

# THE ABORIGINAL ISSUE IN LEGAL STUDIES OF THE SIBERIAN 'PROVINCIALISTS'<sup>1</sup>

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To-day, when indigenous peoples all over the world, including those in Russia, are claiming the right to self-determination, the right to choose their own destiny, it is important to utilize all the achievements of historical traditions and past legislation to resolve the very difficult issue of the interrelationship between the State and its peoples. In this connection, the unique, though brief, legal experience of the Siberian 'provincialists' (*Obliastniki*) with their policy on the aboriginal (*inorodtsy*) issue is of definite interest. They are entitled to credit for developing theory and practices based on the idea of cultural, political and legal pluralism, in work which in many ways foreshadows by many years modern approaches.

To express their concept politically the 'provincialists' used the formula 'cultural self-determination' and included it in the program of the Siberian Provincial Council adopted in 1905. According to G.N. Potanin, 'pioneer of provincialists', the right of

cultural and even national self-determination ... for aboriginals should be recognized, first, in the interests of those tribes themselves, and for this they need social resurrection to protect themselves in the struggle for survival; secondly, the original development of mentality and social life among those tribes will contribute something new to common human spiritual values. Even if that contribution is not great, it will still be interesting because it will represent original products of the Siberian mind developed by the life in the tundra and taiga. (Potanin 1908: 267)

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Nevertheless, before 1917 the 'provincialists' had no clearly formulated national program. According to G.N. Potanin's terminology, there were two trends in the movement, namely, 'autonomists' and 'centralists'. The former, headed by G.N. Potanin himself, proceeded from the concept of common "economic and cultural interests without underlying national reasons" for the entire Siberia, from the Urals to the Pacific. They advocated the necessity of autonomy for Siberia and of "a common legislative body for the whole of Siberia". This was to be a Siberian Provincial Duma with "subordinate aboriginal organizations that would have limited legislative authority compared to the general Siberian Duma". 'Autonomists' believed that aboriginal interests would be better protected if they were supervised by two Dumas, the State and the Provincial. Aboriginals would benefit from the establishment of a Siberian Duma because it was difficult to arrange for the representation of all small Siberian tribes in the State Duma, while the Provincial Duma would include representatives even from small, disappearing tribes distinguished by original life conditions and needing "immediate consideration of their problems, being under the threat of rapid extinction". If in the Siberian Duma aboriginal interests conflicted with the interests of Russians who had a majority, aboriginals would be in a position to appeal to the State Duma on the ground of the contradictions between the mother country and the colony. It was proposed that aboriginal interests could and would be represented by the establishment of a Duma for each nation. For example, all Buryat 'departments' and 'Steppe Dumas' would be united into one Buryat Duma, Kirghizians would have their own Duma, and Altaians scattered through Biisk and Kuznetsk districts would be brought together by an Altaian Duma (Potanin 1908: 260-62, 285). Thus the 'autonomists' built a legal construction according to which the priority belonged to "common features of life in Siberia requiring special legislation and a special legislative body." (Nekrasov 1912: 112)

Unlike the 'autonomists', the 'centralists' recognized only aboriginal 'special features of life' as giving the right to establish autonomous legislative bodies. It was proposed to organize provincial legislative bodies only for the large indigenous nations. The idea of Siberian autonomy was rejected. As was noted by N.V. Nekrasov, future minister in the Provisional Government and advocate of Siberian autonomy, whereas the proposals of the 'autonomists' were based on the principles of territorial (or provincial) autonomy complemented by certain elements of national autonomy, the concept of the 'centralists' was based purely on the principle of national autonomy (Nekrasov 1912: 112).

After February 1917 the whole idea of 'provincialism', and especially the national program and policy of the 'provincialists', changed significantly. They were influenced by the scale and nature of national movements and of the major Russian parties, especially the Socialist Revolutionaries, whose Siberian organizations became active in the 'provincialist' movement. New provisions in the program for Siberian

autonomy were formulated by the August Conference and adopted with minor changes by the 1st Congress of Provincialists in October, 1917. Both the Conference and the Congress convened in Tomsk, which became the center of the provincialist movement. Along with the assertion of the necessity to reform Russia ‘on the basis of national or territorial autonomy principles’, the Conference and the Congress recognized the desirability of developing those principles until the entire Russian Republic had been reformed on a federal basis. In addition there was a completely new provision that,

...basic legislation of the country must guarantee the rights of national minorities in the areas with mixed populations and the rights of nations without territory by forming extraterritorial personal autonomy unions with their own local, provincial and central representative bodies to manage all cultural and national affairs.

On these grounds autonomous Siberia could “devolve part of its legislative authority to individual provinces and nations occupying a certain territory if they demand it, and thus become a Federation, i.e. a union of provinces and nations” (Siberian Conference 1917: 11; Siberian Congress 1917: 1, 2).

Thus in 1917 the program of the ‘provincialists’ was formed from a combination of ‘autonomist’ and ‘centralist’ views, including some Socialist Revolutionaries’ approaches. Their objects were summed up thus:

The sweeping autonomy of Siberia in a federal, democratic Russia and the provision of national self-determination by the grant of territorial autonomy to nations living close together and extraterritorial personal autonomy to national minorities and ‘nations without territory’ (i.e. ethnic groups without a compact area of settlement) among whom were included the Siberian Tatars, ‘nations of Persian blood’ (Uzbeks, Sarts) and Tungus tribes (Tungus, Daur, Orochens) (Portniagin 1917: 6)

Unlike pre-revolution programs, the 1917 ‘provincialists’ national program included the idea of national-personal (i.e. cultural and extraterritorial) autonomy which was new for them although quite well known at the time. This idea was born among Southern Slav social democrats and was developed theoretically by the Austrian Marxists K. Renner and O. Bauer. In Russia it was accepted by most political parties. One of the exceptions were the Bolsheviks who saw it as threatening to produce dissent in the revolutionary movement on a nationalist basis.

By August-October 1917, when the ‘provincialists’ were still formulating their new

program, both indigenous and newly arrived nations demonstrated a clear-cut trend towards establishing national self-government bodies. This process of national self-organization revealed the desire to create different models of national autonomies, both territorial and extraterritorial. The principle of national-territorial self-determination was advocated by national movements in relatively mono-ethnic territories, in particular by a Kazakh (at the time called Kirghiz) *Alash* political party. The program of *Alash* provided for the grant of extraterritorial and cultural autonomy to newly arrived national minorities. Yakut federalists believed that national-territorial autonomy was a matter for the future and that at the time it was necessary to establish local self-government.

Other aboriginal nations of Siberia also clearly demonstrated a desire to introduce self-government and self-organization, but on a different basis. The most detailed system of national self-government was developed by Buryats. It was described in the decisions of the 1st Congress of Buryats that convened in Chita in April 1917:

- 1) In terms of national autonomy, Buryats of Irkutsk and Trans-Baikal Provinces unite into one entity...
- 4) The basic territorial unit of Buryat autonomy is an individual land unit (*somon*) which, uniting with neighboring *somons*, forms a *khoshun*, and several *khoshuns* form an *aimak*.
- 5) The Supreme body of Buryat autonomy, uniting all Buryat people, is Buryat National Duma (*Buryat Ulusun Tsugulugan*).  
(State Archives n.d.: Fund 1701. List 1. File 16: 26-27)

The system of Buryat autonomy *somon - khoshun - aimak* was based on the type of autonomy provided for Buryats by the Charter of 1822, but its basic unit was built on the territorial principle whereas under the Charter of Count M. Speransky it was built on the clan principle. The implication is that the proposed Buryat autonomy was an attempt to combine the clan extraterritorial principle of national self-government with the territorial principle. Thus Buryat *aimak* autonomy combined the elements of the territorial and extraterritorial approaches.

The Altaian and Khakassian intelligentsia used similar principles in developing their national self-government systems. In April 1917 Khakassians (at the time called Minusinsk Tatars) announced a union of Minusinsk and Achinsk aboriginals, whose national self-government system was to be composed of small local aboriginal entities united into an independent district under direct control from the provincial administration (Demidov 1983: 85). The Altaian national self-government system was created under the leadership of 'provincialists'. In July 1917 the Altaian Mountain Duma was established; this became a central governing body for aboriginals in Biisk and Kuznetsk districts.

As was already mentioned in the literature, the national self-government systems of the Altaians, Buryats and Khakassians established in 1917 almost completely replicated the provisions of the Brunn national program developed by Austrian social democrats in 1899 (Demidov 1983: 86). It was a compromise version of national autonomy adopted under the influence of but at the same time contrary to the proposals of Southern Slavs who insisted on a purely territorial option for autonomy. The draft adopted provided for the creation of a system of national autonomous bodies by uniting individual self-governing territorial elements on a national basis.

The newly arrived non-Russian population (the national minorities) created their own national self-government system on the basis of purely extraterritorial national-personal autonomy better known as cultural-national. So, national movements of indigenous and newly arrived Siberian peoples and programs of Siberian 'provincialists' were developing along similar lines: national self-government based on different versions of territorial and extraterritorial autonomy.

Provincial authority bodies, both legislative - the Siberian *Oblast* Duma - and executive - the Siberian *Oblast* Council, the Provisional Government of Autonomous Siberia, and the Siberian Provisional Government - basically observed the provisions adopted by the October Congress. But there were amendments caused by changes in the political situation and influenced by party affiliations.

The National Council of the Siberian *Oblast* Council and the National Faction of the Siberian *Oblast* Duma were instrumental in developing the national program and legislative provisions. The purposes of those bodies consisted in, first, protecting the interests of Siberian peoples and contributing to their self-organization and, second, spreading provincialist ideas among them. The national structures of provincial bodies were active in legislative activities where 'knowledgeable persons' were involved, such as ethnographer V.I. Anuchin and historian N.Ya. Novombergsky. They participated in preparing a number of draft laws, including: 'Concerning the Ministry of Aboriginal and Extra-Territorial Affairs', 'Status of the Siberian Aboriginal Fund', 'Status of the Territories Under the Siberian Ministry of Aboriginal Affairs', 'Status of the Aboriginal National Council', and 'On the Establishment of the Ministry of Extra-Territorial Nations'. The first session of the Siberian *Oblast* Duma convened in January 1918 managed to adopt only the draft 'Concerning the Ministry of Aboriginal and Extra-Territorial Affairs' and the 'Status of the Territories Under the Siberian Ministry of Aboriginal Affairs'.

In accordance with the draft law, a Ministry for Aboriginal Affairs (MAA) and an Aboriginal National Council were to be established to manage 'aboriginal' nations of Siberia, both those 'with separate territories' and those living scattered among other

Siberians. ‘Aboriginal nations’ were the tribes whose ancestors had lived in Siberia before Russians arrived there. The mandate of the Aboriginal Ministry covered

all affairs concerning routine and everyday life of Siberian aboriginal tribes, such as: court, government, taxation, ...religion, land issues, protection and development of natural resources within the territories of Siberian aboriginal tribes, popular healthcare and morality, culture and education, military affairs, the issue of military service by Siberian tribesmen and others (Tyumen Archives n.d.: Fund R-72. List 2. File 1: 24).

The territorial mandate of the MAA covered, first, parts of Siberia with mostly aboriginal populations, in which the population was sparse and little civilized, and the economy insufficiently developed for self-government to be possible; second, the whole territory of Siberia north of the sixtieth parallel; and third, territories south of the sixtieth parallel and inhabited by aborigines, which were subject to interim ministerial management until their boundaries were delineated and approved by the Siberian *Oblast* Duma. The territories under MAA responsibility were subdivided into *okrugs* for which national self-government was planned. Those *okrugs* were to have MAA Commissioners to supervise self-government activities. The *okrugs* without self-government were to be administered by *Okrug* Commissioners appointed by the Ministry. Under an *Okrug* Commissioner was an *Okrug* Aboriginal Council (Free Siberia 1918: 17, March 30). “To promote cultural development, ...development of productive forces and well-being of the Siberian aboriginal nations”, the MAA established the Siberian Aboriginal Fund that was to provide money for the support of local administrations and courts, for economic, cultural and educational programs, and for the development of local crafts and industry (Free Siberia 1918: 7, March 20).

The legal provisions of aboriginal policies developed by the provincialists were based on recognition of the autonomy of the Siberian aboriginal population. But the provincialists were not fully clear and unanimous in interpreting that principle. The doubts were reflected in a Siberian *Oblast* Duma Declaration dated January 28, 1918, which contained a provision on “providing for extra-territorial nations the right to unite into autonomous communities having a legal entity, authority and full extra-territorial, personal autonomy in all aspects of national life”. The provision did not specify whether that right was to be given to indigenous or newly arrived nations. Furthermore, the Declaration did not contain a provision to grant territorial autonomy to aboriginal nations that inhabited compact territories. It mentioned only “social measures aimed at protection and survival of aboriginal tribes” (The Way of People 1918: 19, February 6).

The legislative activities of the provincialists were interrupted by Soviet power, and then resumed by special sessions of the Siberian *Oblast* Duma and by the Ministry for Aboriginal Affairs established within the Siberian Provisional Government when Soviet power was uprooted in June 1918. Siberian *Oblast* Duma special sessions announced the development of draft laws concerning national-territorial and national-personal autonomy. It appears that the draft law concerning national-territorial autonomy was never developed. The draft concerning personal autonomy was probably replaced by a document called “Legislative Proposals Concerning the National Issue of Extra-Territorial Nations” prepared by a Duma national faction committee (Anon 1995: 277-80).

Soon after it was established the Omsk Government took a position in its national policies that was close to the January Siberian *Oblast* Duma Declaration. It published a draft entitled ‘Provisional Status on Cultural Autonomy of Siberian Nations in which it hinted that before the convening of the Constituent Assembly all attempts at self-government based on national-territorial autonomy would be stopped (Omsk Herald 1918: 18, July 5). At the same time, ‘individual Siberian nations’ accounting for not less than 10% of local population were granted national-cultural autonomy (NCA), namely: a) the right to establish educational institutions at all levels with teaching in native languages; b) the right to establish local courts subordinate to State courts; c) equality of native languages in local governments of those territories where not less than 50% of the population spoke a local language. Thus, by making a concession to national claims in the form of cultural autonomy, the Siberian Government limited its functions as to education, language and courts. That document did not mention such classic NCA features as extra-territoriality and the voluntary joining of autonomous formations. Moreover, introducing the 10% territorial quota, the ‘Provisional Status’ denied the right of NCA to extra-territorial nations. Besides, recognizing national committees as “legal representative bodies ... in the issues of national-cultural autonomy and local self-government”, the Omsk Government reserved the right to appoint government Commissioners to the territories where the population claimed NCA, thus refusing to recognize national self-government bodies as legal subjects.

That document generally reflected the differences within the ranks of Siberian autonomy advocates, and especially differences between the right wing of the provincialists and their left wing, joined by Socialists and Socialist Revolutionaries. The Omsk Government tended towards the position of the former, the majority of the Siberian *Oblast* Duma (SOD) towards the latter. The Government draft law concerning NCA had little in common with the old legislative initiatives and declarations of the provincialists which were based on the national program of Socialist Revolutionaries. In essentials it did not go outside the limits of the Constitutional Democrats’ formula of ‘cultural self-determination’ which in 1905 was taken by the provincialists as a basis for resolving the ‘aboriginal issue’ in Siberia. In

1917 that formula was developed into national-personal autonomy. Closeness to orthodox provincialists was also evident in the fact that NCA was not granted to newly arrived minorities and 'nations without territory' but to indigenous populations, contrary to the policy declared at the provincialists' congresses convened by Socialist Revolutionaries.

The fact that the Siberian Government national policies concentrated first of all on 'aboriginal' populations and not on newly arrived ethnic minorities was confirmed by the establishment of the MAA, despite the January SOD session having approved draft laws on establishing Ministries for both aboriginal and extra-territorial affairs. To work in the MAA, M.B. Shatilov invited V.I. Anuchin and I.I. Tyzhnov, famous Siberian ethnographers, as well as N.Ya. Novombergsky, a professor from Tomsk University (People's Newspaper 1918: 3, July 16). The Ministry established a Scientific Council to develop measures concerning Siberian aboriginal nations (State Archives n.d: Fund 1700. List 7. File 55: 1, 2-rev.; Siberian Herald 1918: August 30). M.B. Shatilov proposed to base the work of the Ministry on the draft laws prepared in January 1918. As some newspapers reported, to organize national self-government the MAA proposed to convene aboriginal tribe congresses in Surgut, Berezovo, Narym, Obdorsk and Turukhansk *okrugs*. The congresses were to form national councils operating jointly with *okrug* Commissioners. It was believed that only after those congresses clarified such issues as the needs of aboriginal populations, the issues of their traditions and economic activities, and the issue of numbers, would it be possible to identify special *okrugs* for aboriginals and to take further steps in the work of the Ministry. It was proposed to establish, within the Ministry, a consultative body called 'Aboriginal Affairs Council' in order to establish ties between individual nations and to identify their needs as fully as possible.

Concerning the nations that occupied their own compactly populated territories and that had previously had district self-government and national organizations (Buryats, Altaians, and Minusinsk Tatars), it was proposed to organize them first into district and later into *okrug* national units. As the self-reliance of those nations developed, it was proposed to expand the mandate of national self-government bodies. To protect Northern nations from extinction, it was planned to close gradually the boundaries of their territories. It was forbidden to export vodka and alcohol to the territories of Northern Siberia. Every outside private initiative was subject to ministerial approval. The priority task was to supply the population with food and to supply traditional enterprises with hunting and fishing equipment. For this purpose it was proposed to organize barter trade through aboriginal co-operatives and, failing that, through specially established organizations (The Dawn 1918: June 27, August 16).

That position was fully confirmed by P.V. Vologodsky, Chairman of the Omsk Government Council of Ministers, in his opening address at the Second SOD Session

on August 15, 1918, when he spoke about granting only national-cultural autonomy to peoples. “The aboriginals already having local district governments, district national committees and occupying continuous territories” were proposed “to be organized into independent administrative units, at first with district status and later with *okrug* status (Tyumen Archives n.d: Fund R-72. List 1. File 48: 3). Social Revolutionaries in their Declaration said that they were still advocating their original program of resolving the national issue in Siberia “on the basis of recognizing territorial and personal autonomy of individual nations”, adding to this the policy of “taking care of underdeveloped nations and nations on the verge of extinction” (Siberian Life 1918: August 24).

The SOD national faction took great care in defining its position on the national issue and demanded “the publication of laws with the utmost urgency to regulate the autonomous life of our nations”, and

equality of all national languages in public life, in private and legal private relations, as well as the recognition of language rights in schools, courts, government and public organizations in those territories where a national minority reaches certain numbers in or a certain percentage of the total population (Tyumen Archives n.d: Fund R-72. List 1. File 48: 79-81).

The declarations of the national faction extra-territorial peoples’ section and of the Duma members elected from aboriginal tribes were more specific. The former gave a detailed formulation of the grounds which were to serve as a basis for a draft law on national-cultural autonomy to be presented for consideration by the Siberian Constituent Assembly (Tyumen Archives n.d: Fund R-72. List 1. File 48: 77 and rev.-78). The representatives of aborigines presented demands declaring that the land issue was key for aboriginal tribes and that it was necessary to resolve it “in accordance with economic and national traditions of Siberian nations”. They also demanded that migration issues be resolved “locally by autonomous nations’ bodies and only in case of sharp contradiction with the general land legislation” should it be resolved “in special reconciliation chambers composed of central and local government representatives”. Concerning self-determination and self-government, the declaration pointed out the necessity of recognizing the right “of territorially separate aboriginal tribes to adopt their own day-to-day laws concerning courts and government” and the right to exercise national self-government. National-personal autonomy was proposed “with regard to extra-territorial aboriginal tribes” (Tyumen Archives n.d: Fund R-72. List 1. File 48: 82-84. One can note here the absence of the demand for territorial autonomy that had been advocated before only by the *Alash* Kazakh Party.) The ‘aboriginal’ declaration supported the idea of the MAA being responsible for all aboriginal nations’ issues, of expanding its mandate “over all issues

concerning aboriginals” and of recognizing it as “the supreme aboriginal government body and the supreme arbitrator in all conflicts between aboriginal and non-aboriginal nations” (Tyumen Oblast State Archives n.d: Fund R-72. List 1. File 48: 82-84). Apparently the positions of the nations were moderate and did not contradict legislative initiatives or declarations of *Oblast* Government bodies.

The MAA was a new phenomenon in the world of state-building practices. During that time only Canada had a Ministry responsible for territories inhabited by aborigines, but its mandate was narrow compared with that proposed by the provincialists’ legislative initiatives. This created many difficulties for its operation. The MAA failed to start wide-scale activities also because of the difficult political situation and its brief existence (which ended when M.B. Shatilov was arrested on September 21, 1918).

Thus, though Siberian ‘provincialists’ failed, under the severe conditions of civil war, to develop an optimal legal basis for resolving national problems in Siberia, they nevertheless managed to lay its conceptual foundation based on the principles of legal, political and cultural pluralism. That remains of great interest to-day for the development of adequate aboriginal policies.

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