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## **Examples of Lessons Learned from Work carried out by and with Indigenous Peoples**

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\* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

## **1. Truth, reconciliation and restoration processes and barriers to the effective participation of indigenous peoples in these processes at the national level in the Eastern Europe, Russian Federation, Central Asia and Transcaucasia**

The Russian Federation is one of the multi-ethnic States in the world. The major objective of the State's ethnic policy is to create and ensure conditions for the development of all ethnic communities, including indigenous peoples. Representatives of more than 190 ethnicities live in Russia (according to the 2010 All-Russian Population Census, conducted on the basis of self-determination of citizens).<sup>1</sup>

The united list of indigenous small-numbered peoples of the Russian Federation includes 47 peoples; 40 of which have special legal status as indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation. The Government of the Russian Federation has approved the policy for the sustainable development of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation. Article 1 of the Federal Law "guarantees of the rights of the indigenous small-numbered peoples of the Russian Federation" refers to the indigenous small-numbered peoples of the Russian Federation as those who live in the territories traditionally inhabited by their ancestors; maintain a traditional way of life and economic activity; number fewer than 50.000; and identify themselves as separate ethnic communities.

Due to centuries of intercultural and inter-ethnic interaction in Russia were formed a unique cultural diversity and a spiritual community among different peoples committed to the same principles and values. The Russian Federation has considerable experience in regulating issues related to the harmonization of inter-ethnic and interfaith relations involving indigenous small-numbered peoples.

However, it is necessary to emphasize that the issues to be discussed at the expert seminar "Truth, transitional justice and reconciliation processes" are not in focus of the indigenous peoples of Russia compared to the issues of relations with industrial companies, implementation of land rights and language (linguistic) rights, etc.

Nevertheless, in Russian society, truth and reconciliation aspects are primarily considered in the context of the history of the Russian State of the twentieth century. And these historical events of the XX century fully affected the indigenous peoples of Russia, continuing to be the subject of the most acute disputes. The intensity of these disputes is determined by pluralism of ideological positions. There is coexistence of different paradigms in the light of understanding of the past from political standpoint. On the one hand, the paradigm of critique of the difficult past is relevant. We encounter this politics of memory in different countries that had civil wars, political repression, mass killings, ethnic cleansing and similar tragedies and crimes. But, on the other hand,

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<sup>1</sup> Strategy of State National Policy of the Russian Federation for the period up to 2025. Decree of the President of the Russian Federation No. 1666, December 19, 2012, retrieved from <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102161949> (In Russian)

after the collapse of the USSR, the task of forming the all-Russian civil identity (Russian nation) has arisen, which implies a different approach to using the past to form a positive image of the nation. As a rule, those paradigms are based on heroic events, the history of people's contribution to the treasury of human culture and other positive characteristics<sup>2</sup>.

As stated in the Concept of State Policy on Memorialization of Victims of Political Repression: "Russia cannot fully become a law-bound state and assume a leading role in the world community without perpetuating the memory of many millions of its citizens who were victims of political repression"<sup>3</sup>.

It is particularly important to understand the tragic experience of Russia after the events of October 1917, which is characterized by the breakdown of traditions, the loss of continuity of cultural experience and the destruction of intergenerational ties. As a result of the repression, the country experienced large-scale social upheavals. In addition to the colossal losses incurred during the Civil War and Second World War, Russia experienced a number of other tragedies, including:

- 1) Recommend States to support initiatives combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which includes the construction of monuments and memorials, as well as demonstrations to glorify the Nazi past.
- persecution of religious denominations;
  - post-revolutionary emigration of the most educated part of the population, long-term discrimination of those members of the pre-revolutionary elite who chose to stay in Russia;
  - mass repression, which killed, imprisoned, dispossessed and deported millions of people.

I will highlight a few examples of such tragic historical events. One of the forms of repression in the USSR was the deportation of peoples, the peculiarity of which was extrajudicial, forced and socially dangerous nature - the displacement of a large number of people to the unusual habitat (e.g., displacement of Ingermanland Finns (Ingrian Finns), Crimean Tatars, Chechens, Ingush and other peoples to Siberia, Kazakhstan, Uzbekistan).

For example, the deportation of Crimean Tatars from Crimea to Uzbekistan and neighboring areas of Kazakhstan and Tajikistan in 1944. Officially, the deportation was based on their participation in collaboration with Nazi Germany during the Second World War and cooperation with the occupation authorities.

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<sup>2</sup> Methodological issues of studying the politics of memory / Editor A.Miller, D.Efremenko, Moscow, SPb.: "Nestor-Istoriya" publishing office, 2018. P. 148-149. (In Russian)

<sup>3</sup> Concept of state policy on memorialization of victims of political repression (approved by the Decree of the Government of the Russian Federation, August 15, 2015), retrieved from <https://docs.cntd.ru/document/420294740> (In Russian)

In 1967, the Presidium of the Supreme Soviet of the USSR (Parliament of the USSR) recognized that «the facts of active cooperation with the German invaders of a certain part of the Tatars living in Crimea were unjustifiably attributed to the entire Tatar population of Crimea». In 1989, the Supreme Soviet of the USSR recognized the deportation of Crimean Tatars as illegal and criminal. In 2014, the Russian President signed a decree<sup>4</sup> on measures to rehabilitate the Crimean Tatars and other peoples in order to restore historical justice, eliminate the consequences of illegal deportation from the territory of the Crimean ASSR and the violations of their rights. The decree states that the authorities shall take the following measures:

- restore historical justice and the political, social and spiritual revival of the Crimean Tatar people, who have been subjected to illegal deportation and political repression on national and other grounds;
- develop the national-cultural and spiritual revival of the Crimean Tatar people;
- facilitate the establishment and development of national cultural autonomous entities, other associations and organizations, and to provide general education in native languages, developing traditional forms of management, as well as addressing other socio-economic development issues.

Another example is the deportation of Ingermanland Finns. According to some researchers, the Ingermanland Finns are a separate Finno-Ugric people, while others consider them as a subethnic group of Finns. In the 1930s and 1940s, the Ingermanland Finns were repressed by the Soviet authorities. In 1993, by a decision of the Supreme Soviet of the USSR, all acts adopted against them in the 1930s and 1940s, which served as a basis for political repression against the Finns, were declared illegal<sup>5</sup>.

The former chairman of the Union of Ingermanland Finns of Karelia noted that the restoration of legal rights and dignity of Ingermanland Finns was the most important achievement in the activities of the organizations of this people. The most important parts of the document were those that declared illegal the decrees and orders by which the state institutions carried out various repressive measures; the decisions were also annulled. Thus, at a time when many other peoples of Russia were actively engaged in the national revival and development of language and culture in the early 1990s, the Ingermanland Finns were focusing their efforts on overcoming the consequences of intergenerational trauma, the forced relocation, prohibition and return to their homes and other repressive measures imposed on them. The result of this work of truth and reconciliation was described as follows: «The former feeling of inferiority has left us»<sup>6</sup>.

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<sup>4</sup> Decree of the President of the Russian Federation «About measures for the rehabilitation of the Armenian, Bulgarian, Greek, Crimean Tatar and German peoples and State support for their revival and development», retrieved from: <https://docs.cntd.ru/document/499090757> (In Russian)

<sup>5</sup> Resolution of the Supreme Soviet of the USSR «On the rehabilitation of Russian Finns» (June 29, 1993 № 5291-1), retrieved from <https://docs.cntd.ru/document/9004644> (In Russian)

<sup>6</sup>Ingermanland Finns: ethnic mobilization models: collection of materials and documents / Authors: V. N. Birin, E. I. Klementiev, A. A. Kozhanov, Z. I. Strogalschikova. Petrozavodsk, Center for Cultural Initiatives, 2006. P. 177. (In Russian)

However, according to organizations of Ingermanland Finns, the State has taken the valid measures in recognizing the rights violated, but has not taken the next logical step: It has not established an effective redress mechanism in the form of compensation and other measures to mitigate past wrongs. Instead, rehabilitated people were asked to prove in court on a case-by-case basis that reprisals affected their families, while demanding appropriate individual compensation. Thus, the collective dimension of the rights of indigenous peoples has not been adequately taken into account in the reparations process, despite the fact that the truth-seeking and rehabilitation process has recognized the unlawful actions of the State against an entire people, not its individual representatives.

The adoption of the Law «On the rehabilitation of repressed peoples» on April 26, 1991 was a significant fact in establishing harmony and reconciliation in Russia. In accordance with the Law, peoples, nations, nationalities or ethnic groups and other historically established cultural and ethnic communities were recognized as repressed. As stated in the Law, the policy of arbitrariness and lawlessness practiced at the State level against these peoples was illegal and violated the dignity not only of the repressed but also of all other peoples of the country. Its tragic consequences still affect the state of inter-ethnic relations and create dangerous hotbeds of inter-ethnic conflicts. In other words, unjust policies and violations of the rights of certain peoples have had consequences and have created grounds for inter-generational trauma and for the other peoples of the country, and thus the work of truth-seeking and reconciliation should have been State-wide.

The 1996 announcement of November 7 as the Day of Accord and Reconciliation, and the declaration of 1997 as the Year of Accord and Reconciliation became one of the elements in ensuring an effective process of memorialization in Russia, in order to unite and consolidate Russian society, and taking steps to prevent further confrontation. Under the chairmanship of the President of the Russian Federation Boris Yeltsin, the State Commission for the Year of Accord and Reconciliation was established. The presidential decree noted that the October revolution of 1917 fundamentally influenced the fate of the country. Then, in 2004 the Day of Accord and Reconciliation was abolished. This Day was replaced by the National Unity Day on November 4.

There is a memorial day in Russia - October 30 (Memory day for the victims of political repression), which includes mourning actions and commemorative events (laying wreaths and flowers to the monuments, «lessons of memory» in educational institutions, etc.), dedicated to the memory of people, victims of political repression.

For several decades, the Books of Remembrance of Victims of Political Repression have been prepared and published in various regions of the former Soviet Union, containing brief biographical accounts of those who were shot, sent to prison, exiled, and deported. This work on the preparation and publication of such books is not yet complete. So far, archives have been opened periodically. Surely, the key action should be the fullest possible opening of archives for use in research, archival, library, museum-memorial, and educational work. In particular, it would be possible to write textbooks on the history of the State that would be free of many old mythologisms and stereotypes, including those concerning indigenous peoples.



## **2. Standards and policies for conflict resolution, truth, transitional justice and reconciliation**

### Judicial mechanisms of truth-seeking

The general provisions of the right to judicial protection are contained in Art. 19 of the Constitution of the Russian Federation, which enshrines the equality of all regardless of gender, race, nationality, language, place of residence, attitude to religion, membership of public associations, as well as other circumstances. Any form of restriction of citizens' rights on grounds of social, racial, national, linguistic or religious affiliation is prohibited.

At the same time, Art. 14 of the Federal Law “On guarantees of the rights of the indigenous small-numbered peoples of the Russian Federation” affirms that persons belonging to indigenous small-numbered peoples and associations of indigenous small-numbered peoples shall have the right to judicial protection of their native habitat, traditional way of life, economic activities and crafts. The traditions and customs of indigenous small-numbered peoples may be taken into account in court proceedings with the persons belonging to indigenous small-numbered peoples being claimants, defendants, victims or accused not contradicting federal laws and laws of subjects of the Russian Federation. In order to ensure the effective judicial protection of the rights of small-numbered peoples, authorized representatives of indigenous small-numbered peoples may participate in this judicial protection (communities, organizations of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation, their associations (unions) or individuals).

### Non-judicial conflict resolution systems

In the Russian Federation, in addition to judicial truth-seeking mechanisms, non-judicial conflict resolution systems also exist. For example, a new institution for the protection of the rights of indigenous peoples has been established in the regions of the Russian Federation: the Ombudsman for the Rights of Indigenous Peoples of the North, Siberia and the Far East. The novelty of the approach was that a special public office of the subject of the Russian Federation was established - a modification of the specialized ombudsman. Experience with the establishment of such an independent institute for the defense of indigenous peoples exists in various regions of the Russian Federation: for example, in the Krasnoyarsk region (since 2007), the Kamchatka region, the Republic of Sakha (Yakutia) (since 2013) and the Republic of Altai (since 2015)<sup>7</sup>.

At the same time, the Ombudsman functions in different regions: in the Republic of Sakha (Yakutia), the Ombudsman for the rights of indigenous small-numbered peoples is a separate position with their own office. In the Krasnoyarsk region the Ombudsman is a part of the Ombudsman's Office, while in the Republic of Altai, the position of the Ombudsman is a part of

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<sup>7</sup> Filippova N. Defender of indigenous peoples' rights in the regions of Russia: formation of the institute /Scientific Yearbook of the Institute of Philosophy and Law of the Ural Branch of the Russian Academy of Sciences 2016. Volume 16. Issue 2. P. 105-120.

the Republic Parliament. However, in all the listed regions, Ombudsman has the right not only to work on specific complaints, but also to promote the rights of indigenous peoples by informing the society and authorities about systemic errors and irregularities as well as proposing legislative reforms. Ombudsmen often act as mediators between indigenous peoples and authorities in conflict situations. In regions where indigenous peoples traditionally do not have a special ombudsman, these functions are performed by ombudsmen for human and children's rights.

Mediation is also one of the mechanisms of non-judicial conflict resolution. Mediation is a special form of facilitation with the mediator's role as an impartial third party to assist the parties to a conflict to reach a mutually acceptable and viable solution. In the Russian Federation there is Federal Law "On an alternative dispute settlement procedure involving a mediator (mediation procedure)". This Law regulates issues related to the application of mediation procedure to disputes arising from civil, administrative and other public legal relations, including those in connection with the carrying out of business and other economic activities, as well as disputes arising from labour and family legal relations. The mediation procedure is carried out on the basis of the agreement of the parties, including the agreement on mediation. One or more mediators shall be chosen by mutual agreement between the parties for mediation.

#### Corporate conflict resolution systems: grievance mechanisms

Corporate grievance mechanisms that socially responsible companies establish in accordance with international standards can be effective tools for truth-seeking and conflict resolution. Grievance mechanisms may be established generally as part of a dialogue between companies and indigenous peoples, or as part of separate projects to which indigenous peoples give their free, prior and informed consent, or consent under consultation.

In the socio-cultural region under study, there are some of the most recent examples of such corporate arrangements. In particular, PJSC "Mining and Metallurgical Company "Norilsk Nickel" carries out its activity in the territories of the compact settlement of the indigenous peoples of Taimyr: Nenets, Enets, Dolgan, Nganasan and Evenki; as well as in Murmansk region (it is the traditional home of the Sami people and the Komi and Nenets reindeer herders). In the framework of the procedure for obtaining free, prior and informed consent launched in October 2021, the residents of the Taimyr village Tukhard, where predominantly Nenets people live, and the company signed an agreement on FPIC for the resettlement and development programme of Tukhard. The company «Norilsk Nickel» has undertaken steps to ensure the existence of a complaints mechanism and the participation of indigenous peoples in its development. Indigenous peoples are able to provide feedback to enhance its effectiveness. During the procedure for obtaining of FPIC, the agreement provided for a complaints mechanism to ensure an objective, comprehensive and timely examination of the complaint; and to take measures aimed at restoring or protecting the violated rights and legitimate interests of persons belonging to indigenous peoples.



Moreover, in parallel, the company «Norilsk Nickel» holds consultations with local indigenous peoples on the new corporate policy on interaction and cooperation with indigenous peoples. The new draft of the policy establishes a corporate-wide, independent grievance mechanism which composition and format will be agreed upon with indigenous peoples. This mechanism will not only respond to specific complaints on violations by a company or its individual employees of indigenous rights or agreements between indigenous peoples and the company but also contribute to the building of long-term trust and conflict resolution based on past events. At the same time, the company conducts a study on the past relations (and possible violations of rights) between the indigenous peoples and the companies that are now part of «Norilsk Nickel», but used to have other owners.

«NOVATEK» (the company engaged in natural gas extraction in the Yamal-Nenets Autonomous Region) also applies a procedure for the consideration of complaints from exposed communities, including indigenous peoples. Examples of such complaints include: adverse effects on local residents (excessive noise, traffic and other forms of disturbance); damage to private property; environmental impact as a result of construction or maintenance work within the project, etc. Complaints can be submitted by telephone, via the company's website, by e-mail, through the public reception of the company. «NOVATEK» conducts an investigation on the problem mentioned in the complaint. At the end of the investigation related to the complaint, the company contacts the applicant to report the findings and propose solutions to the issue<sup>8</sup>.

### 3. Recommendations

- 2) Recommend States to make available archives and other materials that can contribute to effective truth-seeking and reconciliation.
- 3) Recommend States to develop educational programmes on the subject of truth and reconciliation, with their subsequent inclusion in educational programmes and in the broadcast media of States.
- 4) Recommend States to adopt appropriate programmes for the memorialization of affected indigenous peoples and establishment of monuments in mass graves.
- 5) Recommend States to strengthen the base of museum, archival, educational and other organizations for conducting research, archival, library, museum-memorial, educational and awareness-raising activities to perpetuate the memory of indigenous peoples - victims of revolutions, civil wars and political repression.
- 6) Recommend States to assist in archaeological and research work to identify mass graves of victims of repression.
- 7) Recommend agencies of the United Nations to adopt procedures for access to their archives, as well as to facilitate the hosting of exhibits, which reflect the objective

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<sup>8</sup> Stakeholder Engagement Plan. Version 19. June 2022. Annex B: Leaflet on the mechanism for the submission and consideration of applications from external stakeholders. Retrieved from [http://yamallng.ru/upload/Yamal%20LNG\\_SEP\\_June\\_2022\\_Rus.pdf](http://yamallng.ru/upload/Yamal%20LNG_SEP_June_2022_Rus.pdf) (in Russian)

history of indigenous peoples and perpetuate the memory of indigenous peoples - victims of revolutions, civil wars, political repression.

- 8) Recommend agencies of the United Nations to develop proposals on individual and collective aspects of the implementation of truth and reconciliation processes.
- 9) Recommend industrial companies to use grievance mechanisms not only to address ongoing conflicts but also to reconcile past wrongs against indigenous peoples.
- 10) Recommend States to support initiatives combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which includes the construction of monuments and memorials, as well as demonstrations to glorify the Nazi past.
- 11) Recommend States to take into account the sensitivity of truth and reconciliation issues in multi-ethnic societies, where such processes may become uncontrolled, and instead of the reconciliation sought inter-ethnic issues may arise, which could exacerbate conflicts and ethnic tensions.
- 12) Recommend States to approach truth and reconciliation processes in a holistic manner that includes all necessary elements, including restoration of the infringed rights. Memorialization, legal and public acknowledgement of wrongdoing, while contributing to reconciliation and overcoming the consequences of the intergenerational trauma, does not, however, complete the process if these measures have not led to the restoration of rights and compensation.
- 13) Recommend States to fully comply with their obligations to guarantee the minimum standards of indigenous peoples' rights set out in the United Nations Declaration on the Rights of Indigenous Peoples that truth and reconciliation processes need not be pursued in the future.