

The Agencies of the ‘Co-opted’: Indigenous Peoples Organizations and Contestation of International Indigenous Rights Norms in Russia

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Abstract

The article untangles the relationship between Indigenous Peoples organisations (IPOs) and the Russian government in domestic and international political forums over the 1990s-2020s. It links two debates on co-optation and Indigenous peoples’ rights norms contestation, offering a more nuanced view of them as complex, incremental, and dynamic processes in the Russian authoritarian regime. By proceeding from the bifurcation of the contemporary IPO sector, the analysis identifies and examines two groups of IPOs – ‘operational’ and ‘advocacy.’ The article argues that each group of IPOs still preserves some limited capacity to contest the state normative behaviour in the given political environment, yet differently. While ‘operational’ IPOs opt for discursive contestation through appropriation, the ‘advocacy’ IPOs express their dissent by acting as nomads. Both tactics enable each group to create opportunities to effect some progressive, albeit modest, policy and legislative changes.

Keywords

Indigenous peoples organisations (IPOs) – ‘operational’ and ‘advocacy’ IPOs – Indigenous agency – international Indigenous rights’ norms – authoritarian Russia

1 Introduction

“ ... *In the 1990s and early 2000s, it was important for the officials to show that Russia also thinks about Indigenous peoples’ rights. [...] We actively cooperated with regional officials,*

the Presidential administration and received government grants. There were people in power who thought strategically and were listened to us, including our criticism. Then someone left, someone began to approach everything from the position “The boss is always right.” Thus, I realized they no longer need me.”¹

“ ... Back then, Russia and the world were different. [...] Today, Indigenous interests are best promoted through quiet diplomacy rather than noisy confrontation. [...] Not all the suggestions we make have effects, but it’s important we have constant dialogue with the state. And we have some tools to impact state policy.”²

These quotes from public interviews with two Indigenous leaders highlighting the complex and dynamic relationship between Indigenous peoples’ organizations (IPOs) and the state in Russia have much to reveal. Over the last three decades, both the Russian state and the IPOs and their relations have undergone significant changes. During the period, Russia has moved from a post-socialist state to federal democracy and then to ‘electoral authoritarianism.’³ IPOs have arrived at their current position in global and domestic Indigenous politics in various ways, not least by using transnational political activism, international institutions, and language of Indigenous peoples’ rights as tools to achieve their political goals. Their journey has encompassed institutionalization of the IPOs sector, its integration into global Indigenous politics, collaboration, modest policy changes, and co-optation. These days, the IPOs from Russia are legitimate participants in major international forums, including Arctic Council - AC, the UN Economic and Social Council - ECOSOC, and the UN Permanent Forum for Indigenous Issues. However, some of these IPOs are considered ‘operating under tight state control.’⁴

How local actors receive and contest the meanings and implementation of international Indigenous human rights norms in the Russian context has always been an enigma to scholars.⁵

¹ Interview with Pavel Sulyandziga by D. Mikolaychuk, ‘The Story of a Defender of Indigenous Peoples Rights Who Fled to the United States from the Russian Special Services,’ *Snob*, 27 December 2019, <www.snob.ru/entry/186908>, visited on 03 May 2021.

² Interview with Grigoriy Ledkov by J. Thompson, ‘The Delicate Subject in Northern Russia of Indigenous Rights,’ *Arctic Deeply*, 11 April 2017, <www.deeply.thenewhumanitarian.org/arctic/articles/2017/04/11/the-delicate-subject-in-northern-russia-of-indigenous-rights-2>, visited on 29 March 2021.

³ V. Gelman, *Authoritarian Russia: Analysing Post-Soviet Regime Changes* (University of Pittsburgh Press, Pittsburgh, 2015).

⁴ D. Berger et al. (eds.), *The Indigenous World 2019* (IWGIA, Copenhagen, 2019) p.44.

⁵ A. Xanthaki, ‘Indigenous Rights in the Russian Federation: The Rights Case of Numerically Small Peoples of the Russian North, Siberia, and Far East,’ 26:1 *Human Rights Quarterly* (2004) pp. 74-105; A. Tomaselli and A.

Yet, the existing norm scholarship remains state-centric, saying that Russia has not ratified the Indigenous and Tribal Peoples Convention 169 from the International Labor Organization (ILO Convention 169) and has abstained from endorsing the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). That said, due to its stance on these primary international documents, Russia is showing less national responsiveness to the arguments stemming from international norms on the rights of Indigenous peoples.⁶ In contrast to these studies, this article joins a nascent debate that challenges the dominance of state-centric narrative by complementing it with a bottom-up perspective from Indigenous actors.⁷ The role of national-level IPOs in the socialization of international Indigenous rights' norms domestically and how these IPOs contest the non-compliance with these norms by their primary addressee, the Russian state, are the subjects of the article's interest.

Another topic that has attracted the attention of scholars is the co-optation of civil society by the Russian authoritarian political regime.⁸ Studies show that government co-optation of civil society organizations (CSOs)⁹ and IPOs as their part has negatively affected the sector, limiting its pivotal role in promoting norms of participatory citizenship, human rights, and democracy.¹⁰ This article concerns a puzzle that we still know little about – how, using what practices, IPOs express their dissent with the state's behavior towards Indigenous rights' norms in the given context? What social pressures and trade-offs do the IPOs face? What are the effects of the contestation practices on the IPOs?

The article contributes to both these debates, highlighting the agential and active stance of IPOs in contesting the normative behavior of the primary addressee of international norms

Koch, 'Implementation of Indigenous Rights in Russia: Shortcomings and Recent Developments,' 5:4 *International Indigenous Policy Journal* (2014) pp.1-23.

⁶ D. Newman, 'International Indigenous Rights Law and Contextualized Decolonization of the Arctic,' in K. Coates and C. Holroyd (eds.) *The Palgrave Handbook of Arctic Policy and Politics* (Palgrave Macmillan, Cham, 2020) pp. 427- 437.

⁷ F. Stammer, S.-R. Nystø and A. Ivanova, *Taking Ethnical Guidelines into the Field for Evaluation by Indigenous Stakeholders* (Arran Lule Sami Centre, Drag, 2017); M. Peeters Goloviznina, 'Indigenous Agency Through Normative Contestation: Defining the Scope of Free, Prior and Informed Consent in the Russian North,' in M. Tennberg, E.-G. Broderstad and H.-K. Hernes (eds.) *Indigenous Peoples, Natural Resources and Governance. Agencies and Interactions* (Routledge, Abington, 2021) pp.85 - 104.

⁸ S. Toepler, A. Zimmer, Ch. Frohlich and K. Obuch, 'The Changing Space for NGOs: Civil Society in Authoritarian and Hybrid Regimes,' 31 *Voluntas* (2020) pp. 649-662; C. Owen, 'Participatory Authoritarianism: From Bureaucratic Transformation to Civic Participation in Russia and China,' 46:4 *Review of International Studies* (2020) pp. 415-434.

⁹ CSOs is used as a hypernym to include all kinds of non-governmental and non-profit organisations, citizens' associations, informal initiatives, and social movements.

¹⁰ Y. Skokova, U. Pape and I. Krasnopolskaya, 'The Non-Profit Sector in Today's Russia: Between Confrontation and Co-optation,' 70:4 *Europe-Asia Studies* (2018) pp. 531-563; E. Bogdanova, L. Cook and M. Kulmala, 'The Carrot or the Stick? Constraints and Opportunities of Russia's CSO Policy,' 70:4 *Europe-Asia Studies* (2018) pp. 501-513.

in the field of the rights of Indigenous peoples – the Russian state. Tracing the IPOs – state interactions at international and national levels, the analysis considers the IPOs and the government as participants in global Indigenous policy and sees them as civil and political entities of Russian society. Since the focus of the analysis lies not on the international norms of Indigenous peoples' rights themselves, these norms are seen rather as a 'norm bundle' that includes the norms of the ILO Convention 169 and the UNDRIP, as well as the general principles underlying and supporting their application in practice.

Drawing on similar observations about the growing level of government co-optation of IPOs in recent years, the article argues against the simplistic and negative view on the co-optation process. The analysis counters a naïve understanding of co-optation as a 'wholesale deal,' meaning that IPOs have ultimately 'sold' their critical ability to challenge the status quo of Indigenous policy. Instead, it offers a more nuanced look at co-optation as a complex, incremental, and dynamic process, marked by power asymmetry and bifurcation of the IPO sector.

The article also questions the conventional, Western conceptualization of Indigenous agency, which sees it as the capacity to act and, primarily, as a resistance.¹¹ My main contention is that by looking only for Indigenous actors' big and blunt actions, the researcher runs the risk of downplaying the complex, multifaceted manifestations of Indigenous agencies in the challenging Russian environment.¹² In contrast to this conventional approach, I use postcolonial lenses, which broaden my field of vision, equipping me to zoom in on practices that express varying degrees of Indigenous dissent that scholars often overlook.

The overall argument of the article is that studying a case of the IPOs from Russia can nuance our knowledge of Indigenous agencies in non-Western democracies and broaden our understanding of how IPOs express their dissent in non-democratic regimes. In order to push the envelope politically in the Russian regime that rewards conformity and punishes dissent, the IPOs are likely to be engaged in subverting existing normative order, by inventively tweaking and stretching its boundaries rather than openly confronting it.

The analysis identified two groups of IPOs that emerged due to the bifurcation of the sector over the last decade – 'operational IPOs' and 'advocacy IPOs.' The analysis revealed that each group of IPOs still preserves some limited capacity to contest the state normative

¹¹ A. Draude, 'The Agency of the Governed in Transfer and Diffusion Studies,' *2:5 Third World Thematics: A TWQ Journal* (2018) pp. 577-587.

¹² M. Peeters Goloviznina, 'Indigenous Agency and Normative Change from 'Below' in Russia: Izhma-Komi's Perspective on Governance and Recognition,' *10 Arctic Review on Law and Politics* (2019) pp. 142-164.

behaviour in the given political environment, yet differently. While ‘operational’ IPOs opt for discursive contestation through appropriation, the ‘advocacy’ IPOs express their dissent by acting as nomads. Both tactics enable each group to create opportunities to effect some progressive, albeit modest, policy and legislative changes.

The article consists of six sections. Following the introduction, the second section outlines the theoretical framework for analyzing IPOs’ contestation practices and agencies under the Russian regime. The third section provides a brief overview of research methodology and the IPO sector in contemporary Russia. The following section sketches Russia’s duality stance on ILO Convention 169 and UNDRIP and the IPOs’ practices to contest the state’s non-compliance with Indigenous peoples’ rights norms. The fifth section examines two groups of IPOs that emerged from the sector’s bifurcation and their norms contestation practices. The final section summarizes the main findings and discusses prospects for future research.

2 Indigenous Agency in Norm Contestation under the Russian Participatory Authoritarianism: A Framework to Analysis

Throughout the article, four theoretical models help to understand the dynamic, contextualized, and negotiated nature of IPOs’ agencies in contesting the normative behaviour of the Russian state. The first model is a social movement co-optation by Patrick Coy and Timothy Hedeem (2005).¹³ Coy and Hedeem object to the dominant and overwhelmingly negative connotation of the term, arguing that for the social movement, the outcomes of co-optation are always mixed, including social control, institutionalization, and de-radicalization of the movement, but also changes, albeit negligible, in the policy.¹⁴ Instead, they depict co-optation as ‘a complicated and dynamic process of relationships, marked by a power imbalance, between a social movement or challenging group opposes the practices, initiatives, or policies of more powerful social organization or political institutions.’¹⁵

Coy and Hedeem emphasized the multifaceted and incremental nature of the co-optation process, dividing it into four interrelated and mutually reinforcing stages: inception, appropriation, assimilation, and response. The final stage of the process – response – provides valuable insights for understanding the agency of the ‘co-opted.’ At this stage, the challenging

¹³ P. Coy and T. Hedeem, ‘A Stage Model of Social Movement Co-optation: Community Mediation in the United States,’ 46:3 *Sociological Quarterly* (2005) pp. 405-435.

¹⁴ *ibid.*, p.406.

¹⁵ *Ibid.*

movement faces a substantial degree of co-optation through government funding and hiring its leaders as government employees. As co-optation reaches its highest degree, it reveals a dialectical nature of social control: the dominated (controlled) actor always has the capability (agency) to react, turning its weakness against the more powerful and dominant actor.¹⁶ Due to the bifurcation of the movement at this stage, some of its organizations may respond defensively to buffer and insulate the integrity of the movement's alternative culture, practices, and institutions.¹⁷ To counter the significant risks of co-optation while still working on their agenda, the challenging organization often acts as 'nomads.' 'Nomads' are those who are not located entirely within or outside the system they challenge. Nomads operate on the system's margins, and their nomadic character allows them to combine tactical interventions with maintaining relative degrees of independence from the system's hegemonic forces.¹⁸

A second theoretical model for understanding practices of norm contestation is the 'dynamics of norm dissent' developed by Anette Stimmer and Lea Wisken (2019).¹⁹ As constructivist scholars, Stimmer and Wisken consider global norms as 'intersubjective constructs' and 'work-in-progress,' rather than given and finished products.²⁰ Treating the meaning of norm as an intersubjective construct suggests that 'any (political) actor can be involved in any social practices that entail a different understanding of norms or the relative weight of competing norms,' that is, norm contestation.²¹ International (human rights) law, therefore, is not a monolithic set of fixed norms given to political actors, which they comply with (consent) or do not comply (dissent). Instead, it is a complex, dynamic, multifaceted network of diverse norms, rules, and regulations that make up both 'hard' and 'soft' legal instruments and regimes, often overlapping and contradicting each other in practice. While states are the primary recipients and developers of international norms, non-state actors also act as essential agents of norms development and contestation. Both actors may encounter and contest norms at any stage in the 'norm life cycle' and 'norm development.'²² The actors' institutional position to implement norms and their assets (political, financial) determines how actors engage in normative dissent.

¹⁶ A. Giddens, *The Construction of Society: Outline of the Theory of Structuration* (Cambridge: Polity Press, 1984).

¹⁷ Coy and Hedeem, *supra* note 14, p. 426

¹⁸ *ibid.*, p. 427.

¹⁹ A. Stimmer and L. Wisken, 'The Dynamics of Dissent: When Actions are Louder than Words,' 95:3 *International Affairs* (2019) pp. 515-533.

²⁰ *ibid.*, p.517.

²¹ *ibid.*, p. 519.

²² A. Wiener, *A Theory of Contestation* (Springer, New York, 2014).

In their model, Stimmer and Wisken distinguish between discursive and behavioural contestation. They argue that states tend to practice their normative dissent through behavioural contestation, and non-state actors rely heavily on discursive ones.²³ When actors express disagreement about the norm's meaning and its (relative) importance through words and arguments, they engage in discursive contestation. Statements, petitions, social media posts, and other types of public debate fall into this category. Behavioural contestation affects the norm's implementation and occurs through the actors' actions and can be of two kinds. The first is reflected in the way the international norm is implemented (or not and how) and therefore is open only to its direct addressees – primarily to states. Examples of state's behavioral contestation include, yet are not limited to, tacit inaction, ineffective norm's implementation, invocation of one norm instead of another. Many actors can practice the second type of behavioral contestation as it refers to actions taken by third parties to obstruct, interfere with, and influence norm implementation by the state. When CSOs engage in sabotage, pickets, and blockades, they express dissent through behavioral contestation.

The third model concerns agencies of international IPOs in norm contestation within Indigenous global politics and has been developed by Sheryl Lightfoot (2016).²⁴ In the global arena of Indigenous politics, as Lightfoot argues, IPOs have played the leading role in developing international Indigenous rights' norms and contesting the state's dominance in the process. These IPOs played a crucial role in pressuring Canada, Australia, New Zealand, and the USA (CANZUS states) to change their stance on UNDRIP using a variety of advocacy tactics that combined legal and political activism, working *with*, *within*, and *against* the state.²⁵

Lightfoot's analysis draws heavily on Indigenous methodologies²⁶ and postcolonial approaches,²⁷ taking a critical stance towards Western conceptualizations of the Indigenous agency. From a postcolonial perspective, Indigenous agencies reveal themselves as always existing, processual, dynamic, contextualized, and communicated (politically, socially, environmentally, physically, emotionally). Global Indigenous actors exert their agencies in the profound anti-colonial way, strategically and creatively, to challenge existing structures and

²³ A. Stimmer and L. Wisken, *supra* note 19, p. 516.

²⁴ S. Lightfoot, *Indigenous Global Politics: A Subtle Revolution* (Routledge, New York, 2016).

²⁵ *ibid.*, p. 207-211.

²⁶ L. Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (Zed Books Ltd and University of Otago Press, Dunedin, 1999); M. Kovach, *Indigenous methodologies: Characteristics, Conversations, and Contexts* (University of Toronto Press, Toronto, 2009); L. Brown and S. Strega (eds.), *Research as Resistance. Revisiting Critical, Indigenous, and Anti-Oppressive Approaches* (Toronto, Canadian Scholars' Press/Women's Press, 2015).

²⁷ H. Bhabha, *supra* note 9.

discourses of dominance and subordination.²⁸ By doing that, IPOs challenge conventional meanings of ‘self-determination,’ ‘decolonization,’ and ‘Indigenous human rights’ to create new mechanisms of doing global politics in the Indigenous way.

The fourth model to deepen our understanding of civic engagement in policy-making under non-democracies is ‘participatory authoritarianism’ by Catherine Owen (2020).²⁹ Owen argues that citizens in contemporary authoritarian Russia voluntarily participate in the polity as the government provides them with such an opportunity, but in ways that do not threaten the regime’s legitimacy and status quo. Owen calls the government practices a ‘participatory authoritarianism:’ non-democratic states establish avenues for citizens to engage voluntarily in policy processes while simultaneously deliberately limiting, controlling, or undermining the extent and impact of this engagement.³⁰ Providing citizens with limited opportunities to participate in polity allows the authoritarian government to mimic its adherence to global norms of participatory governance and active citizenship, thereby gaining the regime’s political legitimacy and implementing some reforms in the public sector. Citizens and CSOs likewise receive some, albeit limited, leverage over the political process by channelling their constituents’ demands through state-controlled channels, which sometimes and in some areas may even allow them to shape the overall direction of reform.³¹

These theories guide the following analysis of the agency of domestic IPOs in contesting state’s behavior concerning international Indigenous rights’ norms in the Russian context during the 1990s-2020s. The study links co-optation and norm contestation, viewing them as dimensions of IPOs – state relations in domestic and international political forums. It adapts the idea from Coy and Hedeén (2016) to consider IPOs co-optation by the Russian government as a dynamic and multifaceted process that implies the dialectic character of social control. Due to the dialectic control, the ‘co-opted’ IPO sector, even if bifurcated, can exert its capacity to buffer and counteract the state’s dominant power. The study applies Owen’s conception of ‘participatory authoritarianism’ (2020) to outline the duality of the institutional environment in which contemporary IPOs operate in Russia. It shows how the institutional setting of participatory authoritarianism affects the contestation the IPOs opt for and the trade-offs they face to express their dissent. By showing how this environment shapes and limits the IPOs’ resources, the study deepens Stimmer and Wisken’s (2019) hypothesis about what it takes for

²⁸ S. Lightfoot, *supra* note 24, pp.72-89.

²⁹ C. Owen, *supra* note 8, pp.415- 434.

³⁰ *ibid.*, p. 420.

³¹ *ibid.*, p. 433.

IPOs to engage in discursive and behavioral contestation under the authoritarian regime. Finally, inspired by Lightfoot's research (2016), I use postcolonial lenses to scrutinize the agential stances of IPOs in Russia as negotiated and contextualized in their interactions with dominant discourses, actors, and institutions of Indigenous politics, both state and non-state, domestically and internationally.

3 IPOs and Indigenous Peoples' Rights Norms in Russia: A Case under the Study

One of the meanings of co-optation derives from the verb 'to co-opt,' which means 'to appoint to membership of a committee or other body by invitation of the existing members.'³² While co-optation is rarely a grand plan designed by the state and/or another powerful actor, institutionalization of challenging movement always has its costs and risks, one of which is the risk of becoming one of the first steps down the path of co-optation.³³ Considering the institutional origins of IPOs in Russia, how they came to exist and were appointed as participants in a policy-making process previously closed to them, allows us to understand better the entire process of the IPOs relationship with the state, including on the issue of international Indigenous peoples' rights.

Contemporary Russian IPOs, acting domestically and internationally, voice the demands on behalf of 257.900 people who belong to 40 distinct ethnic groups with their own unique cultures, languages, and identities.³⁴ Although these groups comprise less than one percent of Russia's total population, they make up half of the present-day Arctic Indigenous inhabitants.³⁵ With such a diverse group of Indigenous constituents, IPOs in Russia are young organizations that came into existence in the late Soviet period. Scholars made notable attempts to summarize the controversial Indigenous policy in the Soviet Union and the mobilization of Indigenous peoples in the late 1980s.³⁶ The first local associations of Indigenous peoples came into existence on the wave of Glasnost and Perestroika, which proclaimed democratization and sensitivity towards the rights of the Indigenous northerners. In 1990, following the First

³² P. Lapegna, 'The Problem with "Cooptation,"' 20:1 *States, Power and Societies* (2014) pp. 7-9.

³³ Coy and Hedeem, *supra* note 14, p. 409.

³⁴ All-Russian Population Census (2010).

³⁵ *Ibid.*

³⁶ J. Dahl (ed.) *Indigenous Peoples of the Soviet North* (IWGIA, Document No 67, Copenhagen, 1989); Y. Slezkine, *Arctic Mirrors: Russia and the Small Peoples of the North* (Cornell University Press, Ithaca, 1994); A. Pika and B. Grant (eds.), *Neotraditionalism in the Russian North: Indigenous Peoples and the Legacy of Perestroika* (Canadian Circumpolar Institute Press, Edmonton, 1999).

Congress of Peoples of the North, these local organizations were merged into the Russian Association of Indigenous Peoples of the North, Siberia, and the Far East (RAIPON).³⁷ Unlike other parts of the world, the mobilization and organization of Indigenous peoples in the late Soviet period did not occur in confrontation with the authorities but rather with their support.³⁸

In the 1990s, during the initial stage of IPOs sector development, Western foreign aid from the Canadian International Development Agency (CIDA), the Danish Environmental Protection Agency (DEPA), and the Nordic Council of Ministers (NCMs) played a very instrumental role in its institutionalization. Projects with circumpolar sister-IPOs, such as the Inuit Circumpolar Council (ICC) and the Sami Council, have strengthened the organizational capacity of federal-level IPOs and shaped their agenda to include human rights of Indigenous peoples.³⁹ One of the significant outcomes of institutionalization of the sector in this period was the establishment of new IPOs, including L'auravetl'an (1996), Centre for the Support of Indigenous Peoples of the North/Russian Training Centre for Indigenous Peoples - CSIPN (2001) and Batani foundation (2004). The latter, in turn, contributed to the sector's expansion and diversification, as well as increased the democratization of its agenda and diluted the RAIPON's monopoly.

Contemporary Russian IPOs are legitimate participants in major international forums, including AC (1995), the UN ECOSOC (1997), and the UNPFII (2000). However, back in 1994, they were among the last to join the global Indigenous movement, arriving in Geneva to attend the 12th session of the UN Working Group on Indigenous Peoples.⁴⁰ Like other latecomers, the political agenda of Russian IPOs has undergone further changes under the influence of mature IPOs, whose mantra was the rights of Indigenous peoples. By 2007, when the UN General Assembly adopted UNDRIP and Russia abstained from it, these IPOs had strong vertical connections with federal authorities and international donors. At the same time, their ties with Indigenous constituents at the regional and local levels remained weak.

³⁷ J. Dahl, Introduction, J. Dahl (ed.) *Indigenous Peoples of the Soviet North* (IWGIA, Document No 67, Copenhagen, 1989) p.11-23.

³⁸ *Ibid.*

³⁹ N. Kaplin, 'Association Today,' in O. Murashko (ed.), *The Northern Peoples of Russia on the Way to the New Millennium* (RAIPON, Moscow, 2000) pp. 9-11; T. Køhler and K. Wessendorf (eds.), *Towards a New Millennium: Ten Years of the Indigenous Movement in Russia* (International Work Group for Indigenous Affairs and Russian Association of Indigenous Peoples of the North, Copenhagen, 2002); K. Wessendorf (ed.), *An Indigenous Parliament? Realities and Perspectives in Russia and the Circumpolar North* (International Work Group for Indigenous Affairs, IWGIA Document No. 116, Copenhagen, 2005).

⁴⁰ M. Todyshev, 'Indigenous Peoples - Partnership in Action,' in O. Murashko (ed.), *The Northern Peoples of Russia on the Way to the New Millennium* (RAIPON, Moscow, 2000) pp. 30-38.

This article utilized a multiple case study approach that focused on analyzing the engagement of four associations of Indigenous peoples (IPOs) with the Russian policymakers at the national (federal) and international levels from 1990-2020. The sources for the analysis included primary and secondary data collected within the author's fieldwork in Russia (2018 - 2021) and desk research. During the field visits to Moscow, Saint Petersburg, the Republics of Komi, and Sakha/Yakutia, and via Skype and Zoom calls, the author conducted 21 semi-structured interviews and informal conversations with federal-level IPOs leaders, activists, scholars, and experts working on Indigenous issues. While some of my interlocutors have chosen to be identified, others have preferred to remain anonymous. Although the article does not cite all interviews, they informed its broader analysis and overall argumentation. The critical discourse analysis of the various text documents produced by officials and Indigenous representatives complimented the ethnographic part of the study. These documents included legislation, statements, programs, reports, and public interviews extracted from the IPOs websites and their social media, the national Indigenous journal 'Mir Korennykh Narodov – Zhivaya Arktika,' 'L'auravetl'an' newsletters, and open online archives of the Russian federal authorities and UN treaty bodies. All textual sources were analyzed in the original language - Russian and English.

4 International Indigenous Rights Norms and Their Two Receiving Actors in Russia

4.1 The Ambiguity of Russia's Normative Stance and its Dynamics

"There are universal values and norms, but no universal practices."⁴¹ These words by Alexander Zhuravsky, a senior official in the Russian Ministry of Regional Development who oversaw Indigenous affairs in 2007–2014, capture the essence of Russia's official stance on international Indigenous rights' norms, namely its ambivalence. Russia's ambivalence on these issues reproduces the position of its predecessor, the Soviet Union.⁴²

In the mid-1980s, the Soviet authorities actively worked on the ILO Convention No. 169, demonstrating a keen interest and receptiveness to liberal ideals of democracy and human rights.⁴³ However, neither the Soviet Union nor Russia ratified this only legally binding

⁴¹ A. Zhuravsky, 'Indigenous Small Peoples and Industrial Development: Legal, Economic and Political Problems and Ways of Their Solution. Experience of Russia and the European Union,' 21:1 *Mir Korennykh Narodov/Zhivaya Arktika* (2008) p. 13.

⁴² L. Mälksoo, *Russian Approaches to International Law* (Oxford University Press, Oxford, 2015).

⁴³ *ibid.*, pp. 159-167.

international instrument on the rights of Indigenous peoples, imposing several objections to its norms. A decade later, the Russian diplomats echoed these protests almost entirely but concerning UNDRIP.

What were these objections? First, the authorities insisted that, unlike other nation-states with Indigenous populations, neither the Soviet Union nor Russia had ever had a ‘colonial past.’⁴⁴ Citing the post-World War II ‘salt-water doctrine’ and ‘blue water thesis,’ the authorities dismiss any references to ‘decolonization’ and ‘Indigenous self - determination’ in the Russian context as inappropriate and groundless.⁴⁵ Second, as one of the worlds’ most ethnically diverse countries (with 194 ethnic groups), Russia insists on its own approach to recognition ‘who is Indigenous,’ which is different from those applied by the UN bodies and international Indigenists. In the heart of the Russian politics of recognition lies a category of ‘*korennyye malochislennyye narody*’ - KMN (translated into English as ‘Indigenous small-numbered peoples’).⁴⁶ The law defines KMN as ‘people living in the territories of the traditional settlements of their ancestors, preserving a traditional way of life and traditional economic system, while numbering within the Russian Federation fewer than 50, 000 persons and recognizing themselves as independent ethnic communities.’⁴⁷ Third, as a successor of the Soviet Union, Russia does not recognize KMN’s inherent rights to ancestral lands but only their usufruct rights for land tenure (the title remains by the state).⁴⁸ Due to vast natural resources and paramount importance for the country’s national security and its resource-based national economy, a significant part of the territories in which KMN live and maintain their economies has the legal status of ‘public’ (federal) property.

Although the country did not ratify ILO Convention 169, the legal provisions of this international document became the subject of extensive debates among Russian legal experts, high-level officials, and Indigenous politicians in the 1990s. These deliberations, in turn, positively influenced the development of the national legislation on KMN rights.⁴⁹ The

⁴⁴ M. Korynova, ‘Commentary of the Russian Federation to the Report of the Special Rapporteur James Anaya ‘On the Situation of Human Rights and Fundamental Freedoms of Indigenous People in the Russian Federation,’ 25: *Mir Korennykh Narodov/Zhivaya Arktika* (2011) pp.17-18.

⁴⁵ *Ibid.*

⁴⁶ The legislator often uses another term ‘*korennyye malochislennyye narody Severa, Sibiri i Dalnego Vostoka*’ – KMNS (‘Indigenous small-numbered peoples of the North, Siberia and the Far East’).

⁴⁷ Federal Law No. FZ-82 of 30 April 1999 ‘On Guaranteeing the Rights of Indigenous Small-Numbered Peoples of the Russian Federation,’ article 1.

⁴⁸ G. Fondahl, N. Parlato, V. Filippova and A. Savvinova, ‘The Difference Place Makes: Regional Legislative Approaches to Territories of Traditional Nature Use in the Russian North,’ 12 *Arctic Review on Law and Politics* (2021) pp.108-133

⁴⁹ V. Kryazhkov and R. Garipov, ‘ILO 169 Convention as a Vector for the Aboriginal Legislation Development in Russia,’ *The International Journal of Human Rights* (2020) DOI: 10.1080/13642987.2020.1804371

legislator enshrined the rights of KMN in the Constitution of Russia (1993), where Article 69 guarantees KMN rights according to universally recognized principles and norms of international law and treaties signed by Russia. In addition, three federal laws were adopted, including FZ-82 ‘On guaranteeing of KMN’ rights’ (1999), FZ-104 ‘On Obshchiny’ (2000), and FZ-49 ‘On Territories of Traditional Nature Use’ (2001).⁵⁰ The fact that these laws contain solid legal provisions on KMN rights, which to a certain extent comply with international norms of UNDRIP, has been a significant achievement.⁵¹ However, this does not negate the precarious character of the implementation of these norms in practice.⁵²

In 2007, Putin’s speech in Munich designated the orientation of Russian politics towards ‘national interests,’ which led to a U-turn of good relations of cooperation with the West towards their complete opposite.⁵³ The global financial crisis of 2008 and oil prices tumbling at the international markets hit the country’s hydrocarbon-based economy very hard, further exacerbating tensions in Russia’s foreign politics with Western countries. Human rights in this environment were declared ‘Western’ and ‘alien’ to Russian culture, threatening its ‘traditional values’ and national security.⁵⁴

Therefore, Russia’s abstention from voting on UNDRIP came not as a surprise. The Representative of the Russian Federation to the United Nations, Ilya Rogachev announced the official statement on the country’s position.⁵⁵ Rogachev emphasized that Russia has ratified most of the core UN human rights treaties, and it generally supports international standards development towards Indigenous peoples’ rights. However, like the CANZUS states, Russia raised strong objections to the UNDRIP’s provisions on Indigenous peoples’ rights to self-determination, lands, and resources, and issues of redress and compensation. Further, Russia complained about a non-transparent forum chosen to negotiate the final text of UNDRIP, which turned out to be unbalanced, as it prioritizes the Indigenous peoples’ interests over the interests

⁵⁰ FZ - 82, *supra* note 36; Federal Law No. 104-FZ of 20 July 2000 ‘On the General Principles of Organizing of Obshchiny of Indigenous Small-Numbered Peoples of the North, Siberia, and the Far East of the Russian Federation’, and Federal Law No. 49-FZ of 07 May 2001 ‘On Territories of Traditional Nature Use of the Indigenous Small-Numbered Peoples of the North, Siberia, and the Far East of the Russian Federation.’

⁵¹ V. Kryazhkov, *Indigenous Small Peoples of the North in Russian Law* (Norma, Moscow, 2010); D. Newman, *supra* note 8.

⁵² Report of the Special Rapporteur James Anaya ‘On the Situation of Human Rights and Fundamental Freedoms of Indigenous People in the Russian Federation, A/HRC/15/37/Add.5 (2010) p. 9.

⁵³ A. Demidov and E. Belokurova, ‘Civil Society in Russia’s Foreign Policy: Excluded ‘Foreign Agents’ and Pro-Kremlin Policy Implementers’ in D. Lettinga and L. van Troost (eds.) *Shifting Power and Human Rights Diplomacy: Russia* (Amnesty International, Netherlands, 2017) pp.85-97.

⁵⁴ F. Daucé, ‘The Government and Human Rights Groups in Russia: Civilized Oppression?’ 10:3 *Journal of Civil Society* (2014) pp. 239-254.

⁵⁵ I. Rogachev, UN General Assembly GA/20612, Plenary 107th & 108th Meetings (AM & PM) on 13 September 2007, <www.un.org/press/en/2007/ga10612.doc.htm>, visited on 03 May 2021.

of the state. In conclusion, Rogachev assured that Russia, as ever, will foster cooperation in this direction.⁵⁶

The duality of the official discourse on Indigenous rights issues during the study period has also manifested through two narratives. While these narratives have different messages and targets, they are not mutually exclusive but complement and reinforce each other. One tells about Russia's solid legal framework that reflects most international normative principles concerning the Indigenous peoples' rights.⁵⁷ The narrative has signaled to the domestic IPOs and international community that the authorities intend to harmonize the existing national legislation and practice on Indigenous peoples' rights with their international commitments assumed. Another narrative concerns the role of Russia in the development and diffusion of international norms.⁵⁸ Russia consistently asserts its active role as a developer and contestor of global standards of conduct rather than their tacit recipient. Despite Russia's apparent discomfort about international norms on Indigenous rights, it has never openly rejected their universal validity or legitimacy. However, Russia has always claimed that some of these norms can be interpreted in different ways.

4.2 IPOs' Dual Strategy to Deal with the State's Ambivalence

As mentioned, IPOs in Russia began their organizational existence and gained recognition as participants in the policy-making process, not in confrontation with the authorities but with their assistance. The peaceful and cooperative character of the IPOs relationship with the state persisted even after Russia abstained on UNDRIP. Considering the paramount importance of law to the institutionalization of rights of Indigenous peoples, the IPOs focused on tapping the international Indigenous rights' norms into national legislation and policy documents. To this end, IPOs in Russia, like other IPOs worldwide, have used a dual strategy, combining the practices of 'working *with* and *within* the government structures' with the methods of '*challenging the policy status quo from the outside.*'

In 2009, the government approved a 'Concept Paper on the Sustainable Development of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation (Concept

⁵⁶ *Ibid.*

⁵⁷ Zhuravsky, *supra* note 38, p.13.

⁵⁸ E/C.19/2009/4/Add.7.

Paper),⁵⁹ developed closely with the IPOs. This ambitious and comprehensive document defined the government policy on Indigenous affairs until 2025, proclaiming its shift from ‘state paternalism’ to ‘partnership approach.’⁶⁰ One of the main objectives of the Concept was to strengthen national legislation on the rights of Indigenous peoples to their territories and resources. In the following years, the IPOs and the authorities regularly participated in UN workshops and forums to present the Concept Paper as a promising step towards harmonizing national legislation and policy with international Indigenous rights’ norms.⁶¹

Interestingly, while the Concept Paper emphasizes compliance with international Indigenous rights law, the document does not mention ILO Convention 169, UNDRIP, or its normative pillars such as FPIC. Perhaps, to understand this order of Russian domestic discourse, one should consider its ‘unwritten rules’ or ‘know-how’ (rules about rules).⁶² According to Sergey Sokolovskii, one of the ‘unwritten rules’ in domestic policy concerning Indigenous peoples was a taboo on the use of Western concepts in Soviet legal documents.⁶³ One such taboo term was the term ‘Indigenous peoples,’ which officials recognized as appropriate for use only in a colonial context and therefore not applicable to the situation in the Soviet Union.⁶⁴ These ‘unwritten rules’ and taboos did not disappear overnight after the collapse of the Soviet Union but continued to live in discourses and social practices. According to several of my IPOs informants, the ‘noticeable absence’ of ‘UNDRIP,’ ‘ILO Convention 169’ and ‘FPIC’ in Russian legal and policy documents is hardly accidental.⁶⁵ Instead, their absence reproduces the legacy of the Soviet practice of distancing itself from international (Western) rhetoric about decolonization and human rights.

Meanwhile, due to the lack of political will and insufficient funding, the first phase (2009-2012) of the Concept paper failed. Because of government inaction and ineffective governance of mineral developments, large-scale projects in Western Siberia and the Far East have gradually turned into hotbeds of conflict and abuses of Indigenous peoples’ rights by extractive corporations.⁶⁶ The frustration of the IPOs with the state’s behavior towards

⁵⁹ Order of the Government of the Russian Federation, N 132-p, 4 February 2009.

⁶⁰ *Ibid.*

⁶¹ UN International Workshop on Natural Resource Companies, Indigenous Peoples and Human Rights, A/HRC/EMRIP/2009/5 (2009), <<https://undocs.org/zh/A/HRC/EMRIP/2009/5>>, visited on 27 May 2021.

⁶² A. Ledeneva, *Unwritten Rules: How Russia Really Works* (Centre for European Reform, London – Brussel - Berlin, 2001) p.6.

⁶³ S. Sokolovskii, *Images of Others in Russian Science, Politics and Law* (Put’, Moscow, 2001) p. 141.

⁶⁴ *Ibid.*

⁶⁵ Interview with an expert on Indigenous issues, St. Petersburg, 5 May 2018; Interview with the IPO’s representative, Zoom call, 27 December 2020.

⁶⁶ R. Sulyandziga ‘The Principle of Free, Prior and Informed Consent is What Should We Strive for in Partnership with the State,’ 27 *Mir Korennykh Narodov/Zhivaya Arktika* (2011) pp.4-5.

Indigenous peoples' rights grew as the gap between the government rhetoric and actions widened. To make it visible how the Russian government fails to develop and implement a policy that promotes Indigenous rights while paying lip service to the Indigenous rights' norms, the IPOs began to voice their dissent through international fora.

By then, Russian IPOs had learned a great deal from global Indigenist activists about the contestation strategies and their effects on state behavior. They used all the levers of the UN mechanism at their disposal to morally pressure the Russian government, calling out its failures and accusing it of not compliance with Indigenous rights' norms. The IPOs regularly used international forums such as AC and UNPFII and shadow reporting mechanisms to the UN treaty-based bodies to get their attention to the abuse of Indigenous peoples' rights and intimidation of IPOs in Russia.⁶⁷ During his visit to Russia, the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, called on the government to endorse UNDRIP and establish reliable ensuring its provisions, such as FPIC.⁶⁸

Once Russia's behavioral contestation on Indigenous rights' norms became apparent, Russia came under (moral) pressure internationally to change its behavior. In response, the authorities initiated a wave of inspections and harassments against the IPOs and their leaders, which played a critical role in calling out the practices of Russia's non-compliance behavior. In 2012, the authorities initiated official procedures to close RAIPON, prompting public outcry and diplomatic protest through AC and UNPFII. RAIPON received permission to continue its activities shortly before the VII RAIPON Congress (2013), whose delegates elected a new organization president.⁶⁹

RAIPON and other IPOs were not the only targets of the government's repressive actions to limit human rights advocacy. The situation with IPOs was a part of a broader trend of closing civic space domestically, as the Russian regime consolidated as more authoritarian. After the 'color revolutions' in neighboring Georgia and Ukraine and the Russian anti-government protests in 2011-2013, the authorities tightened the control over CSOs activities. The government supported the repressive turn in CSO policy with several laws restricting CSOs

⁶⁷ M. Todyshev, 'Protection of the Rights of Indigenous Peoples in the Activities of the UN Treaty Bodies on Human Rights,' in A.X. A. Abashidze (ed.), *Actual Problems of Modern International Law* (Peoples' Friendship University of Russia, Moscow) pp. 121-137.

⁶⁸ Report of the Special Rapporteur James Anaya, *supra* note 49.

⁶⁹ D. Berezhkov, 'The Russian Government Shuts Down the Russian Association of Indigenous Peoples of the North (RAIPON),' <www.iwgia.org/images/newsarchivefiles/0710_Background_article_RAIPON.pdf>, visited on 27 May 2021.

activities, including the amendments to the ‘CSOs law’ (2006), the ‘foreign agent law’ (2012), and the ‘undesirable organizations law’ (2015).⁷⁰

These processes have changed the legal environment for IPOs activities and transformed the IPOs sector. As the government restricted foreign funding and stigmatized human rights advocacy, alliances with global organizations, one of the powerful tools to pressure the authorities and extractive companies to uphold their commitment to Indigenous peoples’ rights, became no longer a safe option. At the same time, the government has encouraged IPOs to participate in government-led programs and apolitical activities in education, youth, and social welfare as their operator. Under this dual logic of participatory authoritarianism, the IPOs have faced a significant risk of co-optation by receiving government funding and adjusting their activities according to the priorities set by the authorities. When the authorities blacklisted Batani and CSIPN as ‘foreign agents’ and then liquidated both as entities in 2019, it completed the bifurcation of the IPO sector into two groups: ‘operational IPOs’ and ‘advocacy IPOs.’

5 Indigenous Contestation and Agencies under the Russian Participatory Authoritarianism

5.1 ‘Operational’ IPOs: Discursive Contestation through Appropriation

RAIPON and L’auravetl’an belong to the first group – ‘operational’ IPOs – which act rather as operators in developing and implementing projects of their only donor and primary source of their organizational legitimacy - the Russian government. The government grants both IPOs with organizational legitimacy to speak on behalf of the Indigenous peoples in Russia in domestic and international politics. Through their access to the State Duma of Russia, the Federation Council, the Presidential Council for Inter-Ethnic Relations (2012), and the Public Council of the Arctic Zone of the Russian Federation (2020), both IPOs participate in the policy-making process at the national level. At the international level, RAIPONs is one of six permanent participants at AC, and together with L’auravetl’an they represent Indigenous peoples of Russia at UNPFII. The ‘operational’ group receives only financial support from the

⁷⁰ Federal Law No. 18-FZ of 10 January 2006 ‘On Amendments of Some Legislative Acts of the Russian Federation’; Federal Law No. 121-FZ of 20 July 2012 ‘On Making Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents;’ Federal Law No. 129-FZ of 23 May 2015 ‘On Amendments of Some Legislative Acts of the Russian Federation.’

Russian government through the Presidential Grants Program and the Northern Indigenous Peoples Support Fund. Regular government funding, in turn, encourages these IPOs to actively act as a service provider arm for government programs in culture, sports, education, and youth work, rather than advocating for universal Indigenous peoples' rights, which the authorities see much as political activity.

The analysis shows that 'operational' IPOs opt for discursive contestation and do not engage in behavioral. While in media interviews, public statements, and reports, the leaders of these IPOs regularly urge the authorities to improve Indigenous peoples' lives and protect their rights, their criticism of government policies is lenient. The leaders of these IPOs argue that their moderate stance in public discourse speaks more of their diplomacy, which should not be mistaken for their complete obedience and lack of an agenda of their own.⁷¹ With access to the policymakers, they express their disagreements to their vis-à-vis face to face. They choose not to 'go public' but to use their seat at the policy table to change politicians' attitudes.⁷² As the opening quote to the article shows, these Indigenous politicians prefer to challenge the state's normative behavior backstage of the policy-making process and behind cabinet doors through more informal channels of negotiation and diplomacy.

Several factors play into how the 'operational' IPOs choose not to couple their modest critical rhetoric with actions. These include legitimacy and credibility from the authorities, access to the policy-making table, and funding source. In an environment where foreign funding is restricted, IPOs receiving government funding are unlikely to engage in behavioral contestation, as they will not bite the hand that feeds them.⁷³ While funding is essential, it is as vital as securing and maintaining the organization's legitimacy and credibility granted to them by the authorities. The latter, in turn, provides these IPOs with a seat at the policy-making table where they can try to create opportunities to effect some progressive policy and legislation changes.⁷⁴ All of these factors determine the pragmatic choice of IPO leaders to resort to discursive contestation as the only viable option and consider expressing dissent by actions as more risky, costly, and less effective.

Focusing on a discursive contestation of this group of IPOs leads us to look at the results of their legislative work, which they carried out in close collaboration with the authorities over the past decade. After a decade of legislative inactivity in Indigenous affairs, ahead of Russia's

⁷¹ Interview with the IPO's official, Moscow 16 November 2018.

⁷² *Ibid.*

⁷³ N. Hall, 'Norm Contestation in the Digital Era: Campaigning for Refugee Rights,' 95:3 *International Affairs* (2019) pp. 575-595.

⁷⁴ Interview with the IPO's official, Moscow 16 November 2018.

AC chairmanship in 2021-2023, the government adopted the so-called ‘Arctic Legislation Package.’ The legislation package aims to support the ‘Arctic Strategy of Russia through 2035,’ which emphasizes the paramount importance of the Arctic region and its people for national security, economic prosperity, and Russia’s future development.⁷⁵ The package contained three governmental decrees addressing a much-needed regulatory area - the relationship of Indigenous peoples with extractive industries. These were the following decrees: ‘Indemnification Procedure for Losses to Indigenous Peoples Caused by Industrial Activities,’⁷⁶ ‘Standards for Arctic Resident Companies’ Responsibility to Arctic Indigenous Peoples’⁷⁷ and ‘Program of Support for the Traditional Economic Activities of Indigenous Peoples in the Arctic Zone of the Russian Federation.’⁷⁸

While the long-term ramifications of these laws remain to be seen, two observations from their analysis shed light on the agency of the ‘operational’ IPOs through their discursive contestation. First, once ‘the Arctic’ came to the fore, these IPOs deliberately used the new context as a political opening to inscribe Indigenous interests into the Arctic governance agenda.⁷⁹ To this end, the IPOs’ leadership had to emphasize the images of their Indigenous constituents from the new perspective as ‘Arctic peoples’ rather than ‘small-numbered peoples of the North, Siberia, and the Far East.’ While the latter discursively portrays Indigenous peoples as ‘uncivilized’ and ‘backward,’ the former presents them as ‘Arctic keepers,’ ‘possessors of unique knowledge and cultures,’ and ‘frontier guards.’⁸⁰ As Jan Kooiman argued (2003), in the governance processes, ‘images are the mainframes of references’ as ‘they determine the categorization of the group and the policy instruments to governing it.’⁸¹ The appropriated Arctic images helped the ‘operational’ IPOs use the window of opportunity and their place at the policy-making table to catapult Indigenous interests to the same level of the state’s priorities like security, economy, and geopolitics, from the ‘past’ to the ‘future.’ The IPOs’ critical engagement with the official (dominant) discourse occurred by alignment with it, not by confronting it, and appropriating the ‘context’ as a resource for further contestation. The IPOs’ agency manifested itself in minor tactical manipulations of the context as a resource for

⁷⁵ Presidential Decree No. 645 of 26 October 2020 ‘Strategy for Developing the Russian Arctic Zone and Ensuring National Security through 2035.’

⁷⁶ Governmental Decree No. 1488 of 18 September 2020.

⁷⁷ Decree of the Ministry of the Development of the Russian Far East and Arctic No. 181 of 23 November 2020.

⁷⁸ Governmental Decree No. 978-p of 15 April 2021.

⁷⁹ V. Yushkevich, ‘Grigory Ledkov: Indigenous Peoples of the North are the Main Guardians of the Arctic,’ *GoArctic*, 01 July 2021, <www.goarctic.ru/opinions/grigoriy-ledkov-kmns-glavnye-khraniteli-arktiki>, visited on 09 September 2021.

⁸⁰ *Ibid.*

⁸¹ J. Kooiman, *Governing as Governance* (Sage, London, 2003), p. 29.

gaining discursive power and using it to re-categorize the status of Indigenous peoples as a group in the process of governance, thereby trying to influence the policy tools applied to its governing.

The second observation refers to the limited agency of the ‘operational’ IPOs to contest the existing normative order within the dual logic of Russian participatory authoritarianism. As Owen (2020) shows, the authorities, while increasing CSOs’ participation in political processes, concurrently try to play down its potential transformative results.⁸² All legal provisions recently introduced under the ‘Arctic package,’ including a corporate code of conduct for working with Indigenous peoples and communities, and compensation for losses caused to affected Indigenous communities, are not legally binding. By not opting for a lawfully binding form for these new regulations, the authorities downplayed the transformative potential of these norms to contest the existing relationship between Indigenous peoples and extractive corporations. The legislation does not refer to international norms or relevant global standards of business conduct but uses the vague terms ‘cooperation’ and ‘participation’ (undefined) of Indigenous peoples in decision-making. The fact that the legislator removed all references to FPIC from the final official versions of these decrees⁸³ demonstrates the persistence of the ‘unwritten rule’ and the practice of state distancing from international discourse and norms of Indigenous peoples’ rights.

5.2 ‘Advocacy IPOs’: Contesting the Status Quo as Nomads

Another group of IPOs that emerged due to bifurcation is ‘advocacy’ IPOs. The group includes Batani, CSIPN, and Aborigen Forum (AF), which continue to promote the rights-based agenda within the IPOs community in Russia. When the authorities closed Batani, its leaders left Russia and re-registered the organization as a new non-profit in the United States to continue advocating for Indigenous peoples’ rights in Russia in exile. Since 2019, CSIPN has also been forced to move the organization’s activities to cyberspace. AF - an informal group of Indigenous activists, IPO leaders, and experts from Russia and abroad organized to defend the

⁸² C. Owen, *supra* note 8, p. 431.

⁸³ O. Murashko, ‘The Standard for Arctic Resident Companies’ Responsibility to Arctic Indigenous Peoples has been adopted! Unfortunately, not the One that was Expected,’ *iRussia*, 06 February 2021, < <https://indigenous-russia.com/archives/9795>>, visited on 19 October 2021.

human rights of Indigenous peoples in Russia in 2014 - deliberately chose for an unregistered and networked form of organizational work to preserve some agency in the face of repression.⁸⁴ Due to informal, networked organizational structure, AF's configuration, size, and membership are in flux. The AF' members from different regions of Russia and abroad 'move in' and 'out' the network, combining the participation in the network with formal membership in other organizations, thereby comprehensively advancing the advocacy of Indigenous peoples' rights.

The closing of civil space and significant risks of co-optation under participatory authoritarianism forced this group of IPOs to act as nomads. In their dynamic model of co-optation, Coy and Hedeem (2005) describe nomads as organizations that are not entirely within or outside the system they challenge. Instead, the nomads are constantly looking for so-called 'oscillating spaces,' where they can operate on the margins of the system and combine their tactical interventions while maintaining a relative degree of independence.⁸⁵

The 'advocacy' IPOs, being de-legitimized by the authorities, are excluded from formal participation in policy processes but continue to operate on their margins. Their main assets include expertise in international and Russian Indigenous politics, ties to global and domestic networks of organizations, and digital technologies. The nomadic character of work of 'advocacy' IPOs, including their digital nomadism, serves them to alter their underlying capacities in the relations with the authoritarian state and circumvent the government efforts to silence them. Acting as nomads and capitalizing on different flows and resources, these IPOs constantly seek inventive ways, opportunities, allies, and so-called 'oscillating spaces' to contest the government's behaviour on Indigenous rights' norms and challenge Indigenous policy's status quo.

'Advocacy' IPOs primarily express their dissent with government policy and its inconsistency with international norms in public discourse. In contrast to lenient and somewhat latent discursive contestation of the 'operational' IPOs, the 'advocacy' IPOs express their dissent manifestly and actively. Given the modern-day Media censorship and Internet surveillance in Russia, their discursive contestation of the state's normative behavior occurs primarily in cyberspace. 'Advocacy' IPOs use their abroad-based websites, non-Russian social media platforms (Facebook and YouTube), and Russian and English languages to communicate their activism to domestic audiences and foreign allies. They very rarely go beyond online

⁸⁴ Interview with the IPO's representative, 08 November 2017.

⁸⁵ Coy and Hedeem, *supra* note 14, p. 427.

actions when their discursive contestation of the government's non-compliance behaviour on Indigenous rights' norms takes the form of small pickets and protests.⁸⁶

The analysis below provides two examples that shed light on the nomadic character of 'advocacy' IPOs and the 'oscillating spaces' still open to them to express their agency. These examples also refer to two praxes when the interplay between IPOs' discursive and behavioral contestation helped these organizations attract more attention to the deprivation of rights of Indigenous peoples in Russia and strengthened their position in the dialogue with their state corporate vis-a-vis. First, even though using the court system gives no guarantees of success, it serves the 'advocacy' IPOs as 'oscillating space' still open for their agency. Studies show that although the Russian authoritarian regime oppresses advocacy, it still tolerates less politicized and indirect activities.⁸⁷ In Russia, the rights of Indigenous peoples are guaranteed by the Constitution. However, until 2019, Indigenous peoples never contested the norms regulating their rights by appealing to the Russian Constitutional Court. The case 'Schukin v. Federal Law on Hunting,' initiated by AF with the assistance of human rights layers, set an important precedent.⁸⁸ In 2014, the police of the Taimyr Peninsula, the Krasnoyarsk region of Russia, opened a case against Gennady Schukin, the head of the Indigenous obshchina of Dolgans and a member of AF.⁸⁹ The police accused Schukin of inciting illegal hunting for wild deer over the government's quota, imposing an exorbitant fine of EUR 2,000 on him.⁹⁰ Schukin pleaded not guilty to the counts against him. He argued that the number of reindeer shot by the obshchina was directly proportional to the quotas given to *all* of its members, including women, children, and elders. Since the latter were unable to hunt themselves, other members of the obshchina hunted for their food. AF launched a public campaign in support of Schukin and his obshchina. However, the courts of all instances of the Krasnoyarsk region upheld the guilty verdict. In 2017, Schukin was released from punishment under an amnesty. By attracting more attention and raising public awareness of Indigenous peoples' hunting rights, AF strengthened its position and resorted to behavioral contestation by hiring notable lawyers to appeal to the Russian Constitutional Court.

⁸⁶ 'Indigenous Peoples of Russia's Far North March against Nornickel,' *RadioFreeEurope*, 12 August 2021, <www.sibreal.org/a/30779577.html>, visited on 09 September 2021.

⁸⁷ G. Fondahl, V. Filippova, A. Savvinova, A. Ivanova, F. Stammler and G. Hoogensen-Gjørvi, 'Niches of Agency: Managing State-Region Relations Through Law in Russia,' 23:1 *Space and Polity* (2019) pp. 49-66.

⁸⁸ V. Kryazhkov, 'The Case of Traditional hunting, or The First Experience of Protection of the Rights of Indigenous Peoples in the Russian Constitutional Court,' 28:4 *Comparative Constitutional Review* (2019) pp.116-130.

⁸⁹ *Ibid.*

⁹⁰ Federal Law of the Russian Federation No. 209-FZ of 24 July 2009 'On Hunting and Preservation of Hunting Resources and on Amendments to Certain Legislative Acts of the Russian Federation.'

In the heart of Shukin's appeal was a plea to the court to guarantee his constitutional right as an Indigenous person to hunt and share prey in a way that meets the social, cultural, and economic needs of the Indigenous obshchina he leads. The plea inherently invoked a reference to the international norm of 'Indigenous self-determination.' Thus, for the first time in history, the Constitutional court addressed the role of hunting in terms of exercising by Indigenous peoples their inalienable rights. The court ordered the Russian legislator to clarify the meaning of the legal norms regulating 'traditional hunting' and develop mechanisms for realizing this right, which must reflect the position of Indigenous peoples on this issue.⁹¹ More recently, AF and the leader of the Sami IPO repeated their success in the Constitutional Court in a new case - Danilov v. Federal Law on Hunting (2021).⁹² While these precedents do not change the legal norms overnight, they are essential strategically. Each case decided by the Constitutional court becomes a guideline for subsequent decisions in similar disputes and inferior courts. Further, it lays the foundation for future changes towards recognizing the right of Indigenous peoples to express their will and collective identity freely.

The second example reveals other features of the nomadic character of the 'advocacy' IPOs, which they employ in their discursive and behavioral contestation of Russia's Indigenous policy status quo. These IPOs explore innovative strategies to leverage horizontal relationships through coalitions with other global non-profits, hoping that international pressure will help them better protect the rights of Indigenous peoples domestically. Acting as nomads, these IPOs go beyond conventional patterns of Indigenous rights' advocacy, drawing connections between rights violations at the local level and broader global occurrences such as corporate standards and mandatory human rights due diligence. By doing this, the nomads are expanding their targets to include major international corporate investors and global consumers in addition to authorities and extractive companies in Russia.

In 2020, in response to a massive leak of 21,000 tons of diesel from the Nor Nickel - the world's leading producer of nickel and palladium, 'advocacy' IPOs, in alliance with other global human rights and environmental organizations, organized a #DefendIndigenousArctic campaign to protect the rights of Taimyr's Indigenous peoples.⁹³ Under the hashtag #AnswerUsElonMusk, the nomads called on Tesla CEO Elon Musk to boycott the rare earth

⁹¹ Kryazhkov, *supra* note 85, p.128.

⁹² The Constitutional Court of the Russian Federation, official webpage <www.ksrf.ru/ru/Sessions/Plan/Pages/default.aspx>, visited on 1 June 2021.

⁹³ G. Schukin, '#AnswerUsElonMusk! A Global Appeal by Aborigin Forum' *iRussia*, 20 August 2020, <indigenous-russia.com/archives/6719>, visited on 7 October 2021.

metals supplied by Nornickel from the Russian Arctic.⁹⁴ In addition, the IPOs sent letters to UBS Switzerland and Credit Suisse, urging them to ensure that their investments in Nornickel promote respect for the rights and security of Indigenous peoples in the Russian North.⁹⁵

When three IPO leaders travelled from the Russian Arctic to Switzerland in 2021 to meet with banks representatives and Swiss government officials and asked them to use their financial clout to push Nornickel to change its misconduct, it was a form of behavioral contestation. By doing that, the nomads challenged the Russian government's implementation (or lack thereof) of a policy to control and enforce industrial companies to adhere to Indigenous peoples' rights and environmental standards. By traveling to Switzerland, these Indigenous truth-tellers challenged the canons of the state-centric policy of recognizing the rights of Indigenous peoples as rights emanating from the sovereign and tied to the territory of the nation-state. These nomads de-territorialized Indigenous peoples' rights norms, contesting their attachment to the Russian state. Their actions have shown that these norms are inherently democratic and therefore belong to the people, just as their Indigenous rights are universal and inalienable.

6 Conclusion

The article does not idealize the roles of domestic IPOs in Indigenous peoples' rights norms contestation in the Russian context or their achievements in this regard. Overall, the article argues that receiving and socializing these norms in Russia has never been a state monopoly but always a shared, contested, and dynamic process, where the IPOs have played a prominent role. As a power-laden space, this process has been filled and remains filled with asymmetrical relations of dominance and control by the state but also partial, yet the limited capacity of IPOs to counteract through their gradual, less visible, and minor actions to bring about changes in the national legislation and policy.

Drawing from an IPOs-based perspective and amplifying their voices, the article considers these IPOs as unique and diverse actors worthy of study in themselves and not in the shadow of the state. Attention to the historical trajectory of the IPOs, which has encompassed

⁹⁴The campaign' pages at Twitter and Facebook at: www.twitter.com/hashtag/answeruselonmusk and www.m.facebook.com/Answer-Us-Elon-Musk-108301367656536, visited on 1 June 2021.

⁹⁵ T. Nilsen, 'Indigenous Peoples Call on Nornickel's Global Partners to Demand Environmental Action. *The Independent Barents Observer*, 11 March 2021, www.thebarentsobserver.com/en/indigenous-peoples/2021/03/russian-indigenous-people-lose-out-electromobility-industry-hunts-metals, visited on 1 June 2021.

the institutionalization of the IPO sector, its integration into the global Indigenous movement, co-optation, and bifurcation, helps for better understanding the dynamics of social and normative changes in the Russian Indigenous politics. Yet, the choice of the IPO-based perspective is also a political act to acknowledge the efforts of IPOs leaders and activists to strike a delicate balance between overcoming a challenging environment and staying true to the Indigenous (anti-hegemonic) values and mission.

By untangling the relations between IPOs and the Russian government in domestic and international political forums over the 1990s-2020s, the analysis links and contributes in two debates on co-optation and Indigenous peoples' rights norms contestation, offering a more nuanced view of them as complex, incremental, and dynamic processes in the Russian authoritarian regime. The analysis identifies two groups of IPOs – 'operational' and 'advocacy' – showing how their practices of contestation, being culturally-based and historically contingent, are integrated into the broad political structure of Russian participatory authoritarianism.

The findings show that each group of IPOs still preserves some limited capacity to contest the state normative behaviour in the given political environment, yet differently. Within a matrix of asymmetrical relations with the authoritarian state, organizational legitimacy, funding source, engagement in international networks, and expertise in Indigenous politics matter how the IPOs express their normative dissent. The 'operational' IPOs exert their agency solely through moderate discursive contestation and appropriation the dominant government's discourse. Despite access to policymakers and norms implementation, they do not express their dissent by action, as their leaders prefer not to risk their organizational legitimacy and state funding. 'Advocacy' IPOs operate on the margins of political processes and act as nomads: they are not entirely within or outside the system they challenge. The nomadic character of work of 'advocacy' IPOs, including their digital nomadism, enable them to capitalize on different flows and resources while constantly seeking inventive ways, opportunities, allies, and so-called 'oscillating spaces' to contest the government's behaviour on Indigenous rights' norms and challenge Indigenous policy's status quo. They are also primarily engaged in discursive contestation, actively and explicitly expressing their dissent in the language of international Indigenous rights to mobilize both the domestic and global public. However, sometimes they manage to couple their dissent by words with actions.

While both tactics allow each group to seize opportunities to bring about some progressive, albeit modest, political and legislative change, they remain 'the art of the weak.' The IPOs' tactical dissent manifests itself in subverting the normative order and the status quo

of existing Indigenous policy by tweaking and testing their boundaries, rather than denying them through open confrontation. For both groups of IPOs, the primary resource remains a knack for recognizing and seizing the moment – government policy openings – and turning it into a political opportunity to challenge dominant meanings of the norms and their practices.

Given the bifurcation of the IPO sector in Russia, the current picture of change is blurring. The IPOs' accomplishments are more works-in-progress and combine some of the advances in Indigenous legislation in the early 2000s with the setbacks of the next two decades. While I share concerns that the bifurcation is jeopardizing the internal trust and solidarity of the IPO sector, the findings of my study shed light on some, albeit negligible, changes, which activists on both sides of the divided sector continue to make. That, in turn, gives some hope for a cumulative effect of these changes that could one day make a difference. However, since the responsibility for creating the conditions for institutional change ultimately rests with the Russian state, it is unlikely that we will witness these changes soon.

Yet, this analysis is not the whole story about the role of domestic IPOs in contesting the state's compliance with international Indigenous rights norms in the Russian context. The limited focus on the federal IPOs and their operation at the national and international levels overlooks the tactical contestation strategies of other IPOs, such as Indigenous *obshchiny*, reindeer herders' commercial entities, and unions, which they employ at regional and local levels. Meanwhile, the regions of Russia differ significantly in terms of the development of regional legislation on Indigenous rights, the presence and accessibility of institutional mechanisms for the participation of IPOs in contestation processes, and the potential and strength of local IPOs themselves. Whether the various IPOs at the regional and local levels use the language of international Indigenous peoples' rights and how they relate themselves to the 'operational' and 'advocacy' IPOs at the national level remains to be explored in future research.

While the analysis has focused on examining the roles (agencies) of IPOs in the Russian institutional context of participatory authoritarianism, it highlights broader issues beyond the Russian case. Thinking of the findings from a broader international perspective, one can see certain commonalities in IPOs' tactics, trade-offs, and challenges they face in other regimes around the world. Research is limited, and we still know very little about the Indigenous peoples' views (constituents) on these complicated issues and their attitudes towards the IPOs, on whose behalf these organizations claim to speak.

The presented analysis and discussion leave many questions about the international norms in the Russian context unanswered since their focus was on the IPOs rather than norms.

The norm studies show the type of norm at issue, namely the degree of the norm's ambiguity and acceptance both locally and globally, matters. In this regard, promising subjects for the scholars can be the following: What happens with 'FPIC' and 'Indigenous self-determination' norms when they touch the Russian ground? How are these norms perceived and interpreted by the state and non-state actors in the Russian context? How do the actors' normative perceptions relate to each other? Another avenue for future research is to pay closer attention to how beliefs, values, and 'unwritten rules' in Russian society shape and affect the IPOs' choices in contesting their relations with the state, business, and non-Indigenous civic vis-a-vis.

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