

**ENVIRONMENTAL AND SOCIAL COSTS OF PETROLEUM AND GAS PRODUCTION IN RUSSIA AND
EUROPEAN COMMUNITY: PROTECTION OF INDIGENOUS PEOPLE'S RIGHTS**

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Abstract

The problem of environmental and social costs of petroleum and gas production that indigenous peoples have to face is receiving considerable attention on a worldwide scale due to the huge increase in oil and gas industry and consequent expansion of oil companies all over the world. The article deals with emphasizing the main ecological and social issues that indigenous peoples in Russia and European Community have to face while their natural habitats are interfered for the sake of high production outputs in oil and gas industry.

Special attention is paid to determining of the distinguishing characteristics of indigenous peoples in Russia and Europe as small and socially vulnerable minorities whose rights on natural resources need specific legal protection. To do that, the paper explores the recognition degree of indigenous people in Russian and the European legislation through the comparative analysis of their legal status and particularly their rights on natural resources in their habitats, and consequently comes to the conclusion that the legal basis still has some imperfections that should be improved. Though the legislation relating to this problem has been improved in recent years, nonetheless authors reckon that there are several final statements that our government should implement in order to achieve high degree of indigenous peoples' rights legal protection and to bring national and international legislation in compliance.

Key words: indigenous people, social and environmental costs of petroleum and gas production, recognition degree of indigenous people in Russia and Europe, environmental damages of oil industry, pollution, oil spills, degradation of natural habitats.

1. Introduction

There is no need to clarify that oil and gas are amongst the most sought resources demanded by the world economy that provide the potential for a stable development of the regions they are extracted in. In order to prove this fact, it is important to point out that Russia is the second largest producer of dry natural gas and the third largest liquid fuels producer in the world. Obviously, Russian oil and gas industry expands greatly all over the vast territories of the country, including the Northern territories, which contain some of the richest reserves.

Oil and gas industry operations increasingly take place in the areas inhabited or used by small ethnic social groups, called «indigenous». For the purpose of the article, we find it necessary to define the term «indigenous people». There are two main types of definitions of this term: a legal one, presented by the United Nations Organization and the most common definition.

Actually, any United Nations-system body has never adopted a definition of the concept "indigenous peoples" because there could be no formal term that would give a single definition for all indigenous peoples of the world. For practical purposes, the commonly accepted understanding of the term is that provided in the Jose R. Martinez Cobo's Study on the Problem of Discrimination against Indigenous Populations: "indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them" [3].

As a matter of fact, Article 2 of the 61/295 United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly Resolution in 2007, declares that "indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity" [4]. Therefore, it only underlines the importance of their self-identification, without giving a proper definition of the term.

So, having analyzed the term, it is logical to mention that these indigenous peoples practice unique traditions, they retain social, cultural, economic and political characteristics that are distinct from those of the dominant societies they live in that's why the problem of their legal protection has become really topical as their traditional economy and social interests are amongst the most complicated problems that the oil and gas industry has to solve [1].

2. Striking Facts and Distinguishing Characteristics of Indigenous People's Life

The current part of the research aims at indicating some striking facts of indigenous people's life so as to explicate why they are that special within the framework of the whole world's society and what the reason is for their rights to be under special legal protection. In this regard, the International Fund for Agricultural Development (IFAD), which is a specialized agency of the United Nations dedicated to eradicating poverty and hunger in rural areas of developing countries, conducted a research on revealing indigenous people's peculiarities and performed it in its paper.

The first one estimates that there are perhaps 370 million indigenous peoples in 70 countries around the world.

The next one indicates that they live on 20% of the world's land, and they contribute 80% of the world's biological and cultural diversity.

More than that, indigenous peoples make up one third of the 900million extremely poor rural people living on the earth [5].

Consideration of these facts makes us understand that indigenous peoples have rich and ancient cultures and view their social, economic, environmental and spiritual systems as interdependent. They contribute greatly and valuably to the world's heritage thanks to their traditional knowledge and understanding of ecosystem management. But indigenous peoples are also among the world's most vulnerable, marginalized and disadvantaged groups. We must ensure that their voices are heard, their rights are respected, and their well-being will be improved.

3. Indigenous Peoples Recognition Degree in Russian and International legislation

Another aspect of the analyzed theme touches upon the recognition degree of indigenous peoples' rights on natural resources in Russian and the European legislation, as it appears to be the key condition for proper legal protection of their rights.

Primarily, we find it reasonable to provide a brief overview of indigenous peoples' variety in Russia. The Russian Federation is a multiethnic society and home to more than 180 peoples. Of these, 40 are legally recognized as "indigenous, small-numbered peoples of the North, Siberia and the Far East". Among them are the Evenks, the Eskimo (the Yupiq) and the Nenets [6]. Unfortunately, there is no legal definition of indigenous peoples in Russian legislation. Nevertheless, Constitution and three federal laws establish the cultural, territorial and political rights of indigenous peoples and their communities, these are the Federal Law №83-FL "On guaranties of the rights of indigenous small peoples in the Russian Federation", the Federal Law №49-FZ "On Territories of Traditional Use of Natural Resources of Indigenous Numerically-Small Peoples of the North, Siberia and Far East of the Russian Federation" and the Federal Law 83-FZ "On Guaranties of the Rights of Indigenous Numerically-Small Peoples Rights in the Russian Federation".

The variety of indigenous peoples in Europe mostly includes the Sami of northern Scandinavia, the Basques of northern Spain and the Bretons of western France. International regulation and policy within the international legal framework for the protection of the indigenous peoples' rights is bases on two main legal documents: The International Labour Organization Convention on Indigenous and Tribal Peoples №169 (came into force in 1991) and the above-mentioned the United Nations Declaration on the Rights of Indigenous Peoples.

We are totally convinced that in order to achieve high efficiency of indigenous people's legal protection, there should be constant sustainable interaction between international and national legislation in order to bring them in compliance, because the lack of unity in legal regulation makes dwelling upon the issue of proper legal rights protection quite problematic.

4. Natural resource use and environmental issues

The natural environment can be of great importance to many indigenous peoples. Their traditional livelihoods are highly dependent on specific ecosystems that is why their adverse changes have a negative impact on their social and cultural lifestyle. Indigenous peoples are vulnerable to modifications in the environment brought on by oil and gas operations.

The intensive industrial invasion of oil and gas industry into the regions of natural habitats demands innovative solutions in technology and ecological management. The extraction fields are remote and have poor infrastructure, which complicates living and working conditions, and results in hugely expensive logistic systems for delivering the resources to consumers in developed regions, which cannot reveal the indigenous lands in its initial untouched state.

According to the statistics, much of the world's untapped oil, gas and mineral wealth lie beneath indigenous lands, which means that it causes disruption of migratory pathways, degradation of important animal's habitats and oil spills, which can be devastating to the animals and indigenous peoples depending on these ecosystems.

For instance, oil spills in arctic waters devastate sea life and the cultural livelihoods of the indigenous peoples who depend on the ocean for subsistence. Oil and gas operations also release many tons of harmful pollutants into the air and discharge dangerous chemicals into the water, thereby degrading the clean air and water that polar bears, whales, walrus and indigenous humans, depending on for the survival. Furthermore, the roads, pipelines, and other facilities built by oil companies to support infrastructure, degrade and destroy important habitat and interfere with the movement of migratory animals. Definitely, offshore oil exploration, drilling and production disturb the fish and animals that are cornerstones of the subsistence and cultural livelihoods of indigenous peoples in the Arctic.

The scales of such interferences are enormous, for instance oil production in the Nenets Autonomous Okrug in a decade has increased by 4 times: while oil companies in the region in 2000 produced 4,5 million ton, they ten years later produced more than 18 million. That is why we can not ignore these environmental and social costs that indigenous peoples have to face and there is an evident need for mutual cooperation of state bodies and oil companies in order to compensate such negative consequences.

5. Legal Rights Protection of Indigenous Peoples in Russia and the European Community

Comparative analysis of Russian legislation and International and European rules, set in the UN Declaration and Labour Organization Conventions, is quite convincing to demonstrate the difference in the measure of rights, indigenous peoples are provided with in various legislations.

	Russian legislation	ILO Conventions+UN Declaration
Official recognition	The Russian Federation guarantees the rights of the indigenous small peoples	Indigenous peoples are recognized by international human rights law
Land use	The right to use land free of charge in areas traditionally inhabited	The rights of ownership and possession of indigenous peoples over the lands which they traditionally occupy
Subsoil use	Subsoil is owned by the state. No special rights to local or indigenous peoples	The State can claim its own rights over all natural non-renewal resources, all subsoil resources including minerals, and any other substances below the surface
Water use	The right to use water objects for traditional natural use	Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally used waters and to uphold their responsibilities to future generations in this regard
Forest use	Free timber harvesting for indigenous needs + protection of native habitat and traditional way of life in a forest	The right to own, use, develop and control resources that they possess by traditional ownership or other traditional occupation

Table 1. Comparative analysis of indigenous peoples rights' protection in Russian and the European legislation.

Having considered this comparison, we can conclude that Russian legislation does match the international standards moreover there are still some imperfections that should be overcome.

6. Final statements

Finally, it's reasonable and essential to come up with some final statements we have made on the basis of a deep analysis of the country's historical experience in order to preserve indigenous natural habitats and protect the rights of small minorities. Therefore, it would be quite productive and topical for the Russian government to:

- To introduce legal definition of the notion "indigenous people" to the Russian legislation;
- To introduce preliminary hearings and consultations of indigenous peoples' representatives with oil and gas companies on vital environmental concerns to find the ways for these concerns to be settled down;
- To develop interactive feedback with oil and gas companies on their contingency plans vulnerabilities;
- To organize partnership with indigenous peoples to legally identify and monitor environmental impacts of oil and gas production, for example, by including indigenous peoples in the environmental impact assessment teams and environmental monitoring committees, involving them in the collection and analysis of monitoring data;
- To involve indigenous groups participation in environmental protection, rehabilitation and wildlife management, for instance, in gathering seeds of native plants for traditional use and etc.

Companies should have a responsibility to respect indigenous communities and protect their culture. Working with indigenous peoples and developing opportunities for them to participate in training, employment and business relationships is likely to benefit both the companies and the indigenous peoples.

To sum up, we reckon that the most virgin and untouched flora and fauna of the planet is on indigenous territory. We are the caretakers of the Earth and want this treasure to serve the humanity without destroying ecosystems and native habitats. Therefore, such corporations as «Lukoil», «Gazprom», «Rosneft» should be socially responsible for the environmental issues, apart from satisfying their own interests.

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