Energy Research & Social Science 37 (2018) 140–152

Contents lists available at ScienceDirect

Energy Research & Social Science

journal homepage: www.elsevier.com/locate/erss

Original research article

Oil and indigenous people in sub-Arctic Russia: Rethinking equity and governance in benefit sharing agreements

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ARTICLE INFO

Keywords:
Benefit sharing
Oil consortia
Indigenous people
Procedural and distributional equity

ABSTRACT

How can the interests of extractive industries and indigenous communities in the Arctic be balanced through benefit sharing policies? This paper analyses how the international oil consortia of Sakhalin Energy and Exxon Neftegaz Limited (ENL) on Sakhalin Island in Russia have introduced benefit sharing through tripartite partnerships. We demonstrate that the procedural and distributional equity of benefit sharing depend on corporate policies, global standards, pressure from international financial institutions, and local social movements connected in a governance generating network. Sakhalin Energy was profoundly influenced by international financial institutions' global rules related to environmental and indigenous people's interests. The benefit sharing arrangement that evolved under these influences resulted in enhanced procedural equity for indigenous people, but has not prevented conflict with and within communities. In contrast, ENL was not significantly influenced by international financial institutions. Its more flexible and limited benefit sharing arrangement was shaped predominantly by global corporate policies, pressure from the regional government and the influence of Sakhalin Energy's model. The paper closes with policy recommendations on benefit sharing arrangements between extractive industries and indigenous communities across Arctic states that could be further developed by the Arctic Council Sustainable Development Working Group.

1. Introduction

Russia possesses the largest natural gas reserves in the world [1] and eighth largest oil reserve in the world [2]. It is the most important oil and gas supplier to the European Union (EU) and intends to significantly increase its role as an energy supplier to China [3]. Russia also is home to many isolated indigenous communities, particularly in the Arctic and sub-Arctic regions. These communities must cope with the expansion of the oil and gas industry, which may threaten traditional livelihoods based on hunting, fishing or reindeer herding. Rapid changes in the Russian Arctic and sub-Arctic raise the question of whether the benefits of oil revenues can be shared equitably with indigenous populations in order to allow indigenous communities to pursue their traditional ways of life even as industry expands.

Benefit sharing arrangements and their implementation in different regions of Russia are highly variable. This variation is rooted in different modes of interaction between oil companies and indigenous communities as well as in different legal and regulatory frameworks in the regions. These different modes of interaction depend on various factors, such as the companies' adoption of corporate social responsibility (CSR) standards, their internal CSR policies, their relations with government, and factors related to the local political, economic and social context. Ultimately, indigenous people may or may not benefit from resource extraction. By examining two cases in Russia, this study contributes to a better understanding of how global and local actors are co-determining the design and implementation of benefit sharing arrangements and how equitable these arrangements are. It also offers the opportunity to make policy recommendations for benefit sharing in the Arctic and sub-Arctic more broadly.

This article focuses on the interaction between oil companies and indigenous communities on Sakhalin Island, situated in the Far East of the Russian Federation. Oil exploration on the island started in 1920; however, major reserves were discovered only in the 1990s. Two large private, transnational oil consortia – Sakhalin-1 (with

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http://dx.doi.org/10.1016/j.erss.2017.09.004
Received 25 April 2017; Received in revised form 23 August 2017; Accepted 1 September 2017

Exxon Neftegaz Limited (ENL) as operator) and Sakhalin-2 (with Sakhalin Energy as operator) – started producing oil in 1999 and continue to expand. We compare similarities and differences between these two consortia. Both consortia involve transnational corporations and Russian companies, operating in the same local context (Sakhalin Island) and involved in offshore oil development, including exploration and production. We examine how the two consortia developed benefit sharing arrangements with the indigenous communities in the sub-Arctic region of Sakhalin. Benefit sharing arrangements may consist of several elements, such as local employment, support for infrastructure, sponsorship for community projects, resources from tax payments, and negotiated production sharing agreements. ENL and Sakhalin Energy initiated benefit sharing arrangements that include tripartite partnerships among the oil companies, government and indigenous communities. These tripartite partnerships have been designed in different ways. The companies also differ in how they implement global standards, affecting both the procedural and distributional equity of benefit sharing. Additionally, the Russian oil companies that participate in the consortia make their own arrangements and contributions to local communities.

The aim of this paper is twofold. First, we will provide insight into differences in the emergence and design of the benefit sharing arrangements implemented by ENL and Sakhalin Energy. Second, we will assess the benefit sharing arrangements for indigenous communities in terms of distributional and procedural equity and analyse their intended and unintended consequences. Ultimately, we find that benefit sharing varies based on transnational corporations' (TNCs) corporate social responsibility policies and commitment to global norms, such as respect for indigenous rights, free prior and informed consent, stakeholder engagement, and meaningful consultations with indigenous people, as well as pressure from international lenders and transnational social movements that network environmental and indigenous groups.

2. Methodology

Fieldwork for this study was carried out in Sakhalin during September 2013 and August 2015. Research methods included semi-structured interviews with a range of actors and document analysis. Interviews (63 total) were conducted in Yuzhno-Sakhalinsk, and in the towns and villages affected by oil extraction, including the district centers of Poronaisk, Okha, Nogliki, and Korsakov, and the villages of Nekrasovka, Val and Veni. Several interviews with Sakhalin stakeholders were done in Moscow. Interviews were conducted with the representatives of oil companies, including ENL (9), Sakhalin Energy (6) and Rosneft (1). Interviews also were conducted with representatives of state agencies (6), municipal administrations (8), an environmental non-governmental organization (NGO) (Sakhalin Environmental Watch (2), indigenous peoples association (1), a scientist (1), as well as local residents including indigenous peoples (29). (See Annex, Table 1) Separate interview guides were developed for company representatives, government officials and local civil society actors. Each interview lasted from 30 min to 1.5 h. All interviews were transcribed and coded to highlight stakeholders' views of benefit sharing arrangements, the mode of interaction between oil companies and indigenous peoples, the role of global standards in the design, and the procedural and the distributional equity associated with benefit sharing. Corporate documents, such as annual reports, indigenous minorities development plans, and other publications, and Russian federal and regional legislation have been analysed in order to see when over-compliance occurs in order to implement companies' internal policies and/or requirements of the investment banks.

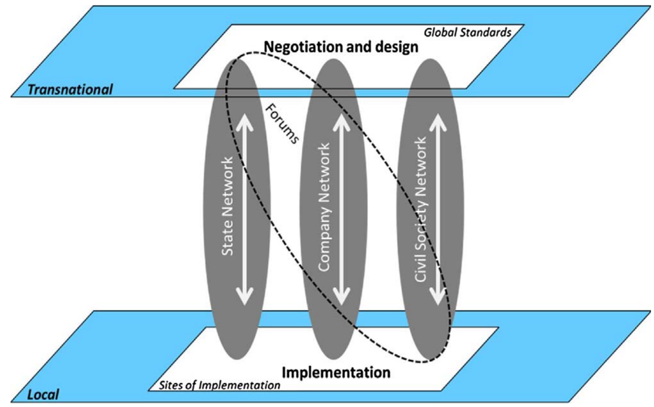

Fig. 1. Governance Generating Network.

3. Theoretical approach

To analyze and evaluate benefit sharing among oil companies and indigenous people, this article applies and synthesizes several concepts. First, to study the interactions of actors within a multi-level, multi-actor global assemblage of oil production networks [4–6], we use the concept of Governance Generating Networks (GGN) [7–10]. The GGN in this study consists of oil company networks, including operators, investment banks, equity partners, international and local offices, as well as state agencies at different levels and civil society actors (primarily environmental NGOs and indigenous peoples' associations). Interactions in these networks among actors from the state, oil companies and civil society link the transnational and local level. The main components of the GGN are i) the transnational nodes of global governance design, ii) the forums of negotiation, and iii) sites of implementation. (See Fig. 1) In the transnational nodes of design, new global regulatory standards and guidelines for oil companies are developed to ensure the sustainability of oil production and the protection of indigenous people's rights, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Arctic Council's (AC) Offshore Oil and Gas Guidelines, the Extractive Industry Transparency Initiative (EITI), and the lending policies of the International Monetary Fund (IMF), the International Financial Corporation (IFC), the World Bank (WB), the European Bank of Reconstruction and Development. Some of these standards are recommendations and may be only declaratory, while the rules developed by international financial institutions are strictly required for actors seeking loans and investment. However, even declaratory standards can be used by indigenous advocates to pressure companies to change their policies and practices.

Governance decisions are not only made in the nodes of design, but also in "forums of negotiation" and "sites of implementation" [7]. Sites of implementation are geographical territories where governance arrangements are implemented and adapted to local circumstances. In the context of oil production, key sites of implementation are the places of oil exploration, extraction and transportation. In these sites, local stakeholders, and especially indigenous people practicing traditional ways of life, experience the impact of oil development. These sites of implementation are connected to the transnational level by forums of negotiation where state, market and civil society actors debate the evolution of global policies and standards related to benefit sharing and address challenges in the implementation of benefit sharing arrangements on the ground.

The concept of "fair and equitable benefit sharing" is a legal norm related to natural resource use that is adressed in several international conventions, including agreements focused on biodiversity, international human rights, and the law of the sea [11,12], p. 353). The concept has been developed in detail in the 2010 Nagoya Protocol, a