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## Sharing the Costs and Benefits of Energy and Natural Resources Activity – Applicability in the Arctic?

Security and Governance in the Globalised Arctic Energy Security and Environmental Governance

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## **Background and Context**

- Energy and resources activities bring **benefits** for many, but also impose **costs** on **local communities**.
- New legal mechanisms and associated agreements have arisen to balance the costs of energy and resources projects, and to enable tangible benefits for local communities.
- What are their advantages and disadvantages?
- What are the improvements that may be feasible in the legal frameworks used to distribute the costs and benefits of energy and resources activity?

### **Developments**

- Environment protections (public participation) ->process, protection, and mitigation of energy and resource impacts have developed in a stronger direction (although still contested and under attack in some countries.)
- There have been some fundamental shifts and additions
- Citizens, local communities and indigenous communities have come to seek explicit economic and social benefits from energy and resource developments
- through partnerships and collaboration, rather than merely protective responses.

## **Drivers of Change**

- Increasing demand for resources and energy
- More and bigger projects
- New technology -> intensive development to areas
  that had not previously experienced it (e.g. fracking of shales)
- Climate change, GHG reduction -> energy transformation
- General public benefit from renewable projects; but the reduction of GHGs may be too diffuse a benefit to count for local communities
- Increasing integration of local and indigenous communities
- Corporate change within energy and resources sector in tandem with increasing global scrutiny of the sector by NGOs & other organizations.

## **Regulatory Models & Advancements**

- Some concepts bear a relationship to more widely accepted models of public participation:
  - Social Licence to Operate
  - Full Prior and Informed Consent
  - Corporate Social Responsibility
  - Duties of consultation

#### Liability rules

- for localised costs borne by local communities
- environmental degradation and health impacts:
- Air pollution, dust, noise, electromagnetic radiation, water pollution, damage to land, and damage to agricultural operations.

## Mechanisms to distribute benefits of natural resource development (1)

- Found in new Laws or
- Negotiation and agreement frameworks; Codes & Principles
- both government-facilitated and party-to-party arrangements.
- May encompass employment, entrepreneurial opportunities, education
- Royalty-style arrangements, or charges, and special taxes, for local entities
- Special fiscal laws governing compensation and restoration funds.

# Mechanisms to distribute benefits of natural resource development

#### Equity participation models

- in which local communities may take a defined share in projects or developing company.
- Community co-operatives
- Offer on a % ownership of production facilities

#### Rewards

- green scheme to enhance local scenic and recreational values
- · Payment in cash

#### Loans

support financing of investigations and ownership

#### Compensation schemes

 If loss of value to real property, the developer shall bear the costs

## Challenges

#### How to ensure

- The right balance between participatory rights in project decision-making provided by other legislation &
- participatory rights pursuant to benefit sharing schemes?
- that benefits are shared and distributed in a fair and justified way?
- ➤ On one side it could be looked upon as **empowerment** of the local community to get the maximum benefits from resource and energy development
- on the other as pure bribing!!



### **Problems and challenges**

- Many community benefit arrangement have been developed in a piecemeal manner.
- Consistency, overview and transparency needed!
- A must to maintain a balance between the financial arrangements and ensuring that administrative authorities maintain integrity and necessary means for regulation and control of project developments
- ➤ **Approval of a project** under the general planning process must be **separated** strictly from that agreeing a community benefit scheme.
- must be guarantees that a project must not get consent due to the payment offered

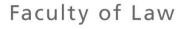


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"Sharing the Costs and Benefits of Energy and Resource Activity: Legal Change and Impact on Communities"

Lila Barrera-Hernández, Barry Barton, Lee Godden, Alastair Lucas, and Anita Rønne (eds)/

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## Having said this about sharing the burdens and benefits

















It takes two to tango