

Environmental law and legal assistance of individuals sustaining a traditional lifestyle

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Abstract. The purpose of the paper is to justify the need to make amendments to the Criminal Code of the Russian Federation, i.e. providing for exempting those individuals from criminal liability, who have committed acts, set forth formally, sustaining their traditional lifestyle in the North. The paper summarizes key issues of rights protection of indigenous minor peoples of the North (Khanty or Mansi), who sustain a traditional lifestyle, dealing with exploitation of ancestral lands: hunting, fishing, use of other resources. In the Khanty-Mansi Autonomous Okrug, it is very common when individuals are being prosecuted for illegal felling (Article 260, Criminal Code of the Russian Federation), as well as for illegal acquisition, transfer, sale, possession, transportation or carrying of explosives or explosive devices (Article 222.1, Criminal Code of RF). However, using these lands make it possible for the general public to do so too, and it is not only for relatives or friends of the owner of ancestral lands. Following the casework, it has been found that in a significant number of cases the investigation fails to establish either the direct ownership of items limited in circulation (gunpowder, ammunition) or specific individuals who carried out the felling in a particular place. Such being the case, the legal owner of the land or its part is held liable. This new law will protect the indigenous peoples of the North from inconsistent criminal repression and preserve their cultural practices.

1 Introduction

Unifying trends of modern globalization make a serious impact on a lifestyle and ethnic identity of the indigenous minorities of the North. Unfortunately, this identity blurs over time, transforms, experiences aggressive influence of modern industrial civilization, that prevails and erases features of the traditional lifestyle of the Northern peoples. Protecting their interests, indigenous minorities of North are at the forefront of the struggle of the humanity for their survival under the conditions of ecological crisis.

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Quite a few Northern natives sustain such lifestyles, which, on the one hand, represent a way of life developed over the centuries, and, on the other hand, particular features of such a lifestyle in terms of legal regulation become formal wrongdoings inflicting liability. With that, in some cases, it is a matter of criminal liability, when individuals sustaining a traditional lifestyle in the North, being the most vulnerable social category in terms of their legal literacy and capabilities to defend themselves, become defendants in criminal cases.

In the Khanty-Mansi Autonomous Okrug, it is very common when individuals are being prosecuted for illegal felling (Article 260, Criminal Code of the Russian Federation), as well as for illegal acquisition, transfer, sale, possession, transportation or carrying of explosives or explosive devices (Article 222.1, Criminal Code of RF). It is not uncommon when individuals sustaining traditional lifestyle are being prosecuted under these articles at a time. In 2015, Ugra saw a total of 353 crimes committed by individuals representing indigenous minorities of the North, that is 10% greater compared to 2014 (321 crimes). In 2014, authorities brought criminal cases against 275 indigenous individuals, having sentenced 124 of those to actual imprisonment; in 2015, 267 indigenous individuals were prosecuted, with 114 ones imprisoned.

2 Methods

The issue of traditional natural resources management by indigenous minorities has been under serious consideration in the context of international law. Thus, the right to freely use traditional natural resources, to preserve ethnic and cultural identity, to enforce and use their customary law regulating relations between indigenous peoples are enshrined in The International Covenant on Economic, Social and Cultural Rights dated December 16, 1966; The 2007 United Nations Declaration on the Rights of Indigenous Peoples; The European Charter for Regional or Minority Languages dated November 5, 1992; The 1998 Framework Convention for the Protection of National Minorities; The ILO Convention No. 107 "On the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries"; The ILO Convention No. 169 "On Indigenous and Tribal Peoples in Independent Countries" (unfortunately, this Convention has not yet been ratified by Russia). International law now recognizes close relationship and dependence of indigenous peoples on biological resources, as well as the need for indigenous peoples to participate in the conservation and sustainable use of the environment.

The rights of indigenous peoples to regulate their relations based on their customary law are recognized by The ILO Convention No. 169 Concerning Indigenous and Tribal Peoples In Independent Countries and The United Nations Declaration on the Rights of Indigenous Peoples, which provide for indigenous peoples the right to own traditional lands, manage their environment, resources and, consider their customs or customary law when the national legislation is applicable, while the customs of these peoples, that refer to criminal matters, must be considered by the authorities and courts.

At the national level, the Russian Federation has also paid considerable attention to the regulation of traditional relations between indigenous peoples, both at the Federation and federal entities levels. Thus, article 14 of the Federal law dated 30.04.1999 No. 82-FZ "On rights guarantees for indigenous peoples of the Russian Federation" states that "individuals belonging to minority peoples, as well as associations of those peoples have the right to legal protection of their native habitat, traditional lifestyle, economic activities and crafts of minority peoples, enforced in the manner prescribed by Federal laws. In legal proceedings, in which individuals belonging to minority peoples act as plaintiffs, defendants, victims or accused, the courts may consider the traditions and customs of these peoples, should they do not contradict the Federal laws and the laws of the constituent entities of the Russian Federation."

The definition provided for in the law, which allows for the possibility to apply the customary law of indigenous peoples, albeit in a truncated form, to the extent that it does not contradict the Federal laws and the laws of the constituent entities of the Russian Federation, should certainly be welcome. However, here we face with another important issue, that in many cases, the customary law of the indigenous peoples of the North is scarcely studied, with governmental law enforcement agencies being not aware of that.

In this regard, we are currently witnessing quite serious efforts on the part of particular intergovernmental, national and public organizations for rights protection of indigenous peoples, as well as gathering and preservation of their cultural heritage, including customary law. What is of great importance is scientific research of the customary law of indigenous minor peoples, carried out by some international and Russian scientists.

According to the Decree of the Government of the Russian Federation dated April 17, 2006 No. 536-R "On approval of the list of indigenous peoples of the North, Siberia and the Far East of the Russian Federation", as well as the latest census of the population of Russia (2010) in the country there are 40 ethnic groups belonging to the indigenous peoples of the North, with a total of 257,895 people. The entire population of the Khanty-Mansi Autonomous Okrug – Ugra is 1.5 million people, with the following indigenous peoples: Khanty – 19,068 people (1,24%); Mansi – 10,977 (0,72%); Nenets 1,438 (0,09 percent); Shor – 61; Evenkis – 33; Selkups – 27; Kumandins – 13; Kets– 12. Total number amounts to 31,629 people, making just over 2% of the region's population. With that, the most numerous groups of indigenous peoples in the region – Khanty and Mansi, belong to those seven indigenous peoples with stable positive dynamics (Nenets, Dolgans, Evenks, Evens, Yukaghirs, Khanty and Mansi). In the Yamal-Nenets Autonomous Okrug, the number of people representing indigenous peoples of the North amounts to 41,249 (29,772 Nenets, 9,489 Khants, 1,988 Selkups) which is 7% of the total population of the okrug. The total growth of indigenous minor peoples of the Tyumen region, including KMAO and YNAO, inhabited by such ethnic groups as Nenets, Khanty, Mansi, Selkups, Evenks, from 2002 to 2010 is 11.1 %.

A. I. Kovler's achievements in legal anthropology include the incorporation of customary laws of indigenous peoples, including their rights to land, natural resources and sustainable development.

In this regard, L. V. Andrichenko emphasizes that complex natural and climatic conditions, the vulnerability of the traditional lifestyle and the small number of each of the peoples of the North have necessitated the formation of a special direction of legislative policy with regard to their sustainable development, providing for systemic measures to preserve the authentic culture, traditional lifestyle and native habitat of these peoples.

On the subject has been studied in the works Datta R., Khvatova M., Karaseva M., Montesanti S. & Thurston W., Lapshina I., Mazzocch F., Panfilov P., Tom M., Huaman E. & McCarty T., Yerokhina E.

3 Results

The following situation is a typical example of prosecuting indigenous peoples under articles 222, 222.1, 260 of the Criminal Code. Upon arrival in the ancestral lands of Khanty or Mansi, law enforcement officers, i.e. district police inspectors determined that felling of trees had been committed. After that, during operational and investigative measures, the hut and yard buildings were inspected, where hunting gunpowder or ammunition for various types of weapons might be found. These facts eventually become the subject of criminal proceedings and, as a rule, formally the one who is the land owner is brought to responsibility.

At first sight, should the actions of the prosecuted really have the acts that belong to the

material element of *corpus delicti* covered by Art. 222.1 and 226 of the Criminal Code, it may be that prosecuting this individual is justified and natural. However, the study of specific materials of criminal cases shows quite different results.

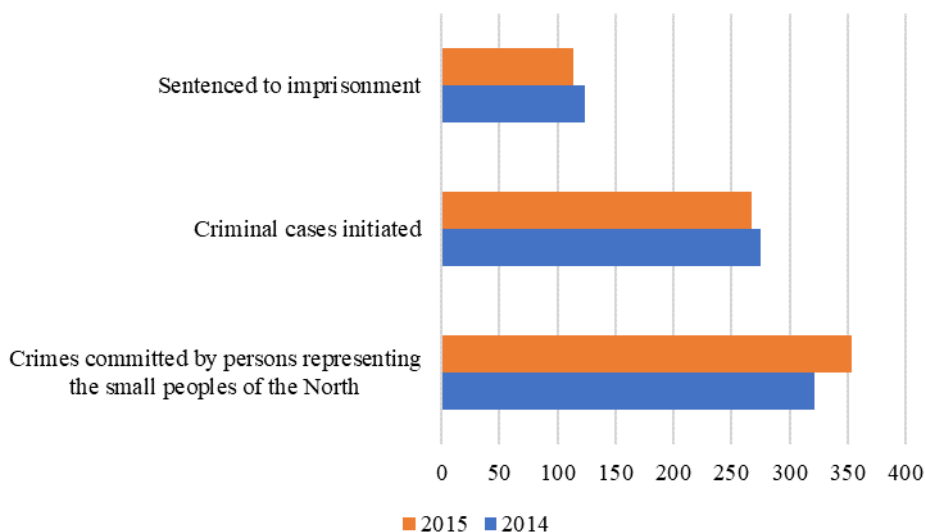


Fig. 1. Crime in Ugra by persons representing the small peoples of the North.

First, these lands are used both by the owners and the public, and it is not only relatives or friends of the owner of ancestral lands. It can be hunters and fishermen who in severe northern conditions enjoy the right to use a hut and other buildings within the land even if the owner is not present. In such cases, it is common practice to present the owner with the provisions, hunting supplies (gunpowder, ammunition, etc.), as a certain fee for hospitality.

Moreover, individuals sustaining traditional lifestyle settle in different plots of their land at different seasons. In winter, it can be a land plot with quite a comfortable environment to live in winter; in summer, these nomads can migrate to fishing or hunting sites, harvesting wild plants.

Thus, in the vast majority of cases, the investigation fails to establish either the direct owner of items limited in circulation (gunpowder, ammunition) or specific individuals who carried out the felling in a particular place. Such being the case, the legal owner of the land or its part is held liable.

Second, the acts of such individuals, which formally shape the material element of these offences (articles 260 and 222.1 of the Criminal Code), do not inflict harm to the objects of criminal defense: environmental facility and public safety respectively.

Thus, felling usually takes place during a cold season for the purpose of heating of dwelling that often has just furnace heating. For example, according to the legal proceeding concerning Mr. Lozanov, having arrived on his land, found no wood collected last summer. This situation was due to the fact that unknown persons used all the collected firewood during their stay on the land. The guilty carried out felling for the purpose of getting firewood to heat his dwelling. Due to the thick snow cover in March, it was impossible to get firewood any other way, other than felling. Also, during the inspection of ancestral lands owned by I. Lozanov, ammunition and gunpowder were found there, which, in fact, do not belong to him (they were left by hunters as a present for staying in his hut), but were discovered in his ancestral land. Despite this fact, the individual was prosecuted under part 1 article 260, part 1 article 222, part 1 article 222.1 of the Criminal Code.

Moreover, such criminal cases become typical and repeated in the specified acts for individuals once they were prosecuted. Thus, in 2018, I. Lozanov was held liable again under part 1 article 222.1 of the Criminal Code. Such cases become typical due to the fact that law enforcement agencies bring to justice all the chiefs of such a tribal community (family), owning ancestral lands (part of ancestral lands). In 2015-2018, regarding this family, its three members, I. Lozanov (twice), G. Lozanov, K. Lozanov – all of them were prosecuted under articles 260, 222, 222.1 of the Criminal Code.

Another example is the case against the head of the ancestral lands, who felled trees on his own land to build a hut for his son, so as he could live his life. This fact too became known to the district police officer providing legal grounds for opening a criminal case against this individual.

In all these cases and in other cases, the perpetrators do not conceal their actions, report them freely, consider them legitimate and do not realize what exactly is their guilt. Objectively, in such cases, criminal liability should be excluded, but, first of all, it should be noted that there must be no harm to the environment caused by the indigenous peoples sustaining traditional lifestyle. Forests are important for the cultural heritage of these people and because indigenous peoples exploit forests for hunting and gathering (including food, fuel, medicine and building materials). Such situations as wood harvesting, hut building are conducted as a vital process, being an integral part of the natural process and the local ecosystem. These actions are not and cannot be widespread, destructive, but needed to meet personal demands.

To date, some positive aspects have begun to be encountered in practice related to the termination of criminal cases against members of the indigenous peoples of the North who are held criminally liable for felling trees and storing explosives. However, these cases are dismissed by the courts not because of the acquittance of these individuals, but because of non-rehabilitating circumstances in admitting individuals guilt, compensation for damage and a petition for applying a court fine in lieu of criminal penalty. This practice, of course, cannot be deemed as fully solving the problem at issue and it is a kind of half-measure to solve it.

Drawing attention to the individuals prosecution among the indigenous peoples of the North, for such crimes under articles 222 and 222.1 of the Criminal Code of the Russian Federation associated with the illegal circulation of weapons, ammunition, explosives, it is necessary, first of all, to place emphasis on the object of criminal law protection of these crimes, which is public security. Such acts are usually associated with storage as *modus operandi*. When storing these items, individuals do not hide them, in some cases they become aware of their existence only when they are found by law enforcement officers in household outbuilding within the ancestral land. It should be understood that such individuals represent Khanty or Mansi ethnic group, who belong to the indigenous peoples of the North, sustain a traditional lifestyle associated with hunting and fishing.

4 Discussion

A number of treaties including the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, International Labour Organisation Convention on Indigenous and Tribal Peoples No. 169, International Covenant on Economic, Social and Cultural Rights, United Nations Framework on Climate Change and Convention on Biological Diversity provide protection for the rights of indigenous peoples.

According to para.2 of Art. 1 of the Federal law dated April 30, 1999 No. 82-FZ "On guarantees of the rights of indigenous minorities of the Russian Federation" the traditional lifestyle of minor peoples is a historically developed lifestyle of minor peoples based on

historical experience of their ancestors in the field of environmental management, genuine social organization of residence, authentic culture, preservation of customs and beliefs.

Minor peoples, of minor peoples associations in order to protect their native habitat, traditional lifestyles, economic activities and crafts enjoy the right to: free of charge use in places of traditional residence and traditional economic activity of minor peoples lands of different categories necessary for the implementation of their traditional economic activities and traditional occupations, and common minerals as set forth in the Federal legislation and the legislation of constituent entities of the Russian Federation (Article 8 of the Federal law No. 82-FZ).

Thus, fishing is carried out in order to maintain the traditional lifestyle and implement traditional economic activities of indigenous peoples of the North (Article 25 of the Federal law dated 20 December 2004 No. 166-FZ "On fishing and preservation of aquatic biological resources").

It follows from the sense of the Order of the State Fishery Committee of the Russian Federation dated April 11, 2008 No. 315 "On approval of the procedure for implementation of fishery for the purpose of maintaining a traditional lifestyle and implementation of traditional economic activity of indigenous minor peoples of the North, Siberia and the Far East of the Russian Federation" that minor peoples and their communities have the right to apply traditional methods of production (catch) of water bioresources if such methods directly or indirectly do not lead to declining biological diversity, do not reduce number, sustainable reproduction of objects of fauna, do not interfere with their habitat and do not pose danger to the individual. So, according to paragraph 109 of the Fishing Regulations for the Northern fishery basin, approved by Order of the Federal Fisheries Agency No.13 dated January 16, 2009 when implementing traditional fisheries it is prohibited to use of all tools and ways of production (catch) of aquatic biological resources, with the exception of traditional methods of production (catch) of aquatic biological resources, if such methods directly or indirectly lead to declining of biological diversity, do not reduce number and steady reproduction of objects of fauna, do not disrupt their habitat and do not pose a risk to individuals.

At the same time, the use of gunpowder or ammunition in some cases is not even associated with their direct purpose – when hunting, but is associated with the use of these items for fishing, kindling fires, smoke or in the subsidiary farm. It should be noted that by the time of colonization ("conquest") of Siberia by the Russians, the majority of indigenous peoples had community customary law, corresponding to the level of social development of these peoples, taking into account the peculiarities of their traditional management (nomadic pastoral livestock, hunting, fishing), and adopted within the framework of the large-scale legal reform initiated by Speransky, the 1822 Charter on the management of foreigners legally defined the legal status of indigenous Siberian peoples in Russia and provided for the preservation of the conquered peoples ("foreigners") as traditional forms of self-government, and many customs, including traditional nature management of indigenous peoples of Siberia.

Many indigenous peoples of Russia still use relatively primitive fishing gear. Thus, the indigenous peoples of the Kamchatka territory used primitive fishing gear when fishing and hunting for sea animals, among which we can distinguish: blade weapons, including stones, sticks, arrows, spears, harpoons, firearms, etc. In general, it should be noted that issues of establishing responsibility for indigenous peoples engaged in traditional hunting, production of aquatic biological resources, as well as the matter under study, is also a segment of law enforcement practice that causes some reproach and justified criticism.

Thus, the following items, i.e. gunpowder, ammunition, constituting the corpus delicti under Art. 222 and Art. 222.1 of the Criminal Code of the Russian Federation, are not used by the specified persons for the purpose of encroachment on public safety and public order.

In such cases, these objects cannot be affected, since the circulation of these objects is carried out in deserted hard-to-reach places ("most indigenous peoples traditionally live in hard-to-reach places with a harsh climate and limited opportunities for personal consumption of natural resources") on ancestral lands.

It should be noted that ethnologists and ethnographers have been more active recently, who, due to the need of deepening their research, turn to the problems of an individual as an element of the ethnic group. It is these scientists who have come close to the problems of the legal protection of the identity of indigenous minorities, the compatibility of the legal system of indigenous peoples and the legal system introduced, and more often — forcibly imposed from outside.

In the studied aspect, the relevant European practice compatible in separate decisions of the ECHR, which relate to the definition and protection of cultural rights of minorities, is of interest. In the case of *Chapman v. the United Kingdom* [GC] (No. 27238/95, ECHR 2001-I) noted that "according to the Court opinion (para.96), though the fact of belonging to a minority with a traditional lifestyle, which is different from the majority, does not grant immunity from the General legislation aimed at protecting the property of society at large, such as the environment, it may have an impact on the way in which this legislation is applied". However, in cases related to the protection of indigenous peoples, their rights as well as in Russia are not fully protected. The case of *Hingitq 53 and others v. Denmark* ((decision) No. 18584/04, ECHR 2006-I) has a typical decision, where the applicants — members of the Inuit tribe in Greenland, complained that they were deprived of their native and hunting lands, and lost the opportunity to enjoy, benefit and control its territory due to their forced displacement in connection with the establishment of the US Air Force Base. Given the compensation ordered by the courts of Denmark for the eviction and loss of rights to conduct hunting, the court declared the complaint evidently ill-founded.

In this part, the approach developed in the Anglo-Saxon system of law, namely in North American and Canadian law, is much more progressive. The most significant and well-known is the decision of the Supreme court of Canada in two *R. v.* cases. *Sappier*; *R. v. Gray* 2006 SCC 54 dated December 7, 2006, according to which Canadian justice applied Indian customary law in a similar case at issue.

Aboriginal people have a broad right to cut timber on Crown land for domestic use, the Supreme Court of Canada ruled in an important test case 08.12.2006. In a decision, the court said natives can cut and use timber for things such as constructing homes, furniture or watercraft -- even if some of these uses are only distantly related to cultural practices and traditions from centuries past. "If aboriginal rights are not permitted to evolve and take modern forms, then they will become utterly useless," Mr. Justice Michel Bastarache wrote. "The cultures of the aboriginal peoples who occupied the lands now forming Canada prior to the arrival of the Europeans -- and who did so while living in organized societies with their own distinctive ways of life - cannot be reduced to wigwams, baskets and canoes." The court said aboriginals need only to establish, based on flexible rules of evidence, that the logs they intend to cut are on land where their ancestors traditionally lived and harvested timber. This case sets a precedent that might apply to other First Nations in Canada who want to harvest timber on their traditional territories to build housing. Many provincial governments now recognize the impacts of court decisions and have reworked their regulations in an effort to address the Aboriginal right to harvest timber for housing and other domestic uses. Aboriginal spokesman expressed pleasure with the ruling, saying it will provide immediate help for communities where natives live in substandard housing.

These North American countries have now gone even further and are at the initial stage of establishing an independent or almost independent indigenous justice system. Aboriginal overrepresentation in the criminal justice system is one of the clearest markers of what the Supreme Court of Canada has referred to as "a crisis in the Canadian justice system.". As a

model of such a system, the experience of the New Mexico and the Navajo tribal justice in the United States, including the National system of judges of American Indians, is used. In autumn 2016, a similar system valid outside the Federal courts (Akwasne legal system) was introduced in Canada. The Ontario Court of Justice approved the establishment of a new court — the Indigenous People's Court — that will use Indigenous traditions in the court process to promote healing and reconciliation.

5 Conclusion

At the time, it was noted that there is no system of legal support and protection of the interests of indigenous minorities in Russia. In this part, the role of the Institute of advocacy remains high, which in accordance with the legislation of the constituent entities of the Russian Federation provides these categories with free legal assistance at the expense of public funds. At the Federal level, this activity of lawyers is regulated by the Federal law "On free legal aid in the Russian Federation" dated November 21, 2011 No. 324-FZ. In the constituent entities of the Russian Federation, where indigenous peoples reside, the list of individuals and the list of cases in which such persons are entitled to free legal aid is usually expanded. For instance, in KHMAO-Ugra, such categories are provided with this one in accordance with the Law of KHMAO-Ugra dated December 16, 2011 No. 113-OZ "on free legal assistance in the Khanty-Mansi Autonomous Okrug – Ugra".

According to para.10-12 2 of Art. 4 of the specified law of KHMAO-Ugra the representatives of the minor peoples who are the subjects of the right of traditional nature management, sustaining a traditional lifestyle have the right to rendering free legal aid; representatives of the minor peoples living in rural areas (traditional residence and traditional economic activity of minor peoples) for whom types of traditional economic activity are the non-basic way of life support; representatives of public organizations of the minor peoples who do not have the status of legal entity. The cases of providing free legal assistance in accordance with article 5 of this law include: consideration of issues of traditional nature management, land use (for representatives of minor peoples entitled to free legal assistance) (para.17 1 of Art. 5); establishment of the fact of ethnical identity of minor peoples (Khanty, Mansi, Nenets) (para.18 1 of Art. 5). Rendering of free criminal legal assistance to indigenous peoples is carried out within the framework of Federal criminal procedure legislation.

In general, the analysis of advocacy to provide legal assistance to individuals belonging to the indigenous peoples of the North and to protect them from criminal prosecution at the preliminary investigation and trial on the studied crimes shows that legal assistance is mainly provided at the expense of the state, i.e. free of charge for the principal. In most cases, attorneys do not have knowledge of the customary law of aboriginal people; have a vague idea about the peculiarities of legal regulation of activities of natural resources by individuals representing indigenous groups; the defenders do not initiate sufficient and in-depth study of the actual circumstances of the case; accept the position of trustees according to which those in most cases wrongly plead guilty to the crime hoping for the early termination of the prosecution. Thus, it should be noted that the legal protection of aboriginals in such cases does not have the necessary effectiveness, is formal and does not provide opportunities to exclude criminal liability for them.

We believe that in order to change the situation in this area, it is necessary to take certain measures in terms of drawing attention to this problem on the part of defense attorneys. We consider it necessary, at least to pay consolidated attention to the problem of the organization of high-quality and professional protection of individuals representing the indigenous peoples of the North and brought to criminal responsibility at the level of Bar associations in Siberia and the Far East. It would be appropriate to develop a specialized

course to improve the skills of lawyers in providing them with qualified legal assistance to representatives of the indigenous peoples of the North. It is also necessary to include in this work the Ombudsman offices for the rights of indigenous minorities in certain regions of Russia.

The analysis of features of criminal liability of individuals sustaining a traditional lifestyle in the North for the crimes covered by articles 260 and 222, 222.1 of the Criminal Code of the Russian Federation from the point of view of anthropology of the right, the current legislation and law enforcement practice together allows to draw the following conclusions:

Aboriginals can harvest resources that were traditionally used for "survival purposes. If these peoples are not allowed by law to exercise their rights in this area, it will have a negative impact on the preservation of their cultural practices in general.

Modern foreign legal practices allow for the application of customary law in the courts. In the Russian Federation, this possibility is also established by Federal law, but direct implementation is difficult because the courts do not have a proper understanding of the customary law of indigenous peoples, and do not have knowledge of the extent to which customs and traditions can be taken into account by the court. We believe that a direct mechanism for such application can be developed through the institution of the involvement in judicial processes of Authorized representatives of indigenous minor peoples.

Currently, criminal liability under articles 222, 222.1 and 226 of the Criminal Code of the Russian Federation involves a significant number of individuals sustaining a traditional lifestyle in the North, who are objectively not guilty of these crimes, and act in accordance with the norms of customary law of indigenous peoples. However, due to their poor legal literacy, social insecurity, they suffer quite illegal and unreasonably negative consequences in the form of criminal law repression for actions that do not have a criminal public danger.

Russian criminal legislation should be brought into line with the interests and legal rights of indigenous peoples whose lives, livelihoods and ecosystems are being violated (restricted) as a result of its application: it is necessary to provide the specified norms with notes in which to provide release from criminal liability of the individuals who made formally specified acts at sustaining a traditional lifestyle in the North. This new law will make it possible to protect indigenous minorities of the North from inconsistent criminal reprisals.

In regulatory legislation to put an actual limit on the amount of wood that can be harvested for an individual's use.

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