://iz.ru/993816/2020-03-31/prokuratura-potrebovala-s-kompanii-biznesmena-bosova-vozместit-vred-prirode-na-23-mln-rublei>

77 Activatica, “Protesting Residents of Cheremzy Declare Hunger Strike,” June 24, 2020, [activatica.org/actions/view/id/1412/title/zhiteli-cheremzy-obyavili-golodovku](https://activatica.org/actions/view/id/1412/title/zhiteli-cheremzy-obyavili-golodovku)

78 Slag from the Kalandas Poisons People. July 9, 2020, [https://www.youtube.com/watch?v=7CwL7pN\\_9xY](https://www.youtube.com/watch?v=7CwL7pN_9xY)



In late July of 2020, the Ministry of Natural Resources and the Environment of Kuzbass detected violations in the work of contractors at Kuznetsky Yuzhny Mine and confirmed that large trucks had been illegally crossing the shallow river.<sup>79</sup> Construction had been suspended at the time of this writing.

## **Pollution of the land and the environment with industrial waste**

Kemerovo Oblast ranks first among Russian regions in terms of industrial and household waste per capita and per unit of domestic regional product. In 2018, the volume of waste generation from industrial and household use was 3.6 billion tons, most which came from mining companies, which contributed 3.58 billion tons (99.35 percent) of the total amount of waste generated.<sup>80</sup> The amount of waste is increasing every year - the majority of coal companies use treatment facilities at the end stage of production without devoting attention to preventive mitigation.

Kuzbass ranks second in Russia in terms of depleted lands, that is, lands that have been completely destroyed by coal exploitation. According to data from the Federal Service for Supervision of Natural Resource Usage, the deteriorating quality of the land is connected not just with intensive commercial exploitation, but also with the accompanying adverse processes of erosion, salification, and marsh formation.<sup>81</sup> According to official data, between 2015–2019 the area of acidic soil on agricultural land increased significantly, while amount of labile phosphorous dropped. The amount of acidic soil increased by 9,500 hectares to reach 886,300 hectares, which is connected with the removal of calcium and atmospheric pollution.

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79 TASS, "Large Trucks in Kuzbass Illegally Cross River while Building a Coal Loading Station," July 26, 2020 <https://tass.ru/sibir-news/8820267>

80 Collegium of the Administration of Kemerovo Oblast, Resolution No. 362 on the approval of the state program of Kemerovo Oblast - Kuzbass "Ecology, Subsoil Use, and Sustainable Water Use" for 2017–2024 of September 16, 2016, <http://docs.cntd.ru/document/441678826>

81 Ministry of Natural Resources and the Environment of Kuzbass, Report on the State and Protection of the Environment in Kemerovo Oblast - Kuzbass in 2019, <http://ecokem.ru/wp-content/uploads/2020/06/gd2019.pdf?fbclid=IwAR266Eb11whVpv-zodEm-1f027716tvPkXKPLu8f4fpon4o2ctewoAgS5Wl>

Most recultivation companies are part of coal companies. Considering that the parent company is interested in cutting costs on soil restoration, these companies make token efforts at recultivation with the goal of reporting and not land restoration.<sup>82</sup>

The land in indigenous habitats has become unfit for the traditional economic activities of agriculture and hunting. Cultivated plants that are always covered by coal dust do not provide a large harvest and stop growing. Coal mining companies are destroying the forest flora and fauna, included flora and fauna protected by the Red List. Hunters complain that wild animals and birds have disappeared because of the constant explosions and environmental pollution and that it has become impossible to hunt:

*"I hunted and fished my whole life on the lands where [Kiyzassky] mine is now located. Now in the winter you can walk through the woods for 10 kilometers without seeing a single track. Forget about the animal itself, you won't even see a single track." (Aleksey Chispiyakov, Shor man, hunter.)<sup>83</sup>*

*"We fed ourselves off the taiga starting in the spring. But now that's all been destroyed and we have been left with this moonscape, where there's nothing for your eye to fasten onto. Only holes, rocks, lifeless landscapes." (Veniamin Boriskin, Shor man)<sup>84</sup>*

*"This is our native land, my parents lived here, my grandparents, great-grandparents, great-great-grandparents. Our roots are here, in Chuvashka. But I'm not happy with my life here now. Our village is encircled by companies. There are explosions day and night. My house shakes, and there are always cracks in the walls. This coal dust, it always settles on the vegetable garden, on the house after these explosions. The snow is black in the winter, and everything is filthy. The most valuable things are land and water. The land is all spoiled, and we have hardly any*

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82 Ecodefense!, The Price of Coal: The Impact of Coal Mining in Russia on the Environment, Local Communities, and Indigenous peoples, 2015-2016, <https://ecdru.files.wordpress.com/2016/05/kuzbass-rus.pdf>

83 BBC, "It's like Syria here': Life Next to a Coal Mine," 2018 <https://www.bbc.com/russian/features-46236992>

84 Vyacheslav Krechetov, documentary film "Tsena" [Price], 2017, <https://www.youtube.com/watch?v=4u3Cxdi-hZU>

*drinking water. The stream is cloudy and dirty. Kiyzassky Mine is clouding the water, they don't have a settling basin and they just pour everything into the stream. (Valentina Boriskina, resident of Chuvashka, Shor woman.)*<sup>85</sup>

Places of traditional residence for the Teleuts in Belovsky District, Kemerovo Oblast (the villages of Bekovo, Novobachaty, Shanda, Zarechnoye, Chelukhoevo-Verkhovskaya, and Razyezd 14 km) are also in a state of ecological catastrophe. Territories of traditional activities of the Teleuts have been ravaged by the activities of the Bachatsky (Kuzbassrazrezugol) and Shestaki (Stroyservis) mines. The agricultural enterprise Bayat, which owns 800 hectares of land, found itself surrounded by these pits in 2017; the road to these lands was blocked off, which interfered with sowing time. Many residents of Teleut villages have been forced to abandon their homes and move to more favorable districts because of the difficult environmental situation; they were not offered any compensation for their abandoned property.<sup>86</sup>

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85 7x7, "Kuzbass, Hostages to Coal," December 26, 2016, <https://www.youtube.com/watch?v=KltXerxd1ew>

86 Report of activists, July 2017.

# VIOLATION OF THE RIGHT TO SELF-DETERMINATION AND CULTURAL DEVELOPMENT

The UN Declaration on the Rights of Indigenous Peoples enshrines the right of indigenous peoples to cultural development as one of the aspects of the right to self-determination and protects indigenous cultures from destruction. The Declaration obligates states to take effective measures to prevent and, in the case of violation, protect their rights from, any actions aimed at eroding their identity and cultural values.

The Declaration enshrines the rights of indigenous peoples to develop their culture and traditions, protect and develop the past, present, and future manifestations of their cultures, use and control their ceremonial objects, and preserve and use their cultural heritage (articles 11–15). Indigenous peoples also have the right to practice their spiritual and religious traditions, customs, and ceremonies, the right to protect their religious sites, the right to use ceremonial objects, and the right to repatriation of their human remains. Under Article 32, indigenous peoples have right to determine and develop strategies for the development or use of their lands or territories and other resources, and states shall cooperate with the indigenous peoples concerned to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources.

ILO Convention 169 also obligates states to develop and protect indigenous cultures and the religious and cultural values, practices, and institutions of indigenous peoples (articles 2, 4, 5). The right to develop culture and preserve cultural heritage and freedom of religion are also enshrined in core human rights instruments - the Universal Declaration of Human Rights (articles 18, 27), the International Covenant on Civil and Political Rights (articles 18, 27), and the International Covenant on Social, Economic, and Cultural Rights (Article 15).

The cultural heritage of indigenous peoples is a specific concept that differs from the conventional understanding of cultural heritage. It includes tangible objects and intangible culture, which are defined as the manifestation and reflection of the lifestyle and world view of indigenous peoples, self-determination, and the expression of the spiritual and physical connection with their lands, territories, and other resources. The cultural heritage of indigenous peoples includes traditional

practices and cultural elements in a broad sense - language, art, music, dance, songs, history, sports and traditional games, sacred places, and burial. It also includes biocultural heritage and traditional nutritional and farming systems like specific forms of agriculture, hunting, fishing, gathering, and other forms of accessing natural resources.<sup>87</sup> For indigenous peoples, preservation of their cultural heritage is closely linked to the protection and preservation of their traditional territories of residence.

In Russia, the framework law on state protection of cultural heritage objects is Federal Law No. 73-FZ "On Cultural Heritage Objects (Historical and Cultural Monuments) of the Peoples of the Russian Federation." This law establishes the state's obligation and responsibility to preserve and develop cultural and ethnic identity, protect, restore, and preserve cultural-historical living environments, and protect and preserve sources of information about the origins and development of indigenous cultures in the Russian Federation.

After 10 of the federal law "On Guarantees of the Rights of Indigenous Peoples of the Russian Federation," which was adopted in 1999, enshrines the right of representatives of indigenous peoples to observe their traditions and perform religious ceremonies that do not contravene Russian legislation. However, the law does not provide specific mechanisms for protecting indigenous cultural and religious objects, so the interests of scholars, federal and local authorities, business, religious figures, and indigenous leaders sometimes come into conflict, particularly in relation to the repatriation of ceremonial objects and human remains from museums and collections, which is difficult because of the absence of clearly-defined procedures and criteria for making a decision that takes all opinions and interests into account and involves all the parties in this process.

The spiritual heritage of the peoples of Southern Siberia has faced threats on various fronts over the course of their history: shamanism and pre-shamanistic beliefs were persecuted both before (during the Dzungar Khanate in the XVII-XVIII centuries) and after these territories' accession to the Russian Federation and the population was baptized by the Orthodox Church; in Soviet times, any manifestations of religiosity and ethnic identity were criticized and banned, while religious and ethnic figures were subjected to repressions. It comes as no surprise, then, that today, after the fall of the Soviet government, the formation of a new, eclectic identity that is not founded on accurate ethnocultural traditions is sometimes observed

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87 "Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage: Study by the Expert Mechanism on the Rights of Indigenous Peoples." 2015, <https://undocs.org/A/HRC/30/53>

during the process of indigenous self-determination, particularly for members who were separated from their traditions for a long time. This makes scholars - ethnographers, historians, and archeologists - skeptical, and puts the right of indigenous peoples to preserve and use cultural objects, including natural objects (sacred rivers, mountains, and so forth) in doubt in the eyes of the government and business.

At the same time, local authorities resort to traditional practices in an attempt to eliminate conflicts between coal companies and the population by ordering and paying for shamanistic rituals that have no connection whatsoever to ancient local traditions.

*In 2012, a coal company in Kemerovo Oblast blew up Karagay-Lyash, the sacred mountain of the Shor people where they held rituals in the belief that the spirit of the mountain would protect the nearby Shor village. The authorities justified this action by explaining that a "transfer of spirits" to another place had occurred prior to the mountain's razing, but this ritual was performed at the authorities' order by shamans from another region of Russia who received payment for this. The absolute majority of local Shors did not participate in this ritual and viewed it not as a religious practice, but as an adulteration, believing that the spirits of the mountain could not be moved to a different place.*

The variously understood "return to origins" leads to conflicts between regional indigenous practices and the Orthodox religion, which has been thrust on the population of Russia in recent years. Crosses have been erected on places sacred to indigenous peoples in different regions.

*In 2000, a metal Orthodox cross weighing 7.5 tons was installed on the sacred mountain of Mustag in Sheregesh, Tashtagolsky District, Kemerovo Oblast without the consent of the Shor people. In spite of the public outcry, protests by both the Shor and Russian populations were ignored.*

This report is not going to examine how the religious beliefs our informants spoke of correspond to ancient traditions and their continuation. Instead, what is important within the context of this report is that mining results in the destruction of natural objects and burial grounds and religious and cultural sites that today's population of these territories believes to be a part of its cultural heritage.

This relates not just to ancient sites of worship, which are now archeological sites, but also to the destruction of or restricted access to active cemeteries. As far back as the early 1970s, a cemetery was destroyed along with the Shor settlement of Kurya (the settlement was part of the city of Myski, Kemerovo Oblast, an enormous coal pit currently occupies this spot). Today, Shor people whose relatives are buried at a cemetery located in the ravaged village of Kazas are facing the same problem.



Chaatas in the Koybalskaya steppe of Khakasia. Photo by Eugenia Pruss

***In 2013–2014, the Shor village of Kazas was destroyed by a coal company. Even though a cemetery was located on the territory of this village, entry was closed to any visitors. A checkpoint and security were installed at the entry to the former village, and the Shors cannot freely visit the graves of their loved ones. The situation has not changed in spite of numerous complaints to Russian and international bodies.***

The administration of Mayrykhsy Mine is preventing residents of Altai District, Khakasia from visiting the active cemetery of the aul of Khyzyl-Salda.

***During a field trip to Altai District, Republic of Khakasia, an ADC Memorial expert and activists from Abakan witnessed how mine representatives blocked the road leading to the cemetery and Lake Turpanye with mounds of crushed rock and earth. Local activists assumed that this was done because the mine installed a dry coal separator that was operating without any permits near the lake. Environmentalists and local residents took photographs and video recordings at short range of black clouds of coal dust, which later served as evidence of illegal activity on the part of the mine. This forced the company to only turn on the separators at night,***



***when the smoke was not visible. These roadblocks prevented dozens of residents from nearby villages from visiting the cemetery where their relatives were buried. During an attempt to free the road from the mounds, the activists faced pressure and threats from private security guards guarding the mine's licensed area, but in the end they were able to clear the road to the cemetery.***

Archaeological and cultural monuments listed in the state registry of cultural heritage sites have also been desecrated. This includes the ancient burial mound Kotozhekovsky chaatas, a large complex of medieval burial grounds from the VI-VII centuries (added to the list in 2017).<sup>88</sup> It is located on a plot that was transferred to Mayrykhsky Mine for exploitation. This archaeological monument may disappear in the near future, since, under Russian law, archaeological digs must be conducted at the location of such a monument when the monument prevents mining; then the monument is completely wiped off the face of the earth and transferred to museum collections. For Khakas believers, this process is tantamount to defiling a sacred place and could harm the entire Khakas ethnicity. Even though Kotozhekovsky chaatas has not yet had to deal with the destructive impact of the coal industry directly, the historic landscape surrounding it has been disrupted by high coal waste piles and numerous electrical substations. All of this, along with the coal dust and the roar carrying from the pits, makes it difficult for local residents to hold religious ceremonies here:

***"Mayrykhsky Mine has desecrated our Kotozhekovsky chaatas, where we perform ceremonies to worship our ancestors. It also fenced the site in from all sides with waste piles and built substations there that make a racket and are never silent. After our complaints, the coal companies ordered salvage excavations to move the entire burial complex to a museum, but this is a site, it has to be where it stood originally, but they want to destroy it for the benefit of industry." Interview with A. Kotozhekov, Distinguished Artist of the Republic of Khakasia. Interview with ADC Memorial, March 14, 2020, Arshanov.)***

Another barbaric example of how coal companies treat the cultural heritage objects of the Khakas was restriction of access to an ancient ancestral burial ground from the late 2nd millennium BCE to the early 1st millennium BCE known

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88 Order of the State Inspectorate for the Protection of the Cultural Heritage of the Republic of Khakasia No. 58 of November 2, 2017.

as the Kotozhekov-5 burial site in the spring of 2020.<sup>89</sup> This site is located next to the Severny waste pile, which was created several years ago without an expert environmental assessment or other permits. According to the law ““On Cultural Heritage Objects (Historical and Cultural Monuments) of the Peoples of the Russian Federation,” Mayrykhsky Mine did not have the right to conduct any work that might impact the integrity of the burial site<sup>90</sup> and should have taken action to preserve it by surrounding it with a fence or embankment and by building an approach to the burial grounds. None of this was done. The menhirs surrounding the grounds were illegally removed from the soil. Repeated complaints filed by Rodnaya Step lawyers to the prosecutor’s office and the Federal Service for Supervision of Natural Resource Usage for illegally erecting the Severny waste pile were ignored. The authorities never checked the facts set forth in the complaints or prosecuted the violators. This made coal companies feel that they could act with total impunity, so they expanded the waste pile and blocked the access to this cultural heritage object. If this illegal activity does not end, the same fate awaits the other burial sites dating back to the same time as this plot: Kotozhelov-1. Kotozhekov-4, Kotozhekov-3, Turpanye-1 are also listed in the register of cultural heritage objects.<sup>91</sup>

Right now, over 150 cultural heritage objects and hundreds of natural monuments and objects of worship are located in the business zones of the large coal mining companies operating on Koybalskaya Steppe. The majority of these - 122 - are located on licensed plots of Mayrykhsky Mine. Many of them are currently facing the threat of destruction.

Effluent from coal companies has poisoned Lake Mayrykhkol (Kosharnoe), a sacred lake that the Khakas believe is the embodiment of the goddess Umay, who is the patron of pregnant women, women in labor, and infants. Burning coal piles tower over the lake and separators that pollute the lake’s waters with phenol and other toxic substances operate nearby:

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89 Order of the State Inspectorate for the Protection of Cultural Heritage Objects of the Republic of Khakasia No. 96 of September 27, 2018.

90 Article 47.3 of Federal Law No. 73-FZ “On Cultural Heritage Objects (Historical and Cultural Monuments) of the Peoples of the Russian Federation” of July 25, 2002 (as amended on April 24, 2020)

91 List of Known Cultural Heritage Objects Located in the Republic of Khakasia: <https://r-19.ru/authorities/protection-of-cultural-heritage/common/5094/48438.html>

*“Above all else, the pits are destroying the historical landscape of Koybalskaya Steppe, they are destroying our land, which is the source of our intellectual energy. What is happening right now is a catastrophe and a tragedy for our people. The natural and energetic structure of Koybalskaya Steppe is also being disturbed, along with our lives.*

*Two years ago, the coal companies desecrated our sacred lake Mayrykhkol, which translated from the Khakas language means “womb of the goddess Umay.” They surrounded it with burning waste piles and started dumping waste products in it. For us this means that they crawled into the womb of our mother goddess and are digging around in there to enrich themselves.” Interview with A. Kotozhekov, Distinguished Artist of the Republic of Khakasia. Interview with ADC Memorial, March 14, 2020, Arshanov.)*

According to our informants, in the traditional worldview of the Khakas people a person is inseparable from nature and the lands on which he lives. Coal mines and their infrastructures usurp territories that are home to cultural objects, ancient burial mounds, and numerous mountains, lakes, woods, and areas of the steppe sacred to the Khakas people that play a vital role in preserving and developing traditional culture and their overall social and territorial organization. The intensive development of the coal industry with its colossal man-made burden on the environment and natural resources threatens the destruction not just of the foundation of indigenous economic activity - agriculture, but also indigenous culture and identity.

For example, the Mayrykhsky and Arshanovsky mines are obliterating fertile qualities and reducing the areas of territories suitable for the traditional activities of Khakas people living in rural areas - grazing and haymaking. This results in the ravaging of farming and forces farmers to leave their traditional places of residence, change their habitual way of life, and move to the city in search of other ways to earn a living, which informants say means the loss of self-identity:

*“Koybalskaya Steppe is our native environment. Here we feel the special energy of nature and our ancestors, which gives us vitality. We believe that the Khakas people can only attain equanimity and harmony on their native lands, in harmony with nature. As a result of industrialization and the opening of coal pits, our rural residents, who have always maintained a traditional lifestyle, have started to be pushed out of their native places. The coal mines have appropriated our farmlands and pastures, they are decimating the lands the Khakas work on. So the Khakas have fewer and fewer opportunities to earn money, and they are being forced to move to the city. And this leads to a natural decline in the Khakas pop-*

*ulation. This is easy to prove: Statistics show that the birth rate in Khakas families living in rural areas is much higher than in cities. For a population to grow, the birth rate must be above two. The average Khakas family in the city has one or, less frequently, two children, which is a birth rate of 1.5 or less, but this figure exceeds two in rural areas. So in leaving their traditional places of residence, the Khakas are gradually disappearing as an ethnic group, losing not just their culture and language, but their numbers as well.” (Khakas activist, resident of Abakan. Interview with ADC Memorial, March 16, 2020.)*

The numerous violations of laws to protect indigenous cultural rights made by coal companies are rarely registered by state bodies even after repeated citizen complaints, and most complaints are dismissed anyway. Thus, instead of creating viable mechanisms for protecting the cultural space of the Khakas people and ensuring preservation of their cultural heritage, regional and federal authorities are pursuing a policy of promoting illegal activities by industrial companies.

# PERSECUTION OF ACTIVISTS AND DEFENDERS OF INDIGENOUS PEOPLES' RIGHTS

The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration on Human Rights Defenders), which was adopted in 1998, enshrines the right of individuals and groups to promote and attempt to protect and exercise human rights and fundamental freedoms at the national and international levels. States must take all necessary measures to ensure the protection of everyone acting individually or in a group against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of their human rights activities.

The work of human rights defenders from indigenous communities is associated with additional risks, since they must stand up against both influential mining businesses and local governments, which are often affiliated with these businesses and depend on business investments for the regional budget. This is why defenders of indigenous rights are subjected to pressure and persecution both from the government and from non-governmental agents; they are presented as the opponents of progress and prosperity and are accused of extremism and acting as foreign agents.

At the same time, the authorities support loyal indigenous organizations and try to gain the favor of indigenous communities with donations, which never improves the situation of indigenous peoples and only leads to a schism within communities. According to Mikhail Todyshev, who participated in the Shor movement in the 1990s:

*"The authorities want to control the processes in the national Shor and Telet movements. This has resulted in the division of activists into "ours" and "not ours," to the baiting of "ours" and administrative pressure on unfavorable and undesirable groups. The Department of Culture and Ethnic Policy of Kemerovo Oblast does not provide social support to those in need, to poor families with many children, but to members of loyal ethnic*

*public organisations. We had the Association of the Shor People, which had the right to hold congresses, which were its highest body. But the association was liquidated in 2017, supposedly because the authorities did not receive any reports about its work over the course of the year. And people started asking, 'What if this also happened under the 'leadership' of the oblast administration?' In 2018, a new organization was formed - the Shoria Association of the Shor People. But its bylaws do not mention the right to hold Shor congresses."*<sup>92</sup>

In Russia, the situation of independent defenders of indigenous rights deteriorated in 2012. First of all, the infamous NGO law on "foreign agents," which deprived indigenous organizations of access to foreign financing and restricted their work, was adopted.<sup>93</sup> Second of all, for technical reasons the Ministry of Justice suspended the activities of the best known NGO working on this topic, the Russian Association of Indigenous Peoples of the North, Siberia, and the Far East (RAIPON); several months later, this organization was moved under the control of new leadership loyal to the government. The NGOs of the indigenous peoples, which has criticized the policies of the Russian government, has in recent years been subjected to regular repressions.

Over the past five years, the authorities have put pressure on the Centre for Support of Indigenous Peoples of the North (SCIPN), a leading expert organization that has protected the rights of small indigenous peoples of the North, Siberia, and the Far East for almost 20 years, including at the international level, has a special status, and is accredited by UN agencies and structures. In 2014, the Russian border service did not allow the director of the Centre for Support of Indigenous Peoples of the North (SCIPN), Rodion Sulyandziga, to leave for New York. In addition, a case on administrative violations was opened against him. In 2015, the Ministry of Justice forcibly added this organization in the registry of so-called foreign agents and fined it for 300,000 rubles. The group refused foreign financing, and the Ministry of Justice removed it from the registry in 2018. On December 11, 2016, on the eve of the Forum of Indigenous Peoples in Moscow, police

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92 People Outside the Law. How Indigenous Peoples Became Outsiders on their own Land. Interview with M. Todysheva, Sibreal, 12.28.2019, <https://www.sibreal.org/a/30321964.html>

93 Alternative report of RAIPON, IWGIA, and INFOE to UN CERD (February 2013): "Discrimination against indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation," [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/RUS/INT\\_CERD\\_NGO\\_RUS\\_13740\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/RUS/INT_CERD_NGO_RUS_13740_E.pdf)



Mr. Rodion Sulyandziga, Russian representative to the Global Coordinating Group, reading the Indigenous Multiregional Statement, Interactive Hearing for the high level meeting of the UN General Assembly to be known as the World Conference on Indigenous Peoples, 17 Jun. 2014.

Photo: Shane Brown., [wcip2014.org](http://wcip2014.org)

officers arrived at Sulyandziga's apartment with a search warrant, confiscated his laptop, and took him to the police precinct for interrogation. In 2017, the Center's office was searched and its documents and computer were confiscated. Also in 2017, Sulyandziga's brother, Pavel Sulyandziga, who was also a defender of the rights of indigenous and small peoples, immigrated to the United States, requested asylum, and stated that he has been subjected to threats and persecution by the FSB.

On November 6, 2019, the Moscow City Court adopted a decision to liquidate the SCIPN. The technical reason for the court's decision was that the organization provided an out-of-date legal address and outdated provisions of the Organization's statute. However, the SCIPN's representative had previously provided the required documents, but the Moscow City Court refused to grant extra time to introduce amendments. In addition, the RF Ministry of Justice could have handed down a more lenient corrective action than liquidation, like suspension of activities. This is a direct indication that the authorities did not want to cooperate with the organisation and that there was a policy in place to shut it down.

The RF government sees a threat in critically-inclined indigenous leaders. In a letter<sup>94</sup> to the leaders of RF constituent entities, Director of the Federal Agency for Ethnic Affairs I.V. Barinov noted drawbacks to consultations with small indigenous peoples on matters affecting their legal interests. Barinov named the promotion of a "destructive agenda by non-systemic representatives of the corresponding peoples and foreign

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<sup>94</sup> Letter of Director of the Federal Agency for Ethnic Affairs I.V. Barinov to the heads of RF constituent entities, No. 1310-01. 1-23-45 of March 31, 2020, <https://arctic-consult.com/archives/17341>



experts affiliated with them” and “use of the artificial discrediting of the RF national policy in Russian and international spaces, as well as in the media, including the internet and social media” as some of the most dangerous consequences of this. This division of “systemic” and “non-systemic” leaders means that activists with a firm critical position are squeezed out of human rights activities and sometimes forced to immigrate.

*In 2018, Yana and Vladislav Tannagashev, activists of non-registered organisation “Revival of Kazas and Shor people”, were forced to flee Russia with their children and apply for asylum in a European country. They felt they had to leave because of persecution from the authorities of Kemerovo Oblast and coal companies affiliated with them, the police, and special services, which lasted for several years. Prior to this, Yana Tannagasheva was fired from her job as a school teacher; the ancestral home belonging to Yana’s family and located in a place of traditional residence of the Shors, was burned down by unidentified persons along with other Shor homes (2013–2014) - suspicion fell on a coal company, but no one was ever prosecuted. Yana’s and Vladislav’s phone were tapped and they were under constant observation; the police came to their home to warn them against participating in human rights activities, and FSB officers conveyed threats by summoning their relatives and acquaintances for “discussions.” Some of these threats related to their children.*

Yana Tannagasheva. Kazas. Photo by Nelly Tokmagasheva



***Yana Tannagasheva protected the rights of the Shor and other indigenous peoples both within her region and at the international level. Both Yana and Vladislav helped prepare a number of reports submitted in cooperation with ADC Memorial to the UN Committee on Economic, Social, and Cultural Rights (2017) and the Council of Europe (on Russia's implementation of the Framework Convention on the Protection of National Minorities) and spoke multiple times at UN events (session of the Committee on the Elimination of Racial Discrimination, August 2017, UN Forum on Minority Issues, UN Forum on Business and Human Rights). On April 16, 2018, Pavel Sulyandziga, a well-known indigenous rights defender who had also been forced to flee Russia and apply for asylum, gave a speech in support of Yana Tannagasheva at the UN Permanent Forum on Indigenous Issues in New York.***

Recently, highly-placed officials at security structures have unambiguously connected the protection of indigenous rights with anti-government activities. In particular, Border Service head and FSB general Vladimir Kulishov stated: "Under the pretext of protecting indigenous rights and marine environments, various international organizations have attempted to place restrictions on shipping along the Northern Sea Route, review the legal and territorial status of the Arctic, and work against sustainable exploitation of Russia's mineral deposits."<sup>95</sup> Speaking at a meeting on the accident at the thermoelectric power plant in Norilsk (when thousands of tons of diesel fuel spilled out of a reservoir), RF Security Council Secretary Nikolai Patrushev emphasized that "the failure to assess all factors and potential threats, including ones connected with climate change,... might play into the hands of those who want to discredit Russia's Arctic policy."<sup>96</sup> Such an approach hinders the activities of environmental and human rights organizations that are literally not allowed into Russia.

***On December 19, 2018, Johannes Rohr, the author of numerous alternative reports on the situation of indigenous peoples submitted to UN committees and a report about the situation of the Shor people and Ka-***

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<sup>95</sup> Interview with General V. Kuleshov, TASS, May 20, 2020, <https://tass.ru/interviews/8557449>

<sup>96</sup> "Patrushev Talks About Who Could Profit From the Accident at the Thermoelectric Power Plant in Norilsk," June 9, 2020, RIA-Novosti citing the Security Council's press service. <https://ria.ru/20200609/1572683484.html>

*zas village, was served a 50-year entry ban by the FSB.<sup>97</sup> This entry ban followed a speech given by Mr. Rohr at the 7th UN Forum for Business and Human Rights on November 26, 2018, where he delivered some comments on the situation of Russian indigenous peoples affected by the mining industry. The reasons for the ban were declared a state secret. Johannes Rohr appealed the ban in court, but his lawyer was not given access to the case materials related to evidence provided by the FSB. On June 20, 2019, the Moscow City Court rejected Rohr's appeal against the FSB's actions.*

The absence of any real viable mechanisms for participation or opportunities to influence the situation in their region has forced indigenous communities to resort to forms of protest, particularly shamanistic practices, that appear exotic from the outside and have been discredited by pro-government media. For example, in March 2020 a toy excavator symbolizing the destructive activities of coal mines was set on fire in Myski during the Shor ceremony Chyl-Pazhi. In May 2020, shamans used magic to fight coal mining during a Khakas ceremony to honor ancestors on Koybalskaya Steppe.<sup>98</sup>

A sign of how disappointed Russians have become with accustomed forms of protest and how tired Russian society has become of repressions and their inability to influence the situation in the country was in 2019 when the shaman Aleksander Gabyshev briefly became a protest leader after finding strong support not just in the regions, where shamanism has traditionally been common, but also throughout all of Russia.

*His eccentric statements that Putin is a demon who needs to be driven from the Kremlin resonated widely throughout the country. After he set out on foot for Moscow from Yakutsk, dozens of his supporters joined him, videos of him garnered millions of views, and hundreds of people participated in opposition demonstrations held along the way. But this march was interrupted: A criminal case concerning extremism was opened against him and he was forcibly hospitalized in a psychiatric hospital. In May 2020, the Human Rights Center Memorial recognized Gabyshev as a political prisoner.*

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97 Interview with Johannes Rohr: "I was Blacklisted," February 10, 2019, <https://www.sibreal.org/a/29748462.html>

98 Khakas Shamans Feed the Fire and Appeal to Spirits for Help Fighting Coal Mining Companies, June 5, 2020, <http://aktivatica.org/blogs/view/id/10136/title/aktivisty-sibiri-kogda-net-very-vlasti-za-pomoshchyu-obrashchayutsya-k-duham>

The government of Khakasia and representatives of coal companies and their associated criminal structures, the police, and security agencies have made significant efforts to stop or prevent the activities of activists, journalists, and human rights defenders speaking out against coal mining. They use various methods of pressure, including criminal prosecution, attempts to discredit the activities of certain activists in the media, anonymous threats online, and other methods.

The persecution of the farmer Aleksander Domozhakov for his proactive stand against the opening of Arshanovsky Mine was a consequence of protests by local residents of Altai and Beysky districts in Khakasia:

*"When Arshanovsky Mine first started operations in 2013, they started bringing electric poles and then equipment to the pit. At the time, we didn't know that this was a coal company, so we asked the village head what was going on and what all these instruments and equipment were for. He said he didn't know. We understood that he was hiding something, so two of my friends and I rode our horses out to take a look and see what they were planning to build. We reached the territory and asked the workers to call the foreman. The workers said they didn't know who was in charge. When we finally found him, we asked what would be here. He said that they were doing design work for a coal pit. We asked why they hadn't notified the village residents of this if they were doing such major work. He didn't want to answer, but we demanded an explanation from him. We ended the conversation with raised voices. While we were speaking with the foreman, the mine administration apparently found out who we were. Our relatives immediately started receiving calls from unidentified people making threats. My business partner started calling to say that he was asked to call me and tell me to leave and sit quietly. Then my mother called me and said I should run from there or else a Black Maria would come for me. But we still told the foreman that we were against the mine and would press for justice.*

*"A patrol officer and two people in civilian clothes came to me that evening. They took me to the police. The officer introduced me to them in his office. They turned out to be lawyers from the mine who wanted to talk to me. They told me right off that my visit to the mine could cost me 20 years in prison. They showed me a piece of paper with 50 signatures of people who asserted that I came to the pit with a gun and threatened the workers and foreman. They asked me: 'How are we going to move on from this?' I turned to the officer and asked: 'Volodya, what will you do if I keep locking horns with them?' Without waiting for his response, they said that in that case they would put a date on this piece of paper and send it to*

*law enforcement bodies, who would deal with me from there. The officer said that he would have to put me in handcuffs and take me to the department. They gave me an ultimatum that they could use that paper at any time if I tried to do anything further.” (Farmer A. Domozhakov. Interview with ADC Memorial, March 15, 2020, Arshanov)*

Protests of residents of Shalginov and other villages of the Kuibyshev rural settlement against the construction of a new coal mine, which started in 2018, transformed into the persecution of journalists and environmentalists and the application of pressure on local residents by officers from the police and other security agencies during public hearings. In one case, on November 4, 2019, local indigenous environmentalists and activists in Khakasia organized a meeting against coal companies’ illegal activities. A few days after the demonstration, an active participant in the protests, Evgeniya Pruss, who was one of the speakers, was summoned to the Center for Combatting Extremism, where she was questioned and threatened with an FSB interrogation if she participated in any future protests. The pressure continued several months later, when she received anonymous threats on social media.

During another round of public hearings about the construction of a pit in Beysky District, Khakasia in November 2019, representatives of the police, the Center for Combatting Extremism, and a private security company applied psychological pressure to local residents: They used force to block entry to the building where the hearings were being held and did not allow anyone to speak publicly.

*“On November 28, hearings were held at five auls in Beya at the same time. There was a police cordon at each hearing, even though no measures like these had been taken before. No one was allowed inside without a passport. Private security guards and police officers stood at the entrance. They acted improperly: They were rude to the elderly people and treated them as if they had come to an unsanctioned meeting. They was a total of about eight private security guards, two jeeps holding police officers, and two cars with Center E officers. They were all traveling together from aul to aul with Beysky District head Stryapkov and members of his administration. One of the Center E officers was recording everything on video.” (N., resident of Shalginov Village. Interview with ADC Memorial, March 16, 2020.)*

ADC Memorial is also aware of the case of a strong opponent to coal mining from Abakan who was subjected to harassment and threats of physical violence on social media for participating in meetings and studies on the illegal economic activities of mines over the course of several months. In late January 2020, unidentified people summoned him to a meeting, threatening him with violence if he did not

come. Before the meeting, he sent one of his colleagues screenshots of the threats and went to the place indicated at the appointed time. No one was waiting for him there, but a jeep followed him all the way back home.

The absence of a normal dialogue has led to an open conflict between the local population and state agencies and turned coal company employees into provocateurs. Since June 2020, there has been an ongoing conflict between local residents and Kuznetsky Yuzhny Mine in Cheremza, Kemerovo Oblast, which decided to build a coal loading complex without the proper permits near their village on the border of Novokuznetsky District and Myski.

*On June 13, 2020, Cheremza residents blocked the road to construction equipment, which was heading in the direction of the pit's coal loading station under railway bridges near the Kalandas River without authorization. The police squad that was summoned did not react to the violations or the threat that the bridges would collapse, and one of the drivers tried to hit an activist recording the violations. Right after this, several opponents of the mine organized an all-night vigil at the construction site. Mine management tried to restart work at least five times, but local activists and environmentalists blocked the equipment's passage by forming a human shield in front of it. On June 17, the mine director, Timur Frank, announced that construction on the coal loading station had been suspended, but the construction work continued. On June 24, several Cheremza residents and the activists supporting them went on an indefinite hunger strike to protest the coal company's refusal to remove the equipment and stop the illegal construction. On June 28, the mine's executive director, Petr Frolov, told the environmentalists that construction had been temporarily suspended to clarify the circumstances, but local residents did not leave the camp in fear that the illegal construction would continue.*

Considering the government's intensifying attempts over recent years to artificially criminalize protests against large coal companies in Khakasia, Kemerovo Oblast, Krasnoyarsk Krai, and other regions suffering from coal mining, there is strong reason to believe that the authorities and security agencies will take direct action against activists from Khakas and Shor villages, the environmentalists and journalists supporting them, and the human rights organizations providing legal support to the protestors.



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