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Oil Companies, Reindeer-Herding Communities, and Local Authorities: Rights to Land from the Perspective of Various Stakeholders

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Abstract
This article is devoted to the consideration of land disputes between oil companies and reindeer-herding communities. This research analyzes the legal framework within which the participants of conflict act, with particular reference to legal anthropology. Most of the focus is not so much on formal laws as on the way in which they are understood and interpreted by the participants in relations. It is shown that various groups are guided by different laws and regulations, determining for themselves their priority over others. Emphasis is placed on the role of custom and the way in which it influences the appeal of locals to the state legal system. Starting from the specificity of legal environment, this article explains the use by the participants of conflicts of various strategies to settle them.

Keywords
legal anthropology, Indigenous peoples of the North, oil companies

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Oil Companies, Reindeer-Herding Communities, and Local Authorities: Rights to Land from the Perspective of Various Stakeholders

Intensive industrial development at the close of the 20th century prompted attention to the issue of preserving and respecting pre-industrial traditions and customs. This was reflected in a burst of interest in two problems: The interrelationship between the state and Indigenous peoples attempting to maintain their traditional way of life and also in the revision of the basis for the maintenance of Indigenous special status. According to present-day Russian legislation, "indigenous peoples are those living within the territories of traditional settlement of their ancestry, preserving traditional way of life, management and crafts, numbering less than 50,000 persons in the Russian Federation, and being aware of themselves as belonging to independent ethnic communities" ("O garantiyakh prav" [On Guarantees of the Rights…], 1999, p. 3). Membership in an Indigenous group provides a number of advantages in the use of natural resources and ensures additional government transfer payments and compensations.

Over the past few decades, other groups have become involved with issues concerning Indigenous rights. The most significant newcomers have been the international expert community and the corporations working on the lands of Indigenous peoples. Declarations by the UN and other international organizations defending the rights of Indigenous peoples have influenced (at least on a discursive level) the maintenance of Indigenous special rights in Russia. At the same time, the swift advance of Russian and international extractive corporations (forest-industry, coal, and oil-and-gas) into the territories of Indigenous peoples challenge the preservation of their natural habitat. In a number of cases, this has resulted in the development of conflicts between local communities and companies. In accordance with Russian legislation, Indigenous peoples have no direct control over their traditional territories. The state owns most of all lands and leases them to different groups and organizations. It tends to mediate in conflicts that arise and tries to establish a balance between the various functions of natural resources and the ways in which they are used. On the one hand, the state sees its task to be the maintenance and preservation of the customary way of life and culture of traditional communities; while in the other hand, mining operations are a strategic resource on which the welfare of Russian social and economic systems as a whole, and of each specific region, is based. Thus, a relatively small proportion of the land has become the center of widely varying economic, ecological, political, and cultural interests, the promotion of which is based on different normative systems: common law, positive law, international law, and various forms of self-regulation such as compliance codes and others (Benda-Beckmann, 1989).

The present investigation focuses on conflicts arising from the distribution of lands between oil companies and reindeer-herding communities in the Nenets Autonomous Okrug (NAO). NAO is situated in the northwestern region of Russia. Most of NAO is located above the Arctic Circle, which means that this territory exists under severe climatic conditions. The territory of the district comprises 176,810 square kilometres, mostly covered in tundra and forest tundra with an administrative centre at Naryan-Mar. The 2013 population of the district was 42,789, primarily made up of Russians (63.31%), Nenets (17.83%), and Komi (8.61%) (Dallmann, Peskov, & Murashko, 2011). There are heavy stocks of mineral resources, especially oil and gas, in the territory of Okrug. The development of oil deposits in the Okrug began during the Soviet period. Geological survey expeditions carrying out the evaluation of petroleum reserves actively worked here in the 1970s, while oil extraction began in the Okrug in the early 1990s. At present, the largest Russian and international extractive companies (Lukoil, Rosneft, Total, ConocoPhillips, and others) are actively working in the territory of Okrug (Dallmann et al., 2011). The specific issue facing the NAO region

is connected to the fact that a considerable part of the population consists of Indigenous Nenets people who practice a traditional way of life and engage in reindeer-herding. In this context, one of the problems of Okrug is the necessity to find a balance between the interests of the local communities whose way of life is based on a close connection with nature and the companies dealing with the industrial mining operations.

The purpose of this study is to analyze how the settlement of such conflicts is achieved, by what legal (or quasi-legal) reasoning participants are guided, and which are the factors that have an influence on the selection of strategies in conflict settlements. This article describes the features of the interaction between Indigenous peoples, companies, and public authorities in Russia. At the same time, some of the consequences of the interaction between state laws, informal rules, and customs are typical not only in the Russian context, but also in other countries facing similar circumstances.

Theory and Methodology of the Investigation

Property rights are the key issue in economic theories concerned with the scarcity of resources. According to Demsetz (1967), the prevailing Anglo-Saxon tradition implies that the term property means not the material objects but a defined set of rights (bundles of warrants) governing the entitlement to those objects. For example, various people can have different rights to the possession of land: someone is entitled to walk on that land to reach a brook for water, someone has a right to rent it for planting, someone is entitled to plant it, and so forth. Thus, in real life, property rights are not a single and indivisible framework, but present individual warrants that can exist in various combinations and belong to a variety of persons (Schlager & Ostrom, 1992). Such an understanding of property rights results in several important consequences. First, any act of exchange is nothing but an exchange of bundles of warrants. Second, property rights do not mean relations between persons and objects but relations between persons with respect to using objects. Third, the specification of property rights (i.e., the exact distribution of warrants among different proprietors) plays a key part in the settlement of conflicts over possession of one or another object (Campbell & Lindberg, 1990). Moreover, the economic interpretation of property rights is focused mainly on formal rules directing the behavior of various groups but does not take into account the peculiarities of the social interaction of participants and the objects of their claims.

An analytical model proposed by anthropologists enables us to fill in those gaps. This includes the consideration of several layers: ideology and culture, legal regulation, property as an aggregate of multifunctional relations, and actions with respect to property combining all the previous layers (Benda-Beckmann, 1997). Particular attention is paid to how the interaction of different rules and regulations with respect to access to resources forms the specific practices of property handling (Benda-Beckmann, 1989). From the point of view of anthropologists, it is not the availability of formal rules for the possession of objects that is important but their legitimation by all the participants in the relationship. Here various groups of participants can have different ideas about the rules concerning the use of the same object.

In speaking of the juxtaposition of various rules and regulations, investigators have addressed the concept of a legal pluralism that presupposes the coexistence of different legal systems in a single social space (Michaels, 2005). It means that one actor is potentially regulated by a multitude of diverse legal or quasi-legal regulations. Such an approach supposes several main lines for the development of the subject. The first direction is the analysis of interaction between the state legal system and the systems of common law in local communities (Teubner, 1997). The second direction is connected with the analysis of state law and the plurality of social forms formulating it

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(Merry, 1988). The relationship between the law and other social forms results in elements of law becoming elements of other social forms, and vice versa. On the one hand, they support one another; while on the other, they also modify each other. The third subject concerns the interaction between state law and global rules and procedures created by transnational actors (Berman, 2007).

When applied to the analysis of conflicts arising at the interface between different normative systems, as is considered in this article, the following consequences of the views of anthropologists on law and property are important for us. First, there is the consideration of law from the point of view of the participants in a particular relationship. This suggests that we can speak about a situation as a legal one if it is comprehended as such by the participants themselves. Secondly, there is the limitation of the role of the state in the resolution of legal conflicts, including those connected with the rights to use one or another object. Thirdly, it is the presence of "built-in pluralism" (internal pluralism) in state law. In other words, state law has absorbed the peculiarities of various forms of social life and reflects the interests of various groups in the population, which may result in contradictions within state law itself. Fourthly, the interaction between different rules and regulations results in mutual transformation of the law. Therefore, it is less important that the state recognizes the system of common law than whether the system connects with the nature of state law and affects it, as participants build up their behaviour in accordance with customs and traditions.

Since an anthropological approach is oriented towards an empirical understanding of law, the current investigation used a qualitative methodology as suggested by Kvale (1983). Use was made of both semi-structured interviews and the analysis of documents. Material was collected during an expedition to Nenets Autonomous Okrug in 2012. A total of 40 interviews were completed. Interviews were conducted with the representatives of the state (6 interviews), managers of oil companies (7 interviews), representatives of reindeer-herding farms (19 interviews), and experts from non-governmental organizations (NGOs, 5 interviews). Interviews conducted at various points in time with experts from international NGOs were also used in the study (3 interviews). The data were coded and analyzed with the aid of the successive approximation method as described by Neuman (1991).

The documents used can be divided into several groups: (a) state laws of federal and local significance, (b) international standards and conventions, (c) documents relating to negotiations between companies and reindeer herders, (d) materials in the regional press (the *Naryana Vynder* newspaper), and (e) expert documents and recommendations.

Triangulation was used to ensure validity of interviews, participatory observation, official materials and documents (Neuman, 1991). In addition, earlier studies of Indigenous peoples in Russia and other countries (see for example, Cunningham, 2010) were used for corroboration. This combination of methodologies allowed assessment of legal and quasi-legal arrangements from the perspectives of many actors: companies, NGOs, international auditors, state representatives, and local people.

Special attention was paid to ethical issues. This research did not aim to provide specific facts of the activities of companies or state authorities; rather, the purpose of the study was to analyze the structure of interaction between different actors. In order to protect potentially vulnerable local people in the communities, the data were made anonymous and names of interviewees were not

used in publication. Also, local communities received feedback about the research through a presentation of the report on the project.[1]

First, a general description of the modern life of reindeer-herding communities are presented, followed by the legal environment within which they exist: The state laws, informal norms and customs, and international standards which describe the opportunities for and restrictions imposed upon the participants in relationships. Subsequently, possible strategies for the resolution of land disputes and the reasons of their use (or misuse) are analyzed.

Nenets Reindeer-Herding Farms: Between Custom and the Present

> All that could be preserved has already been preserved. Now we are trying to grow into present-day society in a modern way. (Representative of the association of the Nenets nation, *2012)*

The life of modern Nenets reindeer-herders is a mixture of centuries-old traditions, Soviet heritage, and up-to-date trends in development. For many decades, Nenets reindeer-herders led a nomadic life with their herds in the tundra, using traditional instruments of labour and clothing, and conforming to individual Nenets rites. However, during the course of the 20th century, the Nenets' way of life underwent profound changes. Policies carried out by the Soviet authorities had the strongest impact on the Nenets culture and lifestyle. Many traditions and rites were destroyed: The Nenets language was partly forgotten and local shamans, who were the leaders of Nenets communities, were sent to prison camps (Novikova 2010; Stammler & Wilson 2006). Reindeer-herding communities were reorganized into reindeer-herding collective farms and a work rotation system was introduced: Reindeer-herders no longer led a nomadic life with their reindeer but went into the tundra in shifts for a fixed period of time. Reindeer-herders started to perceive reindeer herding not as a way of life but simply as a job. Children of the reindeer herders studied the whole year round at settlement schools and lived in hostels located in the same settlements. They could go to the tundra to be with their parents only in the summer. Children who grew up without personal experience of the tundra did not want to return there after graduation from school; instead, they entered study institutes and left for the cities. On the one hand, this resulted in the appearance of the first Nenets intelligentsia; on the other hand, it also resulted in estranging the Nenets from the tundra, their language and customs, and also in a reduction in reindeer herding. As a local journalist commented:

> Previously, all the professions we acquired were for us secondary. Unfortunately, today everything is the wrong way round; that is we have mastered this society and its space, and reindeer herding has become secondary, although it is our traditional way of life, through which one can preserve language and culture. (Local newspaper journalist in the town of Naryan-Mar, 2012)

After the collapse of the Soviet regime, the reindeer-herding collective farms broke up. In the period of *perestroika* (reconstruction), most of the reindeer were lost. Additional kinds of production, which existed at the time of the collective farms (fur farms, dairy farms, and others), were closed down. Agricultural productive co-operatives (APCs) were organized in most settlements instead of

[1] The materials of this research were published and presented for local NGO and communities in NAO (see Tysiachniuk, Tulaeva, & Landonio, 2012).

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Soviet collective farms, and reindeer herding and fisheries began to develop in some settlements on the basis of family-tribal communities.

At present, the life of the Nenets in NAO is an unusual mixture of traditional ways and modernity. The herders drive not only teams of reindeer but also off-road vehicles, wear both traditional jumpers and modern overalls, live in reindeer skin tents in the tundra, while aiming to equip them with modern acquisitions (washing machines, satellite phones, and TV sets) and have modern houses in the settlements. Most Nenets, particularly the younger generation, already living in NAO are not engaged in reindeer herding but hope to leave for the cities. At the same time, the gradual dying-out of reindeer herding constitutes a threat for the continued existence of Nenets culture. For example, the Nenets language is connected with the domestic features of reindeer herder life; therefore, its use in modern urban life is inconvenient and results in it gradually dying out:

> If we want to hide something from the children, we speak in the Nenets language. (Inhabitant of the Krasnoye settlement, 2012)

Traditional Nenets rites and customs have suffered a similar fate. The appearance of oil companies ambitious to move into the lands of the reindeer herders has been met with ambivalence. On the one hand, petroleum production is considered a matter of national importance and an opportunity to obtain serious economic support from companies. Schools, gyms, and dwelling houses are built in settlements at the expense of the oilmen. As one individual stated:

> We are hooked on oil, so we need nothing more. (Settlement chief, 2012)

On the other hand, the coming of the oilmen is perceived as a threat to the traditional way of life and to the tundra, which reindeer herders consider to be their home. Hence, one of the main motifs voiced in all of the interviews was regret for the restriction imposed on reindeer herding and the contamination of nature as a result of industrial development:

> Well, anyway, when reindeer herders lived solely amongst themselves, without what there is now… well, before the oilmen came, everything was good then. Now, most pastures are littered, the grass is trampled. (Local inhabitant of the Nelmin-Nos settlement, 2012)

Thus, the necessity to preserve the conditions for a traditional way of life became one of the main concerns in the interaction between the oil companies and local communities in the Okrug.

Oil, Reindeer, and the Legal Environment

> The territory is common, but everyone has his own rules of survival. (Local inhabitant in the Khorei-Ver settlement, 2012)

One of the purposes of this article is to determine the legal coordinates within which the participants in a relationship act. In the view of a positive approach to the law, the only framework determining the interactions between the reindeer herders and oilmen is provided by state legislation. From the perspective of legal anthropology, the situation seems to be more complex. How the managers of the companies and the reindeer herders themselves perceive and substantiate their rights to the land is important. And here we see the juxtaposition of several normative procedures, including state legislation, informal rules for its use, international law referring to Indigenous peoples, common law to which reindeer herders appeal, and corporate standards of company activity oriented in many respects toward economic efficiency.

Perception of the legal situation by its participants. In accordance with the state legislation, both reindeer herders and oilmen rent the lands from the state to which they belong but local communities themselves perceive the situation otherwise. The representatives of the reindeer-herding communities appeal to common law and tradition. As reindeer herders have been pasturing reindeer on the same lands over the ages, they perceive the lands as their own. Reindeer herders consider themselves to be native and permanent inhabitants of the lands, which in turn gives them a greater entitlement to the lands. One herder stated:

> It drives me nuts, if I meet a non-Nenets in the tundra. I would not walk in your territories in such a way. They creep where I creep. The tundra is my homeland. (Local inhabitant, Krasnoye settlement, 2012)

The appearance of the oilmen is perceived as an intrusion and as a violation of an unwritten law. In the opinion of the local inhabitants, the oilmen are a "temporary phenomenon" and *Varangians*, who "will pump all the oil and go away;" therefore, they cannot be considered to be the legal owners of the lands. It is interesting that in a number of cases such an impression also meets with approval amongst company managers:

> Anyway, we work on their lands. That is, so to speak, to ignore their requests would be wrong. (Oil company manager, 2012)

Taking lands away from reindeer herders for the sake of petroleum production is connected for the reindeer herders with the loss of an object that has not only an economic value but also is imbued with definite moral connotations. The tundra is the basis of their economic survival and of the maintenance of their cultural identity, in the loosest meaning of the word. Nenets songs, legends, language, clothes, and domestic objects all are involved in the tundra. For example, inhabitants commented:

> If they no longer walk across their land, it is as if they have lost their home. There is a very sensitive attitude to the land here… If the matter concerns an oil company, it means that it has grabbed a plot of land. It is the seizure of pasture. (Local inhabitant, Krasnoye settlement, 2012)

> Let us suppose that any management company or someone else would come into your flat… And they are going to lay a pipe through your flat, next to the ceiling lamp, but without impeding your activities very much... Well, the tundra is just their home... (Representative of the Association of Indigenous Peoples, 2012)

At the same time, many company representatives consider such an attitude to be unjustified since the lands are not formally the property of reindeer herders, stating:

> We need two licenses to begin our work: one for production and another for land. The lands were already rented to the reindeer herders. And they say: it is our land. But it is not their land, it is the state land. (Oil company manager, 2012)

Companies aim to act within the framework of formalized laws and do not always have opportunities to gain an understanding of the cultural and domestic features of Nenets life. Moreover, they are bound by their corporate obligations, the principal one of which is concerned with the economic efficiency of their activity:

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> Our task is to produce oil rather than spend time on reindeer herders... We are responsible to our owners. They are not interested in how we come to an agreement here: They simply need a profit. The owner will take as much as has been planned. (Oil company manager, 2012)

Thus, we see here the collision of two different normative systems, where one party appeals to informal, historically formed norms, while the other party bases its actions on economic necessity and formal rules. It is significant that both reindeer herders and oilmen, when describing the behaviour of their opponents, used the metaphor "those people seem to have been born yesterday," which emphasizes the difference between the two worlds. The mediator in this confrontation is the state legal system.

Formal rules. One can pick out several main laws regulating relations in this sphere. First, there is the law of the Russian Federation, *O nedrakh* (Underground Resources Law, 1992), determining the procedure companies use to access natural resources. It regulates the rules for conducting auctions and obtaining licenses, and for regulating the rights and obligations of the users of mineral resources. Secondly, there is the Land Code of the Russian Federation (2001). It determines the rights and obligations of owners and lessees of land plots, procedure of recovery of damages on seizure of agricultural land no longer in use, and regulates land disputes. Thirdly, there is a group of laws regulating the rights of Indigenous low-numbered peoples of the North: *O garantiyakh prav korennykh malochislennykh narodov* ("On the Guarantees of the Rights of Indigenous Low-Numbered Peoples," 1999); *O territoriyakh traditsionnogo prirodopolzovaniya korennykh malochislennykh narodov Severa, Sibiri i Dalnego Vostoka Rossiiskoi Federatzii* ("On the Territories of the Traditional Natural Resource Use of the Indigenous Low-Numbered Peoples of the North, Siberia and Far East of the Russian Federation," 2001); *Ob obshchikh printsipakh organizatsii obshchin korennykh malochislennykh narodov Severa, Sibiri i Dalnego Vostoka Rossiiskoi Federatsii* ("On the General Principles of the Organization of the Communities of Indigenous Low-Numbered Peoples of the North, Siberia and Far East of the Russian Federation," 2000). These laws establish the legal foundation for the development of Indigenous low-numbered peoples and protection of their Aboriginal habitat and traditional way of life. On the basis of this group of laws, as well as the Land Code of the Russian Federation (2001), the Nenets people have rights concerning compensation for the damage inflicted on them as a result of the seizure of land by oil companies. The amount of stated damages is determined by the establishment of an agreement between the parties and is estimated according to the procedure established by the existing legislation. Several methods allowing for the evaluation of damage were developed at the federal level, which resulted, for example, in Methods of Damage Assessment and Calculation (2000), approved by the GosComEcologiya environmental agency of the Russian Federation and, in 2009, in Methods for the Calculation of Damages Caused by the Seizure of Land for Non-Agricultural Use, proposed by The Ministry of Economic Development and Trade of the Russian Federation. Fourthly, there exists the Law on Ecological Expert Examination (1995), the essence of which is concerned with the preliminary inspection of correspondence resulting from planned economic activity, on the one hand, and the requirements of state legislation and technical regulations, on the other. Before 2007, this was the key law determining the opportunities for the participation of the general public in the evaluation of ecological and social effects of the industrial activity undertaken by organizations. But following a reform in 2007, this law was considerably amended, with the result that the idea of "ecological expert examination" began to be interpreted more narrowly. According to the new version of the law, documentation of the planned activity has to be subject to evaluation,

rather than the planned activity itself. The opportunities for NGO expert participation have also been abridged.

Finally, there are the legislative acts of Nenets Autonomous Okrug: *O regulirovanii zemelnykh otnoshenii na territorii NAO* ("On the Regulation of Land Relations in the Territory of NAO," 2005); *O nedropolzovanii* ("On the Use of Subsurface Resources," 2003); and *O chastno-gosudarstvennom partnerstve* ("On Public-Private Partnership," 2011). These acts establish the foundations of interaction between various actors in the Okrug and outline the terms of mobilization and use of public and private resources for the development of the economic and social sphere, as well as protect of the rights of the Nenets people.

All of the above laws create a framework for constructing interaction between the various actors. However, from the point of view of legal anthropology, filling this framework depends on how much the state system coincides with the normative systems of the participants. It will have a direct influence on how laws act in practice.

Law enforcement in practice. The next step important for our study is to show the peculiarities of the impression of state laws held by various groups of actors. We can note the following points.

First, according to the informal norms, the circumvention of any legislative barriers is often considered in order to overcome bureaucratic obstacles rather than violate the law. For example, the formalization of a permit for the allotment of land or the receipt of a license for oil production can take from one to three years. Hence, sometimes it is economically more profitable for companies to pay a fine for starting operations early, rather than observing correctly all the details of the law:

> The oilmen think that it is cheaper for them to pay a fine, to start and even complete their work. And so this is what they do and they pay the fines. In other words, they will pay more taxes during a year than they will if they pay a fine … Anyway, they will obtain that plot, of course. Because the license plot is, of course, an oil one, and they will in any case formalize it in a year or two. (Representative of reindeer-herding farm, Khorei-Ver, 2012)

In some cases, this results in the land turning out to be developed by oilmen earlier than the reindeer herders will have given their permission for them to do so. As one chief told us:

> They have already built houses and laid an oil pipeline. And we have not yet agreed or signed anything. (Chief of reindeer-herding farm, Krasnoye settlement, 2012)

Unofficially, it is accepted that a permit will in any case be obtained. Indeed, when studying the materials on NAO, we found no single case where petroleum production had been blocked because of the absence of a permit issued by the Indigenous nation.

Secondly, observation of a number of laws can be deceptive. That is, it is important to observe the external formalities of the law rather than its essence. For example, public hearings, which are necessary before the start of petroleum production, are often organized in such a way that practically none of the interested parties can take part in them. For example, the one representative of a local community on whose lands petroleum production will be carried out said:

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> It is enough to conduct hearings only in Naryan-Mar and that is all, and the law will have been observed. (Local inhabitant, Naryan-Mar, 2012)[2]

It should be noted that the local stakeholders themselves also react passively to the opportunity to realize their rights by participating in the public discussion.

Thirdly, the participants do not consider the state law to be a unified, monolithic system. The various groups of participants are guided by different legislative documents determining, as far as they are concerned, their priority over other state laws. In other words, each group has its own hierarchy of rules and laws: Some of which are primary for their own activity, while all others are considered to be secondary. Such an understanding is in conflict with any positive approach to the law but better reflects the true nature of law enforcement in practice. For example, the Underground Resources Law (199) and the requirements that it presents is the basic law regulating the activity of oil companies. Other legislative documents, such as the laws on Indigenous low-numbered peoples of the North, which are typical only for defined territories, seem to the oil companies to be less significant:

> We are governed by the Underground Resources Law. It is the main law for us… We produce petroleum and pay taxes on it to the federal budget. That corresponds to the federal interest. Other companies also come and confront the local people with this absurdity in respect of land plots… (Manager of oil company, 2012)

Fourthly, in connection with frequent changes of power in the Okrug, changes in regional laws, and the absence of clarity in the distribution of authority between various levels of power, local inhabitants do not consider the state legal system to be something reliable, especially when the matter concerns the regulation of relations in the territory of the Okrug. One participant stated:

> When power changes, the laws change with it each time. There are no correct regional laws regulating local relations. (Local inhabitant, Nelmin-Nos settlement, 2012)

Thus, although all the relations among participants exist formally in the system of Russian state law, we are also confronted with a number of legal and quasi-legal regulations in practice.

Land Disputes and Their Resolution Strategies

> We do not arm-wrestle with the oilmen, we negotiate token prices. (Representative of reindeer-herding co-operative, 2012)

> We fight against the oilmen. (Representative of reindeer-herding farm, 2012)

Conflicts between reindeer herders and oilmen over rights affecting the use of land plots began to appear in the 1990s with the arrival of oil-producing companies in the Okrug. The implementation of actual petroleum production resulted in the seizure of a part of the land traditionally used for reindeer herding. This, in turn, placed a restriction on the number of reindeer on the farms. In some cases because of the concomitant shortage of land, the local inhabitants were unable to increase the number of reindeer since part of the land had been handed over to the oilmen. In accordance with legislation, companies should pay compensation to reindeer herders for the lands seized from them. The amount of compensation became one of stumbling blocks in the negotiations. Moreover, even if

[2] Naryan-Mar is a district center.

the lands remained in the possession of the reindeer herders, oil pipelines were built across them, partitioning the lands and hindering reindeer herding. Reindeer, unaccustomed to such constructions in the tundra, often refused to go further. The construction of convenient crossings for reindeer over the oil pipelines was another important point in the negotiations between the reindeer herders and oilmen. Finally, one more cause of conflict was connected to the ecological consequences of the activities of the companies: oil spills, poor restoration of territories after oil production, and rubbish left behind on the tundra.

Initially, interaction with the oilmen was complicated. On the one hand, high expectations on the part of local communities with respect to the oilmen had a major influence. Local populations tended to think that, since oil is one of the key resources for the country, the oil companies would have practically unlimited financial capacity. One of the discourses most commonly used in the Okrug can be expressed in the short phrase "milking the oilmen." According to a story told by an active participant on the side of the reindeer herders in the negotiations with the oil companies:

> The point is that when we worked with the geologists, they convinced us: "Boys, where would we get money from? We can help you with helicopters, but we have no money. But when the oilmen come, they will help you, they have a lot of money." When the oilmen came, I said to them: "Boys, that's it, it's time to pay up." Well, they did not understand the situation, of course…. (Reindeer herder, 2012)

At the same time, the oil companies were also unprepared to interact with the communities of reindeer herders and to take into account their special rights to the land. The need to reconcile their activity not only with the state authorities but also with the Indigenous people was considered an unjustifiable additional pressure, according to some accounts obtained from the managers of the oil companies.

On the basis of the material collected, it is possible to pick out three possible models for land dispute resolution: (a) through official state channels, (b) through non-governmental mediators, and (c) by way of direct negotiations and agreements (i.e., without any intervention of a third party).

The first model addresses the regulation of contradictions by the state authorities. According to Russian legislation, land problems are to be solved by municipal authorities; however, when the oil companies first arrived in the Okrug there was no regional administrative division and so the matter did not come within the constraints of the usual Russian practice. This in turn resulted in confusion in the distribution of responsibility for land dispute resolution between the regional, area, and district levels of power. As a result, the oilmen and reindeer herders, without the intervention of state officials, directly resolved the conflicts. Later, the Polar District was established in the Okrug and land disputes came under its jurisdiction. But by virtue of the tradition that had already existed for several years, the settlement of land questions between the oilmen and reindeer herders went on as usual without the intervention of the state authorities. According to one observer:

> Unfortunately, at that moment in time, the State mildly expressed what it had not said directly: let them reach an understanding by themselves. And so it has continued up to the present moment. Now the picture looks rather different, since the State is now trying to meddle in the situation. However, the reindeer herders and oilmen say that it is only between themselves. (Representative of NGO, 2012)

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The second model represents the resolution of disputes with the help of non-governmental experts. The association of the Nenets people, or *Yasavei,* was involved as a mediator in the cases under consideration. Yasavei is the largest NGO in the Okrug engaging in the rights of the Indigenous peoples. All questions connected with economic, social, legal, and cultural aspects of the life of the Nenets people fall within its scope. Yasavei is the only NGO in the Okrug with the right to take a legislative initiative. The vice president of Yasavei, who is in charge of natural resources, is a member of the commission drawing up the decisions on the allocation of land plots to the oil companies. In other words, the representative of this organization takes part in the inspection of the land that has been proposed for allocation to the oilmen; subsequently, the commission also oversees the work of the oil companies in those territories. Moreover, the commission has close connections with the authorities in the Okrug, as some of its members work simultaneously for the Okrug government. This creates some of the key factors affecting the situation, but it does not permit the resolution of all of the problems:

> If any questions arise, we can help them to meet and come to an agreement. We have no authority to establish rules, norms, algorithms, or mechanisms to resolve such problems. We have nothing like that. We can only construct an agreement. (Representative of Yasavei, 2012)

In a number of cases, experts of Yasavei were mediators between reindeer herders and companies when the matter concerned the allocation of land or the terms of its use by the oilmen (for example, the construction of crossings over oil pipeline for reindeer herders).

However, most common is the third model. In most cases, the oilmen and reindeer herders resolve their questions by means of direct negotiations, without the aid of a third party. Direct agreements on social and economic co-operation between oil companies and reindeer-herding farms have resulted in mutually beneficial solutions for problems, such as the reindeer herders giving their consent to the use of land by oil companies in exchange for which the oil companies would assign sums of money for the economic support of reindeer-herding farms. As a rule, interaction between the two sides is formed in the following way. Each year the representatives of the APC write appeals in which they state their requirements for the current year. The companies do not, however, transfer money directly to APC, but pay for services rendered (for example, the construction of garages and houses, the rental of helicopters, the purchase of equipment, reindeer, inclusion in a tourist promotion, goods, etc.)

The scenario above illustrates the usual model of interaction between oilmen and reindeer herders. There are various ways of reaching such agreements. The quotations set as the epigraph for this section of this article show two different strategies used by reindeer herders in negotiations. In most cases one can speak of the "strategy of peaceful coexistence," when the reindeer herders agree to the conditions proposed by the oilmen; in other words, agree to accept the amount of compensation that is proposed by the company. The reindeer herders can try to negotiate an increase, but only by a negligible margin. At present, the "price list" agreed in the process of such informal negotiations already exists. According to one team leader:

> I want to tell you that our wish is their proposal. (Team leader of reindeer-herding farm, 2012)

The second strategy is based on the tendency of reindeer herders to advance their own requirements; however, the team leaders adopted an active position in only one the case included in

the study under discussion. The state legislation (the Land Code and laws on the rights of Indigenous low-numbered peoples) was the major tool with which the reindeer herders tried to defend their interests in their disputes with the oilmen. But in order to make the law work, it was necessary to "operationalize" it (i.e., to use the formalized methods of damage evaluation):

> They might have twisted arms in a barely legal way; we needed calculations to prove it. (Representative of the reindeer-herding farm, 2012)

The leader of the reindeer herders approached Moscow experts who calculated the approximate amount that would compensate for the damage connected with the seizure of the land. The calculations were not, however, recorded in the case study. Having an idea of the amount on which one could count in the disputes with the oilmen, the leader of the reindeer herders discussed the amount of possible compensation with the companies working in their territories. This particular reindeer-herding farm concluded the first formal agreement in 2001. At the same time, the leaders of the farm carried out a geo-botanical examination of the land with the financial support of the Okrug administration in order to calculate the cost of the damage caused by petroleum production. At present, interaction between the farm and the oilmen continues with the aid of formalized methods of damage calculation and agreements concluded on the basis stated by a representative of the reindeer farm:

> Today one cannot arm wrestle with the oilmen without any proper methods! We count on those methods; we have counted everything. But now I have those figures, I can substantiate all of them, and it is easier to me to speak to any president or director. (Representative of reindeer-herding farm, 2012)

At the same time, other NAO reindeer-herding farms are unable to use the same kind of methods because they have not commissioned an expensive geo-botanical examination of their lands. Consequently, in most cases in the territory, the amount of damages paid to reindeer herders by oil companies is determined arbitrarily during the course of negotiations.

Conclusions

In the course of this investigation, we have analyzed the possibilities for resolving land disputes between oil companies and reindeer herders based on the peculiarities of the existing legal and quasi-legal regulations. Following the approach of legal anthropologists, we have analyzed the various normative and quasi-legal systems existing in the community, layer by layer. In this light, the legal system does not appear to be a unified, monolithic construction, but is more like an onion, made up of many layers. This is the main challenge for legal science to consider since as a rule only one of the existing layers of the legal system is taken into account.

In spite of the fact that the general framework of interaction is constituted by the state legal system, there are other rules, norms, and standards, which overlap with and influence each other, that also act in the process. First of all, the discourse is influenced by a collision between the traditional ideas of reindeer herders with the corporate standards of economic efficiency. With respect to international documents protecting the rights of Indigenous peoples, their influence is felt in some cases only through the corporate standards of social responsibility (CSR) of international corporations working in Russia. As a rule, this is expressed in the social programs of companies focused on Indigenous peoples. None of our informants (business, NGOs, authorities, communities) appealed to international law, either by discussing or disputing it.

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Consequently, it is possible to delineate the following effects of the interactions of the various rules and norms. First, custom continues to play an important role in the life of reindeer-herding communities. It constitutes the rights of local communities to the lands in their possession, whereas the state laws are considered to be an instrument to impose pressure on the oil companies. Custom also determines to some extent the peculiarities of an appeal to the state legal system. For example, the role of mistrust of external institutions is high in traditional communities such as those of the reindeer-herders. The communities are characterized by their tendency "to wash their dirty linen at home" (i.e., to solve their questions themselves without unnecessary fuss). It is noteworthy that the leader of the only reindeer-herding farm actively asserting its rights and appealing to degrees of jurisdiction is not an ethnic Nenets.

Secondly, the role of state law in the resolution of conflicts is restricted because of confusion in the distribution of authority between the various levels of state power, the complexity of the operationalization of specific laws in practice, and the necessity to use special methods, as well as the excessive bureaucratization of the state legal machine. As we have seen, municipal authorities under whose supervision such questions are raised do not intervene in the process of their resolution. The participants themselves also do not consider the state law as an effective system of resolution of such conflicts; they say that it is more profitable for them to resolve their problems themselves. Virtually none of the participants applied to a court for the resolution of a conflict. Both companies and reindeer herders tend to avoid bureaucratic acrimony and thus reduce their expenses. The participants in conflicts nevertheless use the threat of legal recourse.

Thirdly, it must be emphasized that the model of land dispute resolution using direct negotiations between oilmen and reindeer herders took some time to establish before it became the common practice. The participants had to work specifically on the legitimation of their rights, even though they existed formally in state legislation. Both parties used various mechanisms to this end: publications in the press, participation at round tables and conferences, interaction with representatives of regional authorities, and actual direct negotiations.

Fourthly, negotiations between oilmen and reindeer herders taken out of the context of the state bureaucratic machine are characterized by opaqueness and situatedness. They are regulated to a larger extent by informal norms and impressions of justice than by formal rules. In each individual case, the amount of assistance provided by companies to reindeer herders is determined individually in the course of negotiations and the process remains confidential. It is determined by the literacy of the administration of the reindeer-herding farms and by the stance adopted by the company administration. Neither the representatives of the state authorities nor the experts from the NGOs know the exact amount of assistance provided. Moreover, as a rule, those agreements are short-term in character and their conditions are revised every year. In consequence, this brings into question the sustainability of this model of relations.

It would be desirable to implement the following measures to resolve the existing problems:

- Involvement of groups of civil society in decision-making regarding the use of lands and natural resources (for example, recovery of public environmental examination);
- Increase the transparency of decision-making regarding to allocation of land; and
- Practical use of the methodology for calculating damages for traditional communities from industrial activities.

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