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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 arrangements 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"

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Having said this about sharing the burdens and benefits



It takes two to tango