

## Culture, Commodity and Community: Developing The Khanty-Mansi Okrug Law on Protecting Native Folklore

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As governments and multilateral organizations take steps to protect indigenous cultural heritage, they are very quickly confronted with a series of difficulties. Significant differences in experience and education between minority indigenous peoples and the legislating majority often lead to major disagreements on the nature of property and its relationship to social relations, the relationship between the state and the local indigenous community, the relationship between the indigenous community as a collectivity and its individual members, the nature and value of tradition, and even the nature of culture itself. Making law in the area of cultural conservation is problematic, because new laws must accommodate the imperfect and often unjust, but nevertheless established, relations between the minority indigenous peoples and the legislating majority, as determined by previously existing legislation.

In the summer of 2002, members of the Assembly of the Native Minority Peoples of the North of the Khanty-Mansi Autonomous Okrug (KMAO) Duma (hereafter called simply the Native Assembly), a third chamber in the Duma, asked us to prepare a law to ensure the preservation of the Bear Festival, a central component of Ob'-Ugrian culture. Because of our experience among the Khanty and our familiarity with cultural preservation legislation around the world, including providing commentary on draft Russian legislation, we agreed to draft such a law, although we had never undertaken such a task before. We enlisted the participation of Professor Tat'iana Vasilieva of the State Institute of Government and Law in Moscow, who ensured that the law project followed the traditions of Russian legislation and did not contradict existing Federal or KMAO law. The resulting law of Khanty-Mansi Autonomous Okrug, No. 37-03, "On the Folklore of the Native Minority Peoples of the North Living on the Territory of Khanty-Mansi Autonomous Okrug," which took effect on June 18, 2003, is unique in the Russian Federation. How that law was conceptualized, and how it changed over the course of its development, illuminates many of the key theoretical and practical issues associated with the protection of intangible cultural heritage.

### **Conceptualizing law: tradition and modernity**

Cultural conservation is the term used in the United States at least since the early 1980s to describe various strategies aimed at supporting the con-

ditions necessary for the dynamic evolution of local (and not just indigenous) cultures (Loomis 1983; Hufford 1984, 1996). The “conservationist” commitment to preserving *conditions* differs fundamentally from the “preservationist” orientation toward preserving *forms*. The preservationist approach is often based on a naïve, even romantic, historicism and a reified understanding of culture as an inventory of fixed forms, most of which are presumed to have deteriorated from their “most authentic” manifestations in some imagined past. In practice, cultural conservation is often linked to other activities, including folklore surveys, historic preservation, landscape ethnography and archaeology, and social impact assessments.

The very idea of protecting or conserving intangible cultural heritage is a function of societal modernity (Gaonkar 1999), which emerged in the West at the end of the eighteenth century. Societal modernity is characterized by the rise of industrial capitalism, the spread of republican democracy, the development of a broad public sphere of political and cultural activity, and the emergence of a rhetoric of personal liberty and individualism. Such modernity stimulated the emergence of a contrasting European modernity of alienation from the public sphere that was so characteristic of elite culture in late nineteenth and early twentieth century. Finally, a “colonial modernity” emerged as inextricably linked to these other modernities (Mignolo 2000) precisely because the constellation of factors set out above was based on imperialist economies that depended upon colonial markets and colonial natural and human resources. Consequently, the societal modernization of Western nation states involved a confounding of individual and communal identities, which cannot be easily regulated by immigration, naturalization and other identity-based laws, nor easily neutralized or erased by claims to legal equality. The legal institutions of Western nations, within which the task of cultural conservation is undertaken today, are heirs to these confusions, and Russia is no exception (Slezkine 1996).

The “traditional” is a category defined by, and in relation to, modernity. It results from historical differences between emergent modern societies and those societies that they displaced into an “other” category, which are today called “traditional.” The popular habit is to conceive of tradition as an inventory of immutable, normative forms that are passively inherited from prior generations. This is easily deconstructed and shown to be instead a sense of the past that is actively created in the present, to paraphrase Handler and Linnikin (1984), by a panoply of agents (indigenous, scientific, governmental, popular public, journalistic, and so on) for a variety of different purposes. It is particularly disingenuous to be surprised if indigenous people learn to benefit politically from the deployment of the

term “traditional,” when in fact the majorities in modern nation states, who created the category of the “traditional” have deployed it to their own political and economic advantage for nearly three centuries. In this paper, “traditional” and “traditional societies or cultures” are used in just this way, underscoring the constructed, rather than received, nature of tradition and the historicized, displaced sense of “traditional cultures” as opposed to a falsely ahistorical, essentialist notion.

Conditions of modernity impact the conservation of traditional, oral cultures in at least three areas that directly affect the project of cultural conservation. The first has to do with the modern, secular citizen-state, which defines its members increasingly by the absence of essentialist distinctions. While citizenship is presumed to marginalize all other distinctions, such as religion, ethnicity, language, gender, race, and kinship, rendering them irrelevant (or at least unnecessary) for the essential functions of society, these are in fact the very categories of identification often considered to be the most significant in societies denoted as traditional. Knowledge and agency are often both legitimated and circumscribed in just these terms. Second, modern societies historically have been erected upon industrial capitalist economies. The classical model of industrial capitalism presumed general access to natural and human resources, open competition, and the spur of personal economic self-interest. One might argue that if capitalism did not quite *create* the modern notion of property as transferable commodity, it certainly reconfigured it to emphasize the alienability of property, reducing, in this respect at least, the distinction between real estate, natural resources and chattel property. “Traditional” societies, on the other hand, tend not to support the commodification of land and resources, nor claims to ownership (Ingold 1987). Modern societies differ, therefore from traditional societies in emphasizing personal autonomy, which facilitates the unrestrained circulation of commodities in order to maximize the opportunity for individuals to accrue wealth.

However, during the same century between 1850 and 1950 in which the anti-monopoly battles were fought, a third characteristic of modern societies came into play. The mechanical reproduction of cultural forms led to the commodification of culture and information and the alienation of both the artist/performer and the audience/consumer from the moment of performance (Benjamin [1936] 1968). One might view the battles over international copyright and patent laws as the intellectual equivalent of the antimonopoly wars. In the attempt to strike a balance between general circulation and personal property rights, however, a distinction was made between resource and product. Traditions, because their origins could not be ascribed to an individual, were considered to be common lit-

erary resources. On the other hand, literary works or performances, which depended on an intervening act of writing, were considered to be products of an originating author. To the detriment of folklore and traditional communities, this distinction would further institutionalize the disconnection between community and creativity. If only the individual act of an individual could transform tradition into commodity, then only the individual could have any right to make a claim on the commodity; communities were effectively disenfranchised, because their claims were held to be groundless. If oral traditions could not be commodified, they were of no calculable value, and if they were of no calculable value, they were not worth protecting. Nor, one might add, were its creators. One of our goals was to amplify the public legal status of those individuals who are central to the performance and transmission of folklore in traditional communities, so that their value to the community in the production of culture could accrue some financial benefit.

And we had another goal as well. By commodifying culture and information, and radically associating the production and consumption of culture and information with the individual, modernity asserted the portability of both culture and information, as so well symbolized by the paperback book and the cassette tape. The notion, which is central to traditional cultures, that knowledge and cultural production is bound to a specific community living in a specific time and place became alien to modern people. In writing the law on folklore, therefore, we sought to find a way to restore the status of the community as an agent with a vested interest in controlling the reproduction and dissemination of its traditional knowledge and cultural forms.

If the modern legal environment is not conducive to the protection of folklore, the same may be said for scientific specialists in folklore and anthropology who worry that any means so employed might do more harm than good. Material objects, such as ethnographic collections or sacred sites, elicit conservation strategies aimed at the preservation of their material forms. Folklore, however, only exists in performance. No recording of a performance, in any form – film, video, audio recording, photography, transcription – can be confused with the performance itself. Nor do any of these various forms of textualization contribute in themselves to the preservation of living tradition, since a vital tradition exists in and through its many variations, not through a single instance, and it is “passed on” in performance. The fear is that applying the cultural conservation strategies used for material forms to a dynamic phenomenon like folklore could fix or valorize certain forms in such a way as to arrest the very development of variation that gives a tradition its vitality. The desire for “authoritative

versions,” was rooted in the scripted performances of folklore ensembles of the former Soviet Union and the folklore movement that swept Europe in the 1970s, but it was reinforced by the cultural revitalization efforts of the post-Soviet period. In Khanty-Mansi Okrug, many of the native intelligentsia have for more than a decade supported *Spaseniye Yugri* (Save the Yugra), a native voluntary association supported by *okrug* funds and oil company grants. Among its other activities, it has produced folklore festivals in which fluently bilingual (native/Russian) folklore performers, deeply embedded in their own communities, are often featured side-by-side with native, but predominantly monolingual Russian-speakers, for whom folklore performance is a scripted, directed reenactment.

For the *okrug* administration and general public, as well as for many native intelligentsia, “folklore” is, therefore, thought to consist of a selected inventory of a few, highly marked forms (especially dance and music, and some “ethnographic” elements of material culture, such as costume, basketry and beadwork), performed on special occasions. They do not understand that folklore, or more precisely what has come to be called folklife, adumbrates a range of skills, crafts, and behaviors. These do not necessarily require a special, “public” occasion to justify their performance. In fact, a Khanty person living in an extended family settlement in the bush may apparently move effortlessly and seamlessly through the morning, for example, while doing any or all of the following: sewing beadwork, making a basket, telling a riddle, giving instruction, setting and baiting a trap, smoking fish, or singing a song while repairing a sled. Nor can most of the *okrug’s* non-native population imagine that these things are all connected with both a practical and intellectual coherence, so that decontextualizing them, or separating them for discrete displays, is not only artificial but betrays their fundamental value and meaning. As a result, they often think that, having preserved costumes and dances for performance during festivals, they have saved or preserved their community’s folklore. Part of the task we faced, then, was to lay out in law a set of terms that would institutionalize a different understanding of folklore in relationship to native and non-native communities. These terms would highlight a broader range of folklore forms and support the contextualized reproduction of folklore forms in traditional communities, while also making scientific research and public presentation more responsive to the needs of native communities. At the same time, we needed to find programmatic forms of governmental support that encouraged the transmission and reproduction of cultural forms in their original community contexts, and did so without tending to create “official” or “authorized” forms that might stifle the innovation necessary for living tradition.

### Writing law: from concept to draft

**Global practices.** National traditions of making law vary in their practices and assumptions. Nevertheless, typically law tends to regulate, through prohibition or authorization, the behavior of the government or of the public. In contrast to the legal environment of the United States, where those prerogatives not spelled out in the Constitution as belonging to government are preserved by the individual, the Russian legal environment requires the explicit statement of rights, otherwise the prerogative is presumed to belong to the state. We were obligated, then, to assume nothing, but to attempt to instantiate in law the specific rights of individuals and communities in relationship to folklore, including the right to free exercise of folklore practices and traditions and unrestricted access to the resources necessary for the perpetuation of folklore traditions. The Russian legal environment was further complicated by two factors peculiar to the immediate post-Soviet period. First, a number of Yeltsin's presidential decrees (*ukazy*) from the early 1990s established a new legal framework for Siberian indigenous peoples. Some elements of these initiatives were strengthened, others weakened, by important subsequent federal legislation on the legal status of Native Siberian minorities (1999), their ability to organize collectively (2000), their rights to territories of traditional land use (2001), and by revisions to the land codex (2002). Second, the development of corresponding *okrug* legislation to implement presidential decrees and federal legislation often lagged so far behind federal laws that, by the time the corresponding *okrug* legislation was passed, the federal laws were under reconsideration. Moreover, the contemplated revisions of both federal and *okrug* legislation are very regressive, tending to significantly reduce or eliminate any legal basis for native claims to use rights, special status, and so on. Therefore, the legal framework within which the present law was developed was very unstable.

We began our work by researching what had been done in Russia and other countries to provide mechanisms for the support and protection of living folk traditions. Like many countries, Russia's 1993 Constitution guarantees freedom of worship and non-discrimination; moreover, it makes positive assertions of the social value of cultural and ethnic diversity. But, also like the majority of industrial nations, Russia lacks any specific legislation on the protection of folklore or even the legal category of intangible cultural heritage. In Russia, the legal framework for the new legislation would have to be built on the Russian law of 1992, No. 3612-1 "On Basis of the Legislation of Russian Federation on Culture," which does not provide a legal foundation for the distinction between "tangible" and

“intangible cultural heritage.” And this is despite the fact that it includes folklore on a list of culturally valuable properties or cultural treasures, alongside moral and aesthetic ideals, norms and models of behaviors, languages and dialects, ethnic traditions and customs, historic toponyms, folk art trades, and so on. Many developing countries, mostly in Africa, have laws protecting folklore. A few states consider folklore to be part of the national heritage or patrimony, and by law reserve to the state the right to publish and profit from folklore. In some countries, including the United States, protection comes principally in the form of regulations, not laws, requiring, for example the incorporation of cultural heritage into environmental impact assessments associated with development projects. Support from national governments often comes in the form of specific programs developed to fulfill general cultural heritage mandates; the most frequently modeled program is based on Japan’s Living Cultural Treasures program, in which a community-recognized master of a threatened folklore tradition is paid to take on an apprentice; in the United States, this is one of the ways in which the mandate of the National Endowment of the Arts is interpreted to support folk arts. Some nations, such as the Philippines, where the legalization of the status of indigenous peoples became a compelling concern in the late twentieth century, have more complex legislation.

Additionally, much work is being carried on by multilateral organizations such as the United Nations (principally through UNESCO) and the World Intellectual Property Organization (WIPO) (see also von Lewinski, *this volume*). In the beginning of the period of general concern over indigenous knowledge and intellectual property (IP), the two organizations cooperated in publishing the UNESCO/WIPO 1982 “Model Provisions for National Laws on the Protection of Expressions of Folklore against Illicit Exploitation and other Prejudicial Actions.” These remained only “model” provisions, however, as most states that did not already have folklore protection laws did not accept the challenge to develop such laws based on the Model Provisions. Most of the energy on the UN side has been directed toward folklore and indigenous rights (see, for example, UNESCO’s 1989 “Recommendation on the Safeguarding of Traditional Culture and Folklore”). Lacking any consensus for a convention or treaty, the UN strategy has turned more and more toward developing honorific programs, such as UNESCO’s 1998 Masterpieces of the Oral and Intangible Heritage of Humanity Program, which place cultural heritage in the public view, making it more difficult to threaten and easier to solicit international support. In the 1990s, driven by concern over claims by indigenous peoples to profits derived from the pharmaceutical exploitation of ethnobotanical knowledge, WIPO has focused more on Traditional Envi-

ronmental Knowledge (TEK). In 1999 UNESCO and WIPO jointly sponsored a World Forum on the Protection of Folklore, and the two organizations partnered to sponsor a series of regional consultations in Asia, Africa, Latin America and the Arab states. WIPO's 2001 Survey on Existing Forms of Intellectual Property Protection for Traditional Knowledge provides a detailed response from 26 countries on how those states are addressing IP and TEK issues. More recently, WIPO has begun a serious exploration of the regimes of legal protection for folklore expressions. Often, however, it has framed its inquiry into the protection of folklore expressions as an analogue to copyright. It has published the results of a survey it conducted among 64 countries in the field of national experiences with folklore protection. The field of Traditional Knowledge is expanding so rapidly that WIPO now has a special portal for TK-Folklore issues at <http://www.wipo.int/tk/en/index.html>.

Four major concerns emerged from these legislative and regulatory efforts: first, how to develop a regime of protection that does not freeze living traditions; second, how to effectively protect intangible expressions of folklore as opposed to folklore works; third, how to create mechanisms that provide local communities adequate control over the dissemination of their own folklore; and fourth, how to distinguish between folkloric expression that has entered into majority culture as "prior art" and those expressions to which specific communities may assert some kind of proprietary claim. All but the last of these concerns were part of the deliberations associated with the present law, but they needed to be understood in relationship to the specific interests at play in KMAO.

**Local interests.** "Interest" here is marked by the enhancement or limitation of one's powers. Although a law on the protection of indigenous folklore has its most direct impact upon the indigenous communities it purports to protect, it touches the interests of several parties.

*Indigenous Khanty and Mansi communities* in KMAO – people whose lives are spent almost entirely in the forest in *yurta* and are shaped by "traditional" economies of hunting, fishing and reindeer herding – provided us with anecdotal evidence and testimony relating to several interests. In particular they wanted freedom from the abusive exploitation of their traditions by outsiders. In 1998, during the course of our fieldwork on the Malı Yugan River, one family living there brought out an album of photographs to show us. As we turned the pages, the format became clear: each page featured contemporary color photographs of a different *yurta*, with family portraits and a photo of the family shrine, and not just the exterior, but also the interior with the family gods displayed. When the family told



us who had put together the album, we recognized the name of a Russian photographer, well-known in the region, whom we had met in 1995 on Bolshoi Yugan as he traveled down the river in a large boat, plying families with vodka in exchange for their permission to take photographs. As it turned out, these albums were not gifts, but commodities, which he sold back to the native families; other photos he posted for sale on the Internet. Shortly after meeting him we met another man, who was helping a small local American foundation in New Mexico to arrange a conference on shamanism in Santa Fe. When he learned of our work, he asked if we had recorded any cassettes. We told him that we regularly recorded materials as part of our work, and before we could finish the sentence, he said, "Come on, then, let's sell them!" We tried to explain that we could not do so, but he dismissed ethical arguments about prior informed consent and financial benefit. Indigenous people also ask for help in strengthening the mechanisms for supporting or reviving disappearing traditions; recognition of the holistic nature of their life on the land, which does not separate folklore from the dense fabric of custom and belief; and, where they have developed the paraprofessional skills, assistance in documenting and preserving folklore records.

*Native Intelligentsia and the Native Assembly* members, most of whom work in government-funded, salaried positions in education or public administration, wanted public recognition of cultural heritage and a mechanism to call special attention to specific highly marked forms. This was certainly among the motivations for wanting to elevate the Bear Festival to *okrug*-wide public attention and to take steps for its preservation. In KMAO, as in other nationality-based political subdivisions of the former Soviet Union, "ethnic culture" is a political topic of enormous importance, because it provides a shortcut to funding and privilege. Native intelligentsia have the power to define institutional priorities, establish mechanisms, and solicit large-scale, long-term funding to a degree that the individual members of an indigenous group (or sometimes even an entire local community) do not have. "Native politics" is big business in the native community in KMAO, with many institutions in Khanty-Mansiisk and throughout the *okrug*, established by and for the native intelligentsia, competing for the cultural slice of the budgetary pie. The Native Assembly of the KMAO Duma can initiate legislation, such as the present project for which we were commissioned, but the political power of the Native Assembly is restricted for two reasons. First, as a third chamber of the Duma, the Native Assembly has no veto power over legislation originating in the other chambers (which are dominated by representatives of the petroleum industry), not even legislation directly affecting the lands or customs of Native peoples.

Moreover, because the *okrug* administration's budget is derived principally from revenues associated with the petroleum industry's exploitation of native lands, the Native Assembly must tread lightly in what it does propose.

*Researchers, among other publics*, also have an interest in any law that would restrict their research activity or have an impact upon the object of their inquiry. In the first case, there is a real concern that any control mechanism might be used to deny researchers access to sites, persons or phenomena necessary for the furtherance of scientific objectives. On the one hand, freedom of inquiry is a central requirement a modern, secular society; on the other, control mechanisms are a real concern, especially in view of a state's power to punish transgressors of broadly and vaguely defined restrictions. However, it is an open question whether indigenous communities can be considered political subdivisions of the state – certainly they are not in Russia – or whether they are better understood as private, rather than public, corporate entities, which can establish their own rules of membership, access and so on. Folklorists and ethnographers have historically expressed concern about any efforts at formal official recognition of folklore performances or forms, worrying that such activity encourages convergence toward a norm, and, therefore, a reduction in the variability that is essential to living folklore tradition. Indeed, this was one of the concerns about the project we are reporting on here. Several of the original indigenous proponents of the law offered, as part of their initial motivation for taking steps to preserve the Bear Festival, their sense that in some regions of western Siberia people were “doing it incorrectly.” Indigenous proponents of the law very much wanted to enshrine their own regional variation of the Bear Festival as somehow authoritative (in the absence of any acknowledged authority to do so from other Khanty and Mansi regional communities), and discussions indicated that, at least in part, they expected that such a law would authorize them to monitor the “inaccuracies” of others.

Finally, *the State* has its own interests, especially if we do not think of the State in abstract terms, but as the existing “organs of power” of KMAO, consisting of a structural array of powers as interpreted and exercised by the individuals currently in key positions. Because most new legislation carries with requirements for regulation or finance, and the organs of state power, especially in a strong executive form of government, tend to resist these as claims on the state's resources or restrictions on its power, making law is a conflict-laden, not a cooperative, process. It was clear from the start that the legislative process would only diminish, strengthen, the initiative

from the Native Assembly, and the real question was how much could be defended successfully and thereby preserved.

**Drafting the Law.** The task of developing a legislative draft that would strike a balance among these interests was divided according to spheres of competence. As experts on the Siberian indigenous peoples and on folklore, Wiget and Balalaeva would develop the chapters on basic definitions and understandings, the rights of native minorities in the sphere of folklore, and the protection of folklore heritage. As an expert on law and government, Vasilieva would develop the chapter on the role of organs of state power and local self-government in the protection and preservation of native folklore heritage. For us (Wiget and Balalaeva) the review of existing legislation, regulation and programming, as well as our own local experience in KMAO, made it clear that the law project on which we were working should do several things: promote a dynamic sense of folklore as a living tradition, identify the rights of indigenous peoples in relation to folklore, and offer a mechanism for facilitating state support for native folklore heritage.

*A dynamic sense of folklore.* We were concerned not to reify folklore or to provide openings for the argument that folklore can be supported principally through the staging of festivals or other scripted, decontextualized performances. Especially important was that the law should:

- Lay out a clear sense of folklore as a dynamic phenomenon characterized by variation
- Link the perpetuation of living folklore traditions to specific communities and landscapes

These themes guided the definitions that now form the core of Articles 3 and 4 of the law as passed (see below). A few additional definitions were deleted, because in Vasilieva's opinion they seemed purely academic and unnecessarily complicated, based on her experience with the legislators who would review the law. In an effort to promote a distinction between the original, indigenous context of folklore performance and folklore performances for non-native publics, we initially proposed the following definition:

*Traditional Environment* is the combination of physical location, audience and occasion that is customary within the indigenous community for the perpetuation of its own folk traditions through their performance.

As reflected in Art. 3, this definition was subsequently changed, at Vasilieva's initiative, to "Places of traditional circulation of folklore". While,

from a folklorist's perspective, the new definition lost some clarity in relationship to the performative context of folklore, it had the benefit of additionally supporting a very important element of the new law: the concept of the right of access to the resources necessary for perpetuating folk traditions (see Art. 5.2.3). At its least controversial, this right speaks to the self-evident truth that certain kinds of baskets cannot be made without the appropriate materials, say, a supply of red willow or birch bark, nor can one conduct Bear Festivals without bears. Understood in its fullest sense, it means that sacred place myths cannot exist without sacred places, nor local legends without the sites to which they are attached. In short, folklore cannot meaningfully endure if separated from the specific enculturated environment that it inhabits. Because the power to deface that environment rests with the non-native, political majority, this is potentially the most dramatic element in the law. It is also, in some ways, the most urgent, because KMAO is today the center of Russia's petroleum industry, and in some areas almost 90% of the land surface is licensed for petroleum production.

***The question of rights and controls.*** The new law also aimed to address some of the intellectual property concerns raised globally by:

- Trying to balance the interests of the indigenous individual and the indigenous community in the circulation of folklore
- Affirming the right of the performer to credit and compensation for his/her creative performance or information
- Affirming the right of the indigenous community to control the dissemination of folklore knowledge and performance in the interests of cultural self-determination
- Asserting the right of folklore to benefit from the same kinds of state support that accrue to other forms of valued community expressions, including status and financial support

These principles guided our first draft of an explicit statement of rights, which was divided into articles according to the purposes for which the rights were acknowledged:

Article. In order to protect their intangible cultural heritage, the Native Minority Peoples of Khanty Mansi Autonomous Okrug are acknowledged to have the following rights:

- a) the right to express all forms of traditional folk belief, ritual activities, customary practices and folk arts and crafts in their customary environment of production and circulation, free from interference or unwanted observation

- b) the right to full, written disclosure of the means by which folklore information is to be gathered and the purposes for which folklore information is to be gathered, as well as disclosure of any uses to which it may be put, prior to consenting to the actual solicitation of any folklore information
- c) the right to develop and employ mechanisms for authorizing or permitting access to, and fixation of, folklore information or folklore performances, in the customary environment of its production and circulation, by individuals who are not recognized members of the community as legitimate tradition bearers
- d) the right to exercise control over the ultimate use and dissemination of folklore information outside of the customary environment of its production and circulation
- e) the primary right to benefit financially from the fixation or publication in any form of folklore information or folklore performances, if such fixation or publication will generate financial rewards
- f) the right to public credit and acknowledgement as the originators of artistic expression in those forms of traditional folklore information that correspond to conventional understandings of art, craft or performance genres
- g) the right to demand privacy and confidentiality in public representations of folklore information and folklore performances
- h) the right to seek judicial or administrative remedies for any commercial exploitation or any distorted or abusive representation of their folklore heritage that is prejudicial to their cultural and economic interests

Article. For the purposes of preserving their cultural folklore heritage, the Native Minority Peoples of Khanty Mansi Autonomous Okrug shall have the following rights:

- a) the right to organize, direct and control archives, documentation programs, educational programs, festivals and other activities designed to preserve and perpetuate intangible cultural heritage
- b) the right to receive financial support from state and private sources, both within and beyond the Russian Federation, for the support of such programs aimed at preserving and perpetuating intangible cultural heritage and cultural traditions
- c) the right to formal, organized instruction by knowledgeable members of their community in their native language and cultural traditions as a regular part of state-supported public school education
- d) the right to have the traditional places and material resources cus-

tomary for the continued performance of cultural folklore activities preserved and protected by the organs of state power

- e) the right to have individual masters of tradition, as invaluable folklore cultural resources, provided with additional support from the state for the transmission of cultural folklore heritage to other members of the community, and for the fixation of folklore information and performances, so that a record may be preserved

Article. The Native Minority Peoples of Khanty Mansi Autonomous Okrug hold and exercise these rights both as indigenous communities and as individuals.

In the course of preparing the first draft of the law, several important questions were raised. First, in whom, precisely, would these rights be vested, and how? This section was subsequently revised to more clearly assign these rights to the “bearers of tradition,” “informants,” and “masters of tradition,” as well as to “chartered native communities” (that is, *obshchiny* with registered charters), “native [voluntary] associations and traditional communities.”

The Rights of Individuals of the Native Minority Peoples of Khanty Mansi Autonomous Okrug

- A) The BEARER OF TRADITION has the right:
  - i) to express all forms of traditional folk belief, ritual activities, customary practices and folk arts and crafts
  - ii) to express and transmit all forms of traditional folk belief, ritual activities, customary practices and folk arts and crafts in their customary environment of production and circulation, free from interference or unwanted observation
  - iii) to have their traditional places and material resources customary for the continued performance of cultural folklore activities preserved and protected by the organs of state power
- B) The INFORMANT, in addition to the rights he/she holds as a Bearer of Tradition, has the right:
  - i) to financially benefit from the fixation or publication in any form of folklore information or folklore performances, if such fixation or publication will generate financial rewards
  - ii) to confidentiality, if he or she prefers not to be associated with the information he or she supplies
  - iii) to be publicly credited for his or her unique productions
- C) The MASTER OF TRADITION, in addition to the rights he/she holds as a Bearer of Tradition and as Informant, has the right:

- i) to public acknowledgement of special status as Master of Tradition
  - ii) to be provided with additional support from the state and private sources for the transmission of cultural folklore heritage to other members of the community, and for the fixation of folklore information and performances, so that a record may be preserved
  - iii) to develop cadres of students or apprentices for the purpose of perpetuating traditions
2. The Rights of Chartered Native Communities, Traditional Communities and Native Political Associations
- A) CHARTERED NATIVE COMMUNITIES have the right:
- i) to develop and employ mechanisms for authorizing or permitting access to, and fixation of, folklore information or folklore performances, in the customary environment of its production and circulation, by individuals who are not recognized members of the community as legitimate tradition bearers
  - ii) to organize, direct and control archives, documentation programs, educational programs, festivals and other activities designed to preserve and perpetuate intangible cultural heritage
  - iii) to receive financial support from state and private sources, both within and beyond the Russian Federation, for the support of programs aimed at preserving and perpetuating intangible cultural heritage and cultural traditions
  - iv) to formal, organized instruction by knowledgeable members of their community in their native language and cultural traditions as a regular part of state-supported public school education
- B) The TRADITIONAL COMMUNITY, in addition to all the rights of the Chartered Native Communities, has the right
- i) to appeal to the organs of state power to develop programs through which it can exercise its rights
  - ii) to exercise its rights through a chartered native community
  - iii) to exercise its rights through a native political association
- C) NATIVE POLITICAL ASSOCIATIONS have the right to
- i) to develop informational programs on folklore, folklore festivals and other activities designed to promote the public appreciation and understanding of intangible cultural heritage
  - ii) to receive financial support from state and private sources, both within and beyond the Russian Federation, for the support of programs aimed at promoting the public appreciation and understanding of intangible cultural heritage

### 3. The Rights of Native Minority Peoples of Khanty Mansi Autonomous Okrug

The Native Minority Peoples of Khanty Mansi Autonomous Okrug have the right to preserve and protect their intangible cultural heritage in order to insure the survival of their ethnic cultural identity.

A problem remained, however, in that after the passage of this law all of the above-listed entities would have legal standing (*juridicheskoe litso*) except “traditional communities,” which are ethnographic realities but not legal ones. Indeed, the lack of legal status for indigenous communities in Russia (as opposed to indigenous individuals, voluntary associations or corporations) is perhaps the single biggest obstacle to their ability to exercise a modicum of control over their future through institutional means. Hence, despite past unpleasant experiences with intrusive and mercenary researchers, the question of legal standing compromised the goal of giving communities “the right to develop and employ mechanisms for authorizing or permitting access to, and fixation of, folklore information or folklore performances,” because it was unclear which legal entity would exercise this right. By the time the first draft had reached its final form in January 2002, the assertion of rights had been distributed through several articles.

***Creating a structure for operationalizing the Law.*** As a mechanism for operationalizing state protection and support, the draft law authorized the establishment of The Folklore Heritage Center of the Native Peoples of KMAO as a semi-autonomous unit of the *okrug* administration. It would be governed by a board of directors consisting of an uneven number of members, the majority of whom would be regionally distributed representatives of the indigenous peoples of KMAO. As originally conceived, the Center would be a powerful structure, which would

- ***Develop and coordinate the activities of a regional network*** of subordinate, cooperating local folklore preservation structures and programs, including programs for the recording and archiving of folk traditions, regionally distributed in each distinct area of compact living of traditional indigenous communities.
- ***Maintain several registers and associated survey and master-apprentice programs***, such as a *Register of Masters of Folklore*, which included overseeing the process for the annual nomination of individuals to this register through the network of local folklore preservation structures and programs, deciding who shall be included in the register, and developing and overseeing a process (also implemented through the network of local folklore preservation programs)



for apprenticing individual tradition bearers to Masters of Folklore Tradition based on Japanese and American models. Recognizing that significant alterations in the distinctive characteristics of folklore genres, caused by loss of language, material resources, or changes in social conditions, can eventually lead to the radical transformation or even loss of the affected forms of folk tradition, the law would also create *Registers of Especially Valuable and Threatened Folklore Forms*, in order to monitor by means of annual regional surveys the condition of folk traditions, and to take active steps to support forms of folklore of special value or those under particular stress.

- ***Develop a standard method, called folklore expertise***, following international procedures, for scientific specialists to identify, assess and report on the probable impacts on the folklore traditions of the native peoples of KMAO of all projects involving state-owned lands, resources or financing, during the planning phase of such projects, and to oversee its implementation. This expertise would be an integral component of any Social Impact Assessment process, and is rationalized by the requirement in Articles 1 and 8 of Federal Law 82-FZ of April 30, 1999 on Guarantees of Rights of Indigenous Small Peoples of the Russian Federation.
- ***Monitor the compliance of the public with the processes described in this law*** aimed at protecting the rights of indigenous peoples to prior, informed consent, credit, confidentiality, and the primary right to financial benefit.

Additionally, the draft law directed all state and private entities to assist, support and encourage all scientific efforts aimed at the preservation of the folklore heritage of the native peoples of KMAO. Furthermore, the appropriate educational administrative authorities were directed to establish native language and culture curriculum for native students of grades one through six in “nationality” schools (those where native students make up at least 30% of the student population) and to ensure that this instruction is carried out by native teachers, or by non-native teachers assisted by knowledgeable members of the native community. The draft law also authorized the establishment of university and institute curriculum in native language and culture, as well as in anthropology, folklore, museology, linguistics and other similar sciences, for the purposes of preparing scientific specialists who can serve as a resource in the preservation of native folklore heritage.

### **Making law: the legislative process**

The draft law we submitted to the Native Assembly in January 2003 consisted of twenty articles. As outlined above, the draft promoted a dynamic and holistic view of folklore; emphasized the rights of indigenous individuals and communities to control and profit from the dissemination of their own folklore; directed state and private entities to provide various forms of financial and programmatic support; and proposed the establishment of a powerful structure to coordinate regional archive programs (including surveys and master-apprenticeship programs), institute and oversee the incorporation of folklore expertise in the planning phase of development projects, and monitor compliance with the law. The draft represented an ideal start, the strongest, most coherent statement that we could make, but it was only the beginning of the process, not the end.

The legislative process in KMAO requires three steps. First the law must clear preliminary reviews by the Legal Department of the Duma (legislative) and the Judicial-Legal Department of the Governor's Office (executive). The second step is to present the law to the Duma for three readings. The first "reading" is a purely formal step, making the draft text available for consideration. The second reading provides an opportunity to review any revisions of the draft. Most of the objections need to be resolved by the third reading, when the Duma discusses and votes on the second revision. Some minor changes may be made during the third reading, and if the law is passed, it takes effect in its Final Form when signed by the Governor. Even after a law takes effect, however, the process can only be said to be concluded in the third phase, when financing necessary for enabling the law is provided for in the appropriate state program budgets.

**Preliminary reviews.** The draft was first submitted for review to the Legal Department of KMAO Duma, which responded in mid-January. The team discussed the review by email and telephone before Vasilieva formulated our formal response. Such reviews look for conflicts between the proposed law and federal and other *okrug* laws, presuming to act in a sphere of competence reserved for the federal government, introducing new terms and mechanisms for which there is no authorization in federal legislation or the *okrug* charter, resolving any lack of clarity, and so on.

A series of objections was circulated concerning the topic of rights, which was often construed as a limitation on state power. The review by the Duma's Legal Department tried to dismiss the draft's attempt to define rights for native peoples in regard to folklore, claiming that these were already defined by the Constitution and norms of federal legislation.

Vasilieva answered this objection by pointing out that no new rights were being defined, but that these were simply specifications of the more general right to cultural self-determination encoded in the Constitution and in Federal Law of 30 April 1999 No. 82-FZ “On the Guarantees of the Rights of the Native Minority Peoples of the Russian Federation.” Similarly, Vasilieva had to remind the reviewers that making law in the area of preserving culture and traditional way of life of the minority peoples of the North belongs in the sphere of joint competence of the Russian Federation and its subjects, which means that the *okrug* could make such laws as we were proposing.

The Governor’s Judicial-Legal office, responding to a radically and poorly edited draft that cut out five of the twenty articles and was submitted without our knowledge by the Native Assembly, found the very nature of the law “declaratory” and “conceptually unacceptable,” because it allegedly violated the charter of KMAO. Instead of duplicating existing rights, the Governor’s review asserted, the law should try to accomplish its objectives through modifying the priorities of existing *okrug* programs, in short, through administrative rather than legislative measures. Similarly, the same review curiously argued that, in asserting the right of native communities to establish archives, the draft “violates the boundaries of competence of the autonomous *okrug*” and “intrudes upon the competence of local self-government to establish archives.” In addition, the assertion that bearers of folklore could set conditions on the transmission of their own information (including claims to confidentiality and compensation) was read as an attempt to define the norms of civil-legal relationships, which were governed by federal legislation. To the latter Vasilieva replied, “The given articles do not formulate new civil legal norms, they only draw attention to the specific status of certain individuals for the purpose of guaranteeing the protection of their rights within the Constitution. The project team thought it expedient to point out the rights and opportunities that these individuals can have in accordance with federal legislation.” Nevertheless, the final version of the law deleted the specifications (see Art. 4 below) that forbade state interference, ensured confidentiality, and provided for a right to compensation.

The Duma Legal Department review objected to the innovation of “folklore expertise” as a social impact assessment component. We had hoped to legitimate “folklore expertise” as an element of “ethnological expertise,” a term introduced into Russian Federal law through 82-FZ “On the Guarantees of the Rights of the Native Minority Peoples,” but that term has never been defined nor operationalized through regulation and procedure. We had hoped that we could install this term and operationalize it later by

procedures, but the review insisted that, if we were to go ahead with this concept, we had to include all the details in the draft of the law. Given the difficulties involved, it seemed irresponsibly hasty to attempt to formulate procedures in such a short time and without widespread consultation. Moreover, detailing the procedure would have made the law more unpalatable to the pro-development forces that dominate the Duma. The result was that we reluctantly abandoned that initiative.

The reviews also intensified our own internal debates, which often found Wiget and Balalaeva (as folklorists without much legal experience) on one side of a question, and Vasilieva (as a lawyer and legal expert with no experience of folklore) on the other. The most important of these differences concerned community control of information. Vasilieva argued that the federal law on freedom of information (which guaranteed the right of people to seek, obtain, and disseminate information) posed an obstacle to the community's attempts to control access to its traditions and customary practices; we countered that a community's esoteric knowledge and customs were private, and not subject to the law. We never came to agreement on this point. As academically interesting as that debate was, it was rendered moot by the irreducible fact that native communities in Russia (unlike federally-recognized tribes in the United States, First Nations in Canada, or aboriginal communities in Australia) lacked the legal standing necessary to assert any kind of claim for control, nor had they any mechanism to do so. In the end, we were compelled to delete those elements asserting community control from the statement of rights. In another area of debate, Vasilieva suggested that some might object that conferring the title of Master of Folklore on a ritual specialist could be interpreted as official state support for a particular religion. We countered by arguing that the distinction between culture and religion, which is so peculiar to the modern secular state, is not applicable to many ethnic groups, and that, in fact, state support for cultural diversity (along with its specific commitment to ensure the distinctiveness of these groups) *implies* an understanding that support for the culturally significant dimensions of religious belief is acceptable. This was never raised outside the team in the course of developing the law, so it remained an academic discussion. The law, as passed, recognizes the category of Master of Folklore and also recognizes ritual as a form of folklore expression.

A number of objections appeared to be not-very-subtle attempts to avoid financing. For example, the Duma's Legal Department's objection to establishing the Center was that, according to 82-FZ native people already had the right to do this within the realm of existing law, and

here the reviewer underlined (asserting the reviewer's own emphasis) the term "*material and financial possibilities*." To this, Vasilieva and the team responded that The Law on Guarantees regulates the rights of native individuals, communities and associations, but not the measures of state support for the culture of particular peoples, and that the work of state support proposed in the law could not possibly be accomplished without a coordinating structure. We conceived of the Center as a powerful institution with the principal responsibility for coordinating *okrug*-wide programs, conducted through a network of regionally-affiliated archive programs. The Center would also inventory folklore forms, identify folklore masters, administer master-apprenticeships and register their programs, and help to establish *okrug*-wide conservation priorities. It was clear to us that existing *okrug* organs, such as The Department of Culture and the Committee of the Affairs of Native Minority Peoples, could not accomplish these functions, because all were understaffed, lacked expertise, and were burdened by too many other tasks. Other, small native heritage organizations suffered from some of the same problems. Moreover, they were already so deeply invested in the *okrug* capital's politics of native culture that they would inevitably compete, rather than cooperate, with each other. In the end, the Center was deleted from the draft during negotiations with the Conciliation Committee, a committee, representing different factions in the Duma that negotiates differences over legislation so that a law is presented for its final reading in passable form. Non-native Duma members could not be won over to support the distinctive mission of the Folklore Heritage Center and did not want to spend any money on a new institution. From their point of view, Khanty-Mansiisk was already cluttered with native cultural organizations supported by the state and did not need another.

By the time the law came up for a vote at the final reading, it had lost some of its most important provisions. Important changes included:

- Deleting the specification of some individual rights, especially to prior informed consent, confidentiality and freedom from state interference
- Deleting the specification of some community rights, especially those having to do with controlling access, the transmission of information, and ensuring the continuity of folklore traditions
- Deleting the designation "places of the traditional circulation of folklore" as a category of "lands of historical and cultural significance"
- Deleting the inclusion of "folklore expertise" as part of the impact assessment process
- Deleting the Center with its multiple registers and its master-apprenticeship program

- Deleting state material and financial support to native communities for preservation, public presentation or use of folklore

Significant amendments included:

- Adding the assurance that there would be a “fair balance between the interests of the bearers of folklore traditions and other ethnic groups”, although, as equitable as this sounds, one wonders how “fair balance” is to be construed in a law aimed at protecting minority rights
- Weakening the definition of Master of Folklore by not specifying that it is the native community that first recognizes such person as a master

Nevertheless, among other innovations, the law provides for:

- The first explicit guarantees of the rights of individuals to bear, transmit and perform their folk traditions and of the Master of Folklore to form workshops and studios and to teach their traditions in schools without a teaching certificate
- The first explicit guarantees of the rights of communities to the preservation of the places of the traditional circulation of folklore and the natural resources on which folk traditions depend
- A broader legal understanding of folklore in its many expressive forms, its dynamic nature, and its relationship to specific landscapes and communities
- State commitment to support the preservation of native folk traditions and public education about, and public presentations of, native folklore

### **Living law: implementing programs and principles**

The draft, thus considerably revised, was adopted by the Duma of Khanty-Mansi Autonomous Okrug on May 30, 2003 as Law No. 37-03, “On the Folklore of the Native Minority Peoples of the North Living on the Territory of Khanty-Mansi Autonomous Okrug,” and went into effect when it was signed by Governor A. V. Filipenko on June 18, 2003. The text of the law is appended to this article. Major omissions can be discerned by comparing this final text to the description of rights and the Center presented earlier; lesser, but nevertheless significant, changes are indicated within the text as additions [Add] or deletions [Del] ).

Despite the inevitable weakening of the initially strong draft, the new law will materially and positively change the role of the state in relationship to individual bearers and performers of folklore and the larger communities that they collectively constitute. While it is unlikely that the deleted provisions on rights will be restored in the near future, the Native Assembly, which sponsored the law, is already working to revive the coor-

dinating Center of Folklore Heritage by installing it in the budget as a subprogram of the *okrug's* program "On the Socioeconomic Development of the Native Minority Peoples of the North," and by incorporating other aspects of the law in other *okrug* programs. Whether or not the law is effectively operationalized will depend upon the success of the Native Assembly in this third, and equally political, phase of the legislative process.

## Appendix

*Law No. 37-03, "On the Folklore of the Native Minority Peoples of the North Living on the Territory of Khanty-Mansi Autonomous Okrug" (May 30, 2003)*

- Chapter 1. General Principles
- Chapter 2. Guarantee of the Right of Native Minority Peoples to the Preservation of Traditional Culture
- Chapter 3. Forms of Realizing the Rights of Native Minority Peoples for the Preservation of Folklore Traditions
- Chapter 4. Final Statutes

### CHAPTER 1. *General Principles*

#### *Art. 1. The subject of the regulations of the present law*

The present law regulates the relationships associated with preservation, research, usage and public presentation of folklore of the Native Minority Peoples of the North Living on the Territory of Khanty-Mansi Autonomous Okrug (hereafter, Native Minority Peoples), for the purposes of: ensuring cultural diversity; realizing the right of the Native Minority Peoples to preserve and develop their national and cultural uniqueness; protecting, reviving and preserving their aboriginal historical-cultural milieu and traditional way of life; [and] developing the living folklore traditions of the given peoples.

#### *Art. 2. Legislation of Khanty-Mansi Autonomous Okrug in the field of preservation, research, usage and public presentation of folklore of the Native Minority Peoples*

Legislation of Khanty-Mansi Autonomous Okrug in the field of preservation, research, usage and public presentation of folklore of the Native Minority Peoples is based on the Constitution of the Russian Federation, federal legislation, the Charter of Khanty-Mansi Autonomous Okrug, and consists of the present law along other normative legal acts of Khanty-Mansi Autonomous Okrug.

### *Art. 3. Fundamental Concepts*

For the purpose of the present law, the following fundamental concepts are employed:

*Folklore of the Native Minority Peoples* – non-material cultural heritage presented in various forms based on traditional knowledge, transmitted from generation to generation orally or by imitation, without individual authorship, which reflects the ethnic identity and cultural uniqueness of the given peoples

*Monument of the Folklore of Native Minority Peoples* – the most significant, non-material cultural treasures reflecting the ethnic identity of the given peoples, or traditions that are on the verge of disappearing

*Folklore information* – data on the history, culture, aboriginal milieu and traditional way of life of the Native Minority Peoples, as preserved and transmitted from generation to generation by individuals belonging to the given peoples

*Bearer of folklore* – an individual belonging to the Native Minority Peoples who possesses folklore information

*Performer of folklore* – a bearer of folklore who performs or presents folklore in accordance with the traditions of his people

*Master of folklore* – a performer of folklore who is regarded as an expert on folklore and a recognized performer

*Places of traditional circulation of folklore* – territories within which there has developed, and continues to develop in accordance with the unique traditions, the non-material cultural heritage of the Native Minority Peoples

### *Art. 4. Forms of Expression of Folklore*

The preservation of the diversity of forms of expression of folklore of the Native Minority Peoples in Khanty-Mansi Autonomous Okrug is guaranteed, including:

- dance, music, games, verbal art, and traditions of applied decorative arts
- festivals and rituals
- knowledge, crafts and skills, customs, concepts and other forms of self-reflection associated with the traditional way of life of the given peoples

## CHAPTER 2. *Guarantee of the Right of Native Minority Peoples to the Preservation of Traditional Culture*

### *Art. 5 The Preservation, Research, Usage and Public Presentation of Folklore*



*as a Condition of Preserving and Developing the Cultural Uniqueness of the Native Minority Peoples*

1. On the territory of Khanty-Mansi Autonomous Okrug, in accordance with legislation of the Russian Federation and Khanty-Mansi Autonomous Okrug, the rights of the Native Minority Peoples to preserve and develop their cultural uniqueness through the preservation, research, usage and public presentation of folklore are guaranteed.
2. Native Minority Peoples living on the territory of Khanty-Mansi Autonomous Okrug are guaranteed, in the manner established by legislation:
  - 1) the preservation, usage and development of the folklore heritage of one's people;  
[Del: *insuring the continuity of folklore traditions*]
  - 2) the conduct of folklore festivals and rituals;
  - 3) the preservation and protection of the places of the traditional circulation of folklore, and of the natural resources necessary for the perpetuation and development of folklore traditions;
  - 4) instruction in the folklore of one's people in the nationality-based educational establishments of the Native Minority Peoples, within the framework of the regional-nationality component of state educational standards, as well in other establishments of education and culture;
  - 5) the establishment of folklore archives for collecting, documenting and preserving materials associated with the folklore traditions of one's people;
  - 6) participation, through delegated representatives, in the development of special programs of the Autonomous Okrug, and of the regional-nationality component of the state educational standards associated with the preservation, public presentation and usage of the folklore of the Native Minority Peoples;
  - 7) the receipt of the material and financial means necessary for the preservation, public presentation and usage of the folklore of the Native Minority Peoples [del: *from the organs of state power of the autonomous okrug and the organs of local self-government*];
  - 8) the public presentation of folklore by means of festivals, conferences, symposia, translation of folklore texts into other languages, and publications in mass media;
3. These provisions are established for individuals belonging to the Native Minority Peoples for:
  - 1) familiarization with the folklore heritage of one's people;

- 2) the study of the folklore of one's people in the nationality-based educational establishments of the Native Minority Peoples, within the framework of the regional-nationality component, according to the state educational standards, as well as in the other establishments of education and culture;
- 3) the collection of folklore information from the bearers of folklore of one's people;
- 4) access to the documents and artifacts associated with the folklore traditions of one's people that are preserved in governmental and non-governmental archives and museums;
- 5) the organization, in the established manner, of associations, foundations, museums and archives for the purposes of the preservation, research, usage and public presentation of the folklore of one's people;
- 6) the receipt, from the organs of state power of Khanty-Mansi Autonomous Okrug and the organs of local self-government, of reliable and complete information on measures undertaken for the preservation, research, usage and public presentation of the folklore of one's people.

#### *Art. 6. The Bearer of Folklore*

A bearer of folklore preserves, transmits and spreads folklore information [del: *without any interference on the part of the organs of state power of KMAO and the organs of local self government*] in the interest of ensuring the continuity and development of the folklore traditions of the Native Minority Peoples.

[del: *The bearer of folklore can transmit folklore information on the condition of confidentiality and on the condition of payment, defining the condition and limits of usage of the given information.*] Compensation for providing folklore information is regulated by the norms of civil legislation.

#### *Art. 7. The Performer of Folklore*

The activities of the performer of folklore, in the performance and presentation of folklore, are regulated according to legislation [add: *and those customs of Native Minority Peoples that do not contradict legislation*].

#### *Art. 8. The Master of Folklore*

The Master of Folklore of the Native Minority Peoples is guaranteed, in the manner established by law, the opportunity

- To teach folklore in establishments of education and culture without a teaching certificate
- To establish his own school-workshops of the native folklore traditions
- To receive material support from the state, as well as honorable titles and privileges, such as are provided to other workers of culture of Khanty-Mansi Autonomous Okrug

CHAPTER 3. *Forms of Realizing the Rights of Native Minority Peoples for the Preservation of Folklore Traditions*

*Art. 9. State Support of Folklore Activities*

1. The organs of state power of Khanty-Mansi Autonomous Okrug shall establish legal, organizational, financial, and other provisions for the identification, inventory, research and preservation of the folklore of the Native Minority Peoples; provide assistance to legal entities conducting activities relating to the preservation, research, usage and public presentation of the folklore of the Native Minority Peoples; and provide [assistance] to individuals who are the bearers of folklore in exercising their rights relating to the preservation and development of their cultural-ethnic uniqueness.
2. State support from the organs of state power of Khanty-Mansi Autonomous Okrug to legal entities conducting activity in the field of folklore preservation, as well as individuals who are bearers of the folklore of the Native Minority Peoples, is exercised with regard to:
  - 1) the preservation, research, usage and public presentation of the folklore of the Native Minority Peoples in the interests of the given peoples;
  - 2) the interrelationship and interdependence between the stable circulation and development of folklore and the preservation of the historical milieu of the Native Minority Peoples;
  - 3) ensuring a fair balance between the interests of the bearers of the folklore traditions of the Native Minority Peoples and other ethnic groups;
  - 4) supporting folklore traditions in places of the traditional circulation of folklore;
  - 5) accessibility to documents and artifacts associated with the folklore traditions of one's people, as preserved in governmental and non-governmental archives and museums, for individuals belonging to these peoples;
  - 6) encouraging and supporting initiatives of the Native Minority Peoples aimed at identifying and preserving folklore knowledge.

*Art. 10. Activities of the Organs of State Power of Khanty-Mansi Autonomous Okrug in the Field of Preservation, Research, Usage and Public Presentation of the Folklore of the Native Minority Peoples*

For the purposes of the preservation, revival and development of the folklore of the Native Minority Peoples, the organs of state power of Khanty-Mansi Autonomous Okrug shall

- Adopt laws and normative legal acts;
  - Develop, [~~finance~~, add: approve] and implement programs of the autonomous okrug;
  - Establish provisions for the preservation of the non-material cultural heritage of the Native Minority Peoples;
  - Make an inventory of especially valuable forms of intangible culture of the Native Minority Peoples;
  - Provide assistance to the bearers of folklore and masters of folklore in their creative activities, and in the protection of their rights and lawful interests;
  - Provide assistance in organizing the study of the folklore traditions of Native Minority Peoples in the educational establishments of the autonomous okrug, by means of incorporating appropriate courses in the regional component of the state educational standards, and preparing relevant educational and methodological literature;
  - Encourage scientific research associated with the study, preservation and public presentation of the folklore of the Native Minority Peoples;
  - Provide assistance in educating and preparing the personnel required for the preservation, usage and public presentation of the folklore of the Native Minority Peoples, including individuals belonging to the given peoples;
  - Promote the popularization of the folklore of the Native Minority Peoples on the territory of the autonomous okrug, and beyond its territories, through the organization of festivals, celebrations, exhibitions, competitions and conferences;
- [Del: *create conditions for international cooperation*; add: Provide assistance, within their competence] in organizing scientific cooperation in the fields of preservation, study, usage and public presentation of folklore.

*Art. 11. Local Folklore Archives*

Communities of the Native Minority Peoples and organs of local and territorial self-government, in the places of compact living of the Native Minority Peoples and in accordance with [this] legislation, can establish

local folklore archives for the purposes of collecting, documenting and preserving local folklore information, and identifying and inventorying performers and masters of folklore.

*Art. 12. Special Programs of the Autonomous Okrug in the Sphere of the Preservation of the Folklore of the Native Minority Peoples*

1. The organs of state power of Khanty-Mansi Autonomous Okrug shall take into consideration, in the development, approval and implementation of special programs of the autonomous *okrug*, the interests of the Native Minority Peoples living on its territory that are associated with the preservation, usage, study and public presentation of the folklore of the given peoples.
2. For the purpose of preserving the non-material heritage of the Native Minority Peoples, subprograms shall be developed on the preservation, study, usage and public presentation of folklore, within the framework of the special programs of the autonomous *okrug* on the sociocultural development of Native Minority Peoples.

CHAPTER 4. *Final Statutes*

*Art. 13. Effective Date of the Present Law*

The present law shall take effect from the date of its official publication.

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