This project ran from 1 October 2013 to 1 March 2017. It originally arose out of paragraph 7.3 of the Norwegian Government’s 2009 strategy document *New building blocks in the North* and develops this with special reference to the 2011 *United Nations Guiding Principles on Business and Human Rights* (UN Guiding Principles). In addition, we have analysed and evaluated a wide range of key ethical guidelines applicable to extractive industries operating in territories where indigenous peoples live, in northern regions of Norway and Russia.

The core analysis will be found in papers 1 and 2. In addition, we have developed briefing papers analysing a range of background issues (papers 3–11), and supplemented these with a series of case studies from specific sites right across the Norwegian and Russian North (papers 12-22).

We have explored the practical application of the UN Guiding Principles and other instruments by studying how these principles are, or can be, operationalised in the sector of Arctic oil, gas, and mining. That document identifies three ‘pillars’, namely state responsibility, company responsibility, and access to redress, with a strong emphasis on prevention, due diligence, and risk assessment. However, by broadening our analysis to a wider sample of international guidelines and instruments relevant to the interests of indigenous peoples, we have greatly extended the range of ethical criteria. We have followed the workings of these documents on the theoretical and practical level throughout these 22 papers.

The numerous guidelines and rules concerning ethics and corporate social responsibility at national and international levels are accompanied by much talk of participation, risk governance, sustainability and good practice. While there are tensions between indigenous peoples and resource extraction, we have pointed to ways in which indigenous peoples and
resource extraction companies may find common ground. However, our research shows that even where a relatively comprehensive and satisfactory framework has been elaborated into guidelines, these are often not implemented satisfactorily. Here, we have highlighted areas where implementation is inadequate or skewed, and made a series of recommendations for improvement. These recommendations apply variously to government, industry, and indigenous peoples themselves.

Resource extraction can have catastrophic local consequences, but it can also potentially be highly beneficial in terms of jobs, education, healthcare, and a share of profits. In order to find a balance, we have therefore looked systematically at how indigenous peoples and industrial projects can, and do, in fact co-exist across our study region. The situation is highly variable between Norway and Russia, and we have paid particular attention to national and regional specificities. However, we have also used our local knowledge and fieldwork to reveal considerable differences between regions within the same country, especially in Russia. By testing documentary analysis against fieldwork, we have been able to pay special attention to gaps between guidelines (or laws and policy) and practice, and to highlight aspects of local community involvement which have the potential to enhance good implementation.

However, our research also shows that, despite detailed standards and guidance on meaningful community consultation and participation in documents, indigenous people’s interests are frequently not recognised adequately in decision-making processes or within wider political and institutional structures and policy processes. We show how this problem starts right at the level of the initial documents which supposedly guide and govern the entire process. Accordingly, many of our findings and recommendations point to the need to tighten the requirements imposed on governments and companies to deal in an ethical way with indigenous communities; and the need for a closer, more genuine involvement of those communities in the process from the very earliest stages of a proposed project. Again and again, we have found this involvement to be too little, too late.

In the course of our research we considered the conditions that would allow a more strategic overview approach to entire development programmes, not just the evaluation of smaller projects one by one. This has been highlighted in particular in our paper on social impact assessment (see paper 4). Social impacts start long before project approval is required and can lead to real consequences, such as anxiety and tension. Therefore meaningful community engagement, the gathering of social baseline data, and the management of social issues need to start as early as possible.

This message is reflected in many guidance documents, including those by the OECD, the UN Global Compact and industry associations (see especially paper 1). However, it is frequently not implemented. Government regulation rarely requires consultation for exploration activities, despite evidence that this could help to avoid community tension and conflict. Our findings indicate that governments have responsibility for engagement prior to issuing exploration licences: this is written into international law, but is also a matter of good practice to reduce tension and community conflict when companies subsequently acquire exploration and production licences. The smaller exploration companies have responsibilities as well as the larger project operators who frequently take over a project in its early stages of extraction and production. International good practice also requires project contractors to develop their own social management plans to guide their activities, and this involves good communication with (and accountability to) both the communities and the project operating company.

Due diligence/risk assessment is often viewed as a one-off activity for the purpose of securing project approval (including regulatory approval or FPIC, see papers 3 and 4). Yet it may not be possible to identify all possible project impacts prior to the construction phase of a project, and some may arise later in project development. As such, impact assessments need to be an ongoing element of management plans and impact-benefit agreements, with new assessments carried out if there are changes in project plans or if new issues arise in the course of project implementation. Environmental and social management plans need to be flexible enough to accommodate the results of additional studies and to modify practice in response.

A key challenge is the lack of consideration of the cumulative effects of multiple projects taking place in the same area or the effects of a number of developments in one place over time bringing significant social and economic changes and affecting people’s resilience (positively or negatively). Many impact assessments cover only a single project, without a thorough analysis of the potential cumulative impacts. There is a need for comprehensive planning and regulatory strategies to evaluate and manage the cumulative effects of projects from the earliest stages.

At the community level, it is important to move away from a mentality of compensation after an
ecological or social disaster to one of prevention through adequate conceptualisation of risk (see paper 7) and through closer partnership with companies to minimise harm and ensure environmental and social sustainability. International guidelines and instruments increasingly stress the need for meaningful engagement, inclusive decision-making and joint planning through community agreements. This does not always happen in practice, as the literature shows, but our field research has yielded some examples of effective collaboration, as well as several examples where communication has been very poor (see papers 5, 6 and the case studies, papers 12-22).

Fieldwork
The project used experienced fieldworkers who are familiar with local conditions and speak local languages. As well as anthropologists, teams included lawyers and politicians, some of them indigenous. An unusual and innovative feature of this project has been to use anthropological fieldwork to test the efficacy of ethical guidelines in practice on the ground, and to invite detailed critique from indigenous commentators. This raises the evaluation of documents and texts to another level, which could not be reached by other methods.

This fieldwork resulted in a range of case studies from the Norwegian and Russian indigenous North. Lessons from the case studies include a more fine-grained view of international instruments than is possible by textual analysis or reference to company policies and self-reporting; and an understanding of how local conditions can result in very different outcomes, even under the same legislative regime in the same country.

Each case study contains a map, and a text under the following headings: Location, Indigenous peoples, Indigenous livelihood, Extractive industries, Companies involved, Indigenous and civil society organisations, History of interaction between indigenous people and extractive industry, Distinctive features and lessons of the case, References.

Our papers offer the results of our research to:

- civil society organisations, including indigenous rights groups and formalised indigenous organisations such as the Sami Parliament in Norway;
- industry practitioners, including social performance experts as well as procurement experts and engineers;
- industry consultants, including environmental and social experts and project managers;
- experts from international financial institutions and multilateral environment and development organisations;
- government representatives from all levels and elements of government, national, regional, local, regulatory, judicial and executive.

In addition, we have published numerous articles and made many oral presentations (see Appendix 3 and 4). We hope that these outputs will make an original and well-informed contribution to all stakeholders in their attempts to manage their roles effectively – and ethically.

List of project papers
A. Topic papers
1. Evaluating international ethical standards and instruments
This paper addresses the key issue of the entire project and undertakes a critical evaluation of standards and instruments through a detailed analysis of their contents, implications, and deficiencies, especially in relation to the interests of indigenous peoples.

2. Ranking oil, gas and mining companies on indigenous rights in the Arctic
This ranking switches the perspective of the previous paper, and takes the perspective of the original project proposal in a new direction. Rather than evaluating international instruments and guidelines, it critically evaluates companies in their fulfilment of these guidelines.

3. What is free, prior and informed consent (FPIC)?
This paper explains the importance of FPIC, shows which international instruments require FPIC and how it is interpreted in different situations or by different stakeholders, and discusses the actual process of negotiating and obtaining FPIC.

4. What is social impact assessment (SIA)?
This paper looks in depth at another key element of selected international instruments by analysing the core principles of SIA and the SIA requirements of those instruments. It also considers some of the key challenges to implementing SIA in practice.

5. Taking ethical guidelines into the field for evaluation by indigenous stakeholders
This original and innovative paper takes international standards and guidelines to industry representatives, local administrators, and nomadic reindeer herders across several sites in the Norwegian and Russian North in order to subject these documents to rigorous critique by indigenous people themselves.
This paper presents a distinctive Russian form of socio-cultural impact assessment and shows how this functions in practice in a range of locations, in collaboration with the affected indigenous communities.

7. Risk governance in extractive policymaking
This paper examines systemic risks in policy, legal, and regulatory regimes. Analysis of differences in the Norwegian and Russian legal and regulatory systems reveals their different capacities for inclusive risk governance and the impact of this on indigenous peoples.

8. The commodity market roller coaster: implications for Arctic indigenous peoples
This paper explores the cyclical nature of commodity markets and how their repeated patterns of boom and bust affect indigenous and local communities that host extractive industry projects, also showing how traditional indigenous occupations may be more resilient.

9. Legal framework for extractive industries and indigenous peoples in the Russian North
This paper explores how federal, regional and municipal levels of law interact for the protection of indigenous peoples’ rights, through the opportunities that such legislation affords to influence law-making and rule-making at the local level.

10. Customary norms and mutual obligations in the Russian North
This paper explores how customary law functions as an additional instrument for protecting the rights of indigenous peoples in their interactions with industrial companies, potentially reducing the impact of industrial development and avoiding conflicts.

11. What is benefit sharing?
This paper explores the international standards that incorporate stipulations for benefit sharing, as well as the good practice guidance documents and case study experience on the ground.

B. Fieldwork-based case studies
12. Kvalsund (Nussir)

13. Guovdageaidnu/Kautokeino
Unusual case of a municipality that said ‘no’ to a mining development in order to protect the interests of the reindeer-herding community.

14. Hammerfest (Goliat)
Offshore development chosen to diminish impact on Sami reindeer herders. The surrounding conflict may contribute to reviving civil society organisations on the coast.

15. Divtasvuodna/Tysfjord
Region where mining is well integrated historically, and many people feel that international instruments are unnecessary, on the grounds that Norwegian legislation is already adequate. Raises important questions about ILO Convention 169 on Indigenous and Tribal Peoples in Independent States.

16. Komi Republic
Region where indigenous Komi people have been living with oil industry for many years, but recently started to protest against years of pollution and poor maintenance of pipelines.

17. Nenets Autonomous Okrug
The character of relations between companies, authorities and indigenous people depends (often very effectively) on individual agreements among the participating parties.

18. Yamal-Nenets Autonomous Okrug
Complex coexistence between reindeer nomads and Gazprom, which is not officially committed to implementing any international guidelines, and is formally obliged to abide only by Russian law.

19. Khanty-Mansi Autonomous Okrug
A well-developed legal system for governing the relationship between indigenous peoples and companies, though company practice is variable and conflicts arise especially over sacred sites.

20. Sakha Republic (Yakutia)
A very unusual degree of advanced local legislation, including Russia’s first law on indigenous communities; first law giving a salary to reindeer herders; first and only law on anthropological expert review. However, problems remain in implementation.

21. Power of Siberia pipeline to Vladivostok
The current Russian legal and regulatory regime fails to provide an adequate basis for governing systemic risks, but this example shows how they could learn from the approach to risk of indigenous inhabitants.

22. Sakhalin
Indigenous protests led to the negotiation of a benefit sharing agreement between the indigenous peoples’ association and the company, with participation of the regional government.
Appendix 1 Detailed summary of topic papers and recommendations

1. Evaluating international ethical standards and instruments

Author: Dr Emma Wilson

This paper addresses the key issue of the entire project, namely the critical evaluation of standards and instruments through a detailed analysis of their contents, implications, and deficiencies, especially in relation to the interests of indigenous peoples. It takes a global perspective, to provide the widest possible setting for the papers which follow, and the longer version opens this out with specific examples from the indigenous Arctic.

International instruments refer to indigenous peoples’ right to benefit from natural resource development, at least on an equal footing with other parts of the population, while governments are expected to prioritise their wellbeing in economic development planning. The paper offers an overview of key international standards and instruments aimed at protecting indigenous peoples’ rights in the context of extractive industry development that takes place on their lands. It analyses a wide range of international instruments, which are influential in the governance of extractive industry projects, particularly in relation to indigenous peoples’ rights. The coverage includes not only international hard and soft law, but also industry standards and guidelines. The paper highlights points of particular relevance to indigenous peoples, as well as discrepancies between overall requirements of documents and clauses pertaining to indigenous peoples.

The paper gives a step-by-step guide to: the evolution of international standards and instruments relating to indigenous peoples; international governance of extractive industries, the emergence of the human rights and business discourse, with a focus on the UN Guiding Principles; and the definition of indigenous peoples and the position of indigenous rights within these documents.

The content of the selected instruments is analysed and compared in relation to five key issues identified in the course of our research:

1. due diligence;
2. consultation;
3. free, prior and informed consent (FPIC);
4. benefit sharing;
5. access to remedy.

Particular attention is paid to James Anaya’s UN reports on extractive industries and indigenous peoples, which constitute an important commentary on the UN Guiding Principles and their relevance to indigenous rights protection, given the lack of direct coverage of indigenous rights in the UN Guiding Principles themselves. Central to Anaya’s commentary is his presentation of his ‘preferred model’ of resource development, with greater indigenous control than the current ‘prevailing model’.

Examples of implementation of international instruments include ‘Towards Sustainable Mining’ (TSM) in Canada and Finland, The UN Global Compact in Russia, Norway’s National Action Plan to implement the UN Guiding Principles, how OECD National Contact Points address a complaint by Sami reindeer herders, and how the Compliance Advisory Ombudsman addressed a complaint by Russian villagers. The paper also highlights OECD-recommended steps for implementing an FPIC process, and the effectiveness criteria for non-judicial grievance mechanisms (as defined in the UN Guiding Principles).

Recommendations

- Interpretation of international instruments: The paper aims to assist with broad understanding and to point towards important analysis to be found in various existing published sources. Given the great number of different standards and instruments, there is a need to build greater understanding of how to interpret them and how they are implemented in practice. It is particularly important to develop greater knowledge of how commentaries and guidance documents help in the understanding, interpretation and practical application of international instruments.

- Government responsibilities: Under international law, states are ultimately responsible for ensuring compliance with human rights norms within their jurisdictions, including the rights of indigenous peoples and communities. This requires governments to ensure effective incorporation of international standards into national legal and regulatory regimes, and also to take responsibility for early engagement with indigenous peoples and communities, including before issuing exploration licences. This is not only in line with ILO 169, but also a sensible risk mitigation strategy.

- Company responsibilities: Companies need to be prepared to go beyond mere legal compliance in order to respect internationally recognised indigenous rights, and in order to engage meaningfully with local indigenous communities living and practicing their traditional livelihoods activities close to extractive project sites.
• The need for company policies: Many companies do not even have policies in place, indicating that they have not thought about the issues, have not formalised any procedures, and do not have defined lines of responsibility for dealing with these issues. It is important to assess whether a company has made a commitment to something by producing a policy. If a policy is in place, there is something against which to measure a company’s performance and hold it to account. Company rankings, such as the one produced by this project, are a way to draw attention to a company’s policies and preparedness, and offer field researchers a basis for assessing and challenging a company’s practice on the ground. The Canadian Towards Sustainable Mining (TSM) initiative is not just a set of standards, but a system for demonstrating implementation of these standards and a way of driving performance improvement over time, which now also has been adopted by Argentina (2016) and Botswana (2017). We recommend Norway to consider an adoption of TSM as well. Our research indicates that Norway might benefit from such an initiative as a way to set standards and build collaboration and learning within the Norwegian mining sector. In particular, this would allow a targeted focus on community engagement and indigenous rights, following the experience of Canada.

• The gulf between policies and practice: More effort should be made to ensure compliance on the ground with standards and policies which may exist only on paper or on a website. We strongly encourage site visits by auditors and fieldwork by independent researchers, and more open channels for feedback from local stakeholders.

• Community control: The value of this is demonstrated in many of our project papers, but international instruments often fail to mention this option in practice. This should be included and enhanced in future drafting of such instruments.

• Transparency: Greater transparency is needed in regard to the implementation of international standards and the negotiation of agreements. This is important both to promote accountability in the application of the standards, as well as to enable greater learning from practical experience.

• Lesson sharing: It is important to understand how contextual factors affect the understanding and application of international instruments. There is therefore a need for greater sharing of lessons learned and case study experience from different contexts. This should be produced in different appropriate formats, from academic research papers, to policy briefings, to online databases, to round-table discussions, to community radio programmes.

Available both in a full version, and as a shorter policy summary. The full version of the paper is 68 pages long and contains numerous boxes highlighting key initiatives, a list of acronyms and abbreviations, and a list of key references. Annex 1 gives a comparison of the requirements of seven selected international instruments in terms of the five identified key themes, while Annex 2 provides a concise directory of 20 selected international instruments. The policy summary version is 17 pages long, and incorporates Annex 1.
2. Ranking oil, gas and mining companies on indigenous rights in the Arctic

Author: Research Professor Indra Overland

This ranking switches the perspective of the previous paper, and takes the perspective of the original project proposal in a new direction. Rather than evaluating international instruments and guidelines, it critically evaluates companies in their fulfilment of these guidelines. Here, the focus is on companies operating on territory inhabited by indigenous peoples around the entire circumpolar Arctic.

The paper evaluates the public commitments, formalised procedures and institutional arrangements of oil, gas and mining companies for handling indigenous rights in the Arctic. The purpose of the ranking is to support norm formation and to contribute to improving the performance of companies on indigenous rights by highlighting which companies have made a public commitment to indigenous rights, and to what extent.

The ranking covers 92 oil, gas and mining companies involved in onshore resource extraction above the Arctic Circle. Each company is assessed according to twenty criteria related to indigenous rights. The criteria were selected by evaluating the main guidelines and legal instruments related to resource extraction and indigenous rights in the Arctic. These criteria include commitments to international standards, the presence of organisational units dedicated to handling indigenous rights, competent staffing, track records on indigenous issues, transparency, and procedures for consulting with indigenous peoples.

This is the first time this ranking has been carried out. At this stage it is not practicable to assess the actual performance on indigenous rights of such a wide sample of companies. What is analysed here is their public commitments, formalised procedures and organisational setup. Further project papers analyse specific instances of companies’ actual performance in sites across the Norwegian and Russian North.

Recommendations

• The results of this ranking exercise indicate that the majority of companies involved in Arctic resource extraction are ill-prepared to respect indigenous rights.

• Companies operating in the Canadian and US Arctic do better overall in the ranking than their counterparts operating in the Asian and European Arctic. Companies operating in Russia have varied scores, while those operating in Norway score surprisingly low. There is a striking contrast between companies in the petroleum and mining sectors, as the former have significantly better scores than the latter. Some provisional hypotheses are offered to explain these results.

The paper is 11 pages long and contains 7 tables, a list of acronyms and abbreviations, and a list of references.
Free, prior and informed consent (FPIC) is a legal requirement in international hard and soft law, some national law, and some industry good practice standards. It is also a philosophy of respectful community engagement. Applying the spirit of FPIC in all community engagement will help companies and government agencies to build trust and avoid conflict.

This paper explains the importance of FPIC, shows which international instruments require FPIC, how it is interpreted in different situations or by different stakeholders, and discusses the actual process of negotiating and obtaining FPIC. We argue that there is a strong business case for both governments and industry to engage in FPIC processes with communities prior to making policy decisions or undertaking activities that will have a significant impact on indigenous peoples’ way of life or their resource base.

The paper shows how international ethical standards are implemented in practice, against a lack of shared understanding about how they should be interpreted, and explores operational challenges such as uneven application of standards, the importance of early engagement, the roles of government and companies, and issues of identifying who should give or withhold consent. Special attention is paid throughout to indigenous people’s perspectives.

**Recommendations**

- Indigenous communities should develop their own FPIC protocols: This allows a community to build consensus and establish their priorities and favoured procedures in advance of any project. For developers, it provides clarity and reassurance about appropriate procedures and community representation.

- Government and companies need to build their own capacities: Representatives need to spend time in the communities to build their own understanding of the context and to build mutual trust.

- Communities need to be consulted in the earliest stages of industrial development: It is a big risk for companies to invest in exploration activities if local communities have not been adequately consulted in advance.

- Documenting the process provides transparency, clarity and commitment: A documented process offers clarity to all participating parties and provides evidence and reassurance to third parties such as investors.

- A ‘No’ needs to be respected: If the outcome of an FPIC process is a ‘No’, then this should be formally documented and respected. The agreement should stipulate a minimum period during which no further approaches will be made to the community. In addition, an alternative land-use designation may be sought to make the decision permanent.

- Consent needs to be maintained: Parties should be able to revisit the agreement and review and revise it if there are significant changes in circumstances. Significant changes, such as change of project ownership or construction of a new facility, may require a renewed FPIC process.

- Understanding needs to be built case by case: Case studies should be developed of how FPIC has been sought, granted or withheld in real-life situations. Sources should include anthropological research based on fieldwork and the analysis and publication of legal case history.

*The paper is 15 pages long and contains 1 table, 2 boxes, a list of acronyms and abbreviations, and lists of legal documents and standards, papers and reports.*
Social impact assessment (SIA) is the process of identifying and managing the social impacts of industrial projects. SIA is used to predict and mitigate negative impacts and identify opportunities to enhance benefits for local communities and broader society. This paper explains the core principles of SIA and the SIA requirements of selected international instruments. It also considers some of the key challenges to implementing SIA in practice.

Topics covered include:
- how affected indigenous communities and other stakeholders can be involved in the process;
- how SIA should inform decision-making by government and companies from the earliest stages of a project;
- the role of SIA in the ongoing management of social issues throughout the whole project cycle until decommissioning and closure;
- the role of SIA as the foundation for community agreements and in processes of free, prior and informed consent (FPIC).

Among other details, the paper includes an analysis of the four phases of SIA, indicative thematic sections for an SIA, elements of a cultural impact assessment.

Recommendations
- SIA needs to be integrated effectively into wider assessments and decision-making processes.
- Community engagement and analysis of social issues should start early, and government legislation should incorporate a requirement for community consultation at the phase of exploration.
- The social element of impact assessment needs to be taken as seriously as the environmental element, both in funding and in its status for policy planning and decision-making.
- Indigenous communities need greater control over SIA and related decision-making processes, and they should also be able to commission their own impact assessments.
- Transparency and accountability are essential elements of an SIA process. Information must be made freely accessible in local languages, with both written documentation and face-to-face meetings.
- Transparency also applies to commitments made in an SIA, so that affected communities can later hold companies and governments to account.
- We recommend Norway to assess its domestic needs for more learning and application of SIA, by analysing best international legislation relating to social and cultural impact assessment, as well as lessons from the following: international industry good practice in SIA; guidelines and practice on cultural impact assessment, including the Akwe:Kon guidelines produced by the Secretariat of the Convention on Biological Diversity; the Russian practice of socio-cultural impact assessment (anthropological expert review, see paper 6); as well as other national experience (e.g. Canada, Australia). This experience should all be analysed comparatively with Norway’s current legislative base and practical experience. On this basis, Norway should consider developing legislation specifically relating to social and cultural impact assessment, taking advantage of international good practice. This may also help address some of the gaps in Norway’s implementation of ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries.

The paper is 19 pages long and contains 1 table, 3 boxes, 1 annex listing SIA project documentation available online, a list of acronyms and abbreviations, and lists of legal documents and standards, papers and reports.
5. Taking ethical guidelines into the field for evaluation by indigenous stakeholders
Authors: Research Professor Florian Stammler, Sven-Roald Nystø, Dr Aytalina Ivanova

Using anthropological fieldwork methods, we took various key international standards and guidelines to industry representatives, local administrators, and nomadic reindeer herders across several sites in the Norwegian and Russian North. The aim was to subject these documents to the critique of the indigenous people who are deeply – and potentially negatively – affected by oil, gas, and mining developments. As far as we know, this has never been done before, especially in remote areas of Russia.

Standards and guidelines included:
- the indigenous peoples’ social responsibility policy of the International Petroleum Industry Environmental Conservation Association (IPIECA);
- the Environmental and Social Performance Standards of the International Financial Corporation (IFC);
- the UN Guiding Principles on Business and Human Rights (UN Guiding Principles, also known as the Ruggie Principles).

Sites were in:
- the Yamal-Nenets Autonomous Okrug (YNAO), Russia’s prime gas province;
- the Nenets Autonomous Okrug (NAO), an important oil province in European Russia;
- the Sakha Republic (Yakutia), a major resource base in northeastern Russia;
- Divtassvuodna/Tysfjord, a mining, mineral-processing and fish-farming municipality in Nordland County, Norway.

The field team was led by a European social anthropologist and included an indigenous legal scholar and an indigenous politician.

Recommendations
As an exercise in field research, this paper demonstrates the following:
- the level of detail with which guidelines can be scrutinised and commented on by the most directly-affected local stakeholders;
- how such scrutiny can have an immediate, direct effect on the local level of company practice;
- how indigenous stakeholders can readily and immediately respond to best practice guidelines and propose practical amendments and improvements based on their own specialised knowledge and experience;
- how the gap can be narrowed between texts in the abstract and practice on the ground, by providing feedback to companies that are willing to listen and learn.

Recommendations include:
- absorbing the lessons of the above points and building them into guidelines and policies;
- encouraging the state to be more active in engaging locally in awareness-raising, cooperating with indigenous peoples, and lobbying more proactively with companies to organise meetings and public hearings where such guidelines are introduced, discussed, and negotiated – and ensuring adherence to those guidelines.
- Norway to evaluate the challenges with its domestic implementation of the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.

The paper is 23 pages long and contains a map, 5 photographs, 4 case studies, a summary of 4 instruments, a list of acronyms and abbreviations, and lists of legal documents and standards, papers and reports.
Anthropological Expert Review (AER) is a Russian form of socio-cultural impact assessment, aimed at evaluating the effects of industrial projects on northern indigenous communities, their culture and traditional livelihoods. This paper, co-authored by a Russian AER practitioner and a British SIA practitioner, explains the principles of AER and shows how this works in practice in a range of locations, through working with the affected indigenous communities to identify critical natural resources, water sources and sacred sites. The paper links back to the SIA paper (No.4) and considers the relevance of comparing Russian and international experience of social and cultural impact assessment.

The paper shows how companies may commission an AER following a conflict or on the request of a local community that feels the EIA process has been inadequate. While AER is mentioned in federal law on indigenous peoples, there is no legal obligation for companies to commission an AER. The paper shows how despite this, the practice of AER has been repeated voluntarily throughout the Russian North, and how this often eases relations between companies and local indigenous populations. Legal and practical innovation is emerging in Russia’s federal regions, notably in the Republic of Sakha (Yakutia).

The paper highlights the main challenges to implementation, namely the lack of a clear legal and institutional basis for application; the lack of an agreed methodology established within regulations; failure to understand communities; and lack of follow-up.

**Recommendations**

**Within Russia:**

- Though there is some flexibility, with some notable success stories, at the regional level, the legal framework needs to be strengthened at federal level;
- There is a need to develop criteria and mechanisms to enable the use of AER in the effective application of FPIC.

**Within and beyond Russia:**

- The research confirms the wider need to build capacities for carrying out social and cultural impact assessment;
- There is a need to strengthen the application of recommendations, including the involvement of indigenous communities in decision-making processes based on impact assessment results;
- Consideration should be given to sharing and testing the AER methodology in other contexts, including the sharing of both positive and negative lessons from Russia.

The paper is 16 pages long and contains a list of acronyms and abbreviations, and lists of legal documents and standards, papers and reports.
7. Risk governance in extractive policymaking

Author: Dr Roman Sidortsov

Oil, gas and mining involve technologically advanced projects, complex supply chains, and alliances with other business actors, national governments, and local communities. There is high scope for risk, as well as a politically charged tension between the perceptions of technical experts and the perceptions of the lay population who actually have to endure these risks.

This paper locates the place of risk governance in policy, legal, and regulatory regimes, focusing on systemic risks, and how these are characterised by complexity, uncertainty, ambiguity, and ripple effects. It analyses differences in the Norwegian and Russian legal and regulatory systems, revealing their different capacities for inclusive risk governance and the impact of this on indigenous peoples.

Recommendations include early engagement of indigenous communities in risk governance processes regarding natural resource development. Such engagement should be systemic and not ad hoc. There is a need for changes in the regulatory culture towards acceptance of societal context of risk, and a greater inclusion of indigenous communities.

8. The commodity market roller coaster: implications for Arctic indigenous peoples

Authors: all project members

The cyclical nature of commodity markets is characterised by repeated patterns of boom and bust, which have a direct effect on indigenous and local communities that host extractive industry projects. Natural resource extraction projects have long lead-in times, in some cases up to 30 years from an investment in exploration until a processed product reaches the market. This delay can lead investors to over-invest, and the urge to do this is reinforced by discourses of peak oil and geopolitical competition that give the impression that markets can never be over-supplied again. Because projects tend to be started up when the prices are high and without taking each other into account, many projects reach the market around the same time and so the market becomes over-supplied and prices collapse, starting a new cycle.

Thus, while communities may wish for the employment and economic regeneration that an extractive industry project might bring, there is also the constant risk that this may end suddenly due to factors outside of their control. This has affected many indigenous communities that have hosted extractive industry projects in the past, as an industry has pulled out of a community leaving people suddenly unemployed, and often without cleaning up the pollution left by their operations. Sometimes the extractive industry project makes other resource use practices in the area untenable, due to land encroachment or water and soil pollution. Yet when the industry leaves, the community can no longer rely on that long-established traditional occupation to sustain them as it may have done for a long time if the extractive industry had not been established in the same area.

This paper makes the argument that it is critical for any decisions made in favour of extractive industry development to take into account the long-term stability of the proposals and balance this against any damaging effect there may be on existing resource use practices and their potential to sustain communities in the future.
9. Legal framework for extractive industries and indigenous peoples in the Russian North
Authors: Dr Natalia Novikova, Dr Roman Sidortsov, Research Professor Florian Stammler

Under Article 72 of the Russian Constitution, indigenous affairs are subject to joint jurisdiction of the federal and regional governments, and even municipal regulations may have authority. Because of Russia’s federal structure, the ability of regional authorities to pass their own legislation and promulgate their own administrative regulations is an important aspect of indigenous rights protection. There are also legal rights even down to the level of municipalities. In addition, some federal laws require input and/or assistance from local governments in implementing various mechanisms which they contain.

This paper shows how these levels interact for the protection of indigenous peoples’ rights, as local law-makers can be more sensitive to indigenous peoples’ issues and are in closer contact with communities and indigenous rights groups, who thus have more opportunities to influence law-making and rule-making at the local level.

10. Customary norms and mutual obligations in the Russian North
Authors: Dr Natalia Novikova, Dr Roman Sidortsov, Research Professor Florian Stammler

In cases where conflicts on industrial development between the companies and indigenous peoples cannot be resolved by black-letter law, local customs and traditions are often used for governing dialogue between the parties. The concept of ‘customary law’ can cover a wide range of social, moral and religious norms. Customary law is an additional instrument for protecting the rights of indigenous peoples in their interactions with industrial companies, and Russian courts may allow its use in disputes.

This paper gives practical examples of how customary law is a versatile legal and practical tool for virtually every aspect of indigenous peoples’ interaction with industrial companies including traditional natural resource use, land rights, mobility, permeability of boundaries, environmental protection, and enforcement of agreements and contracts. Taking customary law into account is critical for organising and conducting public hearings, consultations, or assessments aimed at reducing the impact of industrial development and avoiding conflicts between indigenous peoples and industrial companies.

11. What is benefit sharing?
Author: Dr Emma Wilson

Like papers 3 and 4, this paper looks in depth at a further specific element of international instruments, analysing the international standards that incorporate stipulations for benefit sharing, as well as the good practice guidance documents and case study experience on the ground.

James Anaya (2013) has recognized inequities inherent in the ‘prevailing model’ of resource development, whereby external companies lead resource development projects, supported by the state and then ‘share the benefits’ with local communities. His ‘preferred model’ of development, if resource extraction is to go ahead, is for indigenous peoples to have greater control over the actual developments and how the benefits are subsequently shared. This reflects the spirit of UNDRIP which refers to indigenous peoples’ right to ‘determine priorities and strategies for the development or use of their lands and territories’ (which indicates more than ‘participation’).

Within the ‘prevailing model’, there are still opportunities for innovation in benefit sharing, including greater transparency of revenue flows (enabling greater accountability); royalty and profit-sharing schemes and equity stakes; independent foundations and trusts; local development initiatives; and support for livelihoods development, not only project-related job creation. While these may not be made plain in many of the standards and instruments, they have been explored and assessed in a wide range of guidance documents produced by standard-setters and industry associations.
Appendix 2 Biographical data on project members

Ragnhild Freng Dale is a PhD Candidate at the Scott Polar Research Institute, University of Cambridge. She is also associated with the project Energethics at the University of Bergen, Department of Social Anthropology. Her research is centred on conflict and consent around extractive industries in Sápmi and Northern Norway.

Dr Aytalina Ivanova is a lecturer in the Faculty of Law, Northeastern Federal University, Yakutsk, Russia and a post-doc in a NRC NORUSS project at UiT the Arctic University of Tromsø. Following her PhD in Historical Legal Studies, she has become an expert in environmental, minority and land legislation in Russia. For the last decade, Ivanova’s research has focused particularly on the legal aspects of the advance of extractive industries to ever more remote areas of Russia, where industry usually encounters the traditional livelihoods of indigenous peoples. Her fieldwork areas include Yakutia, the Nenets Autonomous Okrug, and Kamchatka.

Dr Natal’ya Novikova is a leading researcher at the Institute of Ethnology and Anthropology, Russian Academy of Sciences. She has carried out field research among Khanty, Mansy, Nenets, Nivkhi, Oroki, Eskimo (Russia), Inuvialuit (Canada) and Sami (Norway). She is the author of more than 150 academic publications on the ethnology and legal anthropology of indigenous peoples of the North, and on interrelations between indigenous peoples and industry in the context of international, national, and customary law. She works as an executive director of Etnoconsulting LLC., an organisation providing consulting services, expert assessments, and other applied services connected with ethnocultural and ethnoconfessional relations.

Sven-Roald Nystø is a Lule Sami from Oarjjevuodna / Hellmofjorden in Divtavuodna / Tysfjord, Nordland. He was the President of the Sami Parliament in Norway for two terms between 1997 to 2005, representing the Norwegian Sami Association. He was a member of the Government’s Expert Commission on High North Affairs 2007-2009, has 13 years of experience from the Sami Rights Commission, chaired the Norwegian Sami Association and the Working Group of Indigenous Peoples in the Barents-Euro Arctic Region and has more than 30 years of voluntary engagement with various Sami NGOs. He is currently working as Special Adviser at the Årran Lule Sami Centre, and is the Chair of the Board at the Centre for Sami Studies, UiT The Arctic University of Norway. He received his master’s degree from the Scott Polar Research Institute, University of Cambridge, where he studied the political background to Greenland’s independence movement.

Research Professor Indra Overland is Head of the Energy Programme at the Norwegian Institute of International Affairs (NUPI). He is also Professor II at Nord University (Norway) and spokesperson for prixindex.net. He did his PhD at the Scott Polar Research Institute, University of Cambridge and has since worked extensively on the post-Soviet energy sector, including oil, gas and renewables. He is the co-author of Bridging Divides: Ethno-Political Leadership among the Russian Sámi.

Alesia Prachakova is a Research Assistant in the Russia, Eurasia and Arctic research group and an Investigator at the Mintz Group’s office in London. Alesia has contributed to several research projects, centred respectively on relations between OPEC and Russia, the resource curse and authoritarianism, the trade and politics of natural resources and political risk in the global petroleum sector. Her main research interests lie in the field of energy sustainability, particularly the corporate social responsibility in the global petroleum industry, and she wrote her MPhil dissertation at the University of Cambridge on Sustainable Development in the Arctic: Petroleum Industry in the Norwegian and Russian High North. At the Mintz Group, Alesia undertook a number of investigations related to corporate due diligence and allegations of negligence, corruption and fraud at international organisations, investment banks, law firms and corporations.
Áike Selfors is studying for a Masters of Philosophy in Indigenous Studies at the Centre for Sami Studies (Sesam), UiT The Arctic University of Norway. His thesis is a comparative political analysis of the consultations between the Norwegian authorities and the Sámi Parliament. The thesis analyses the democratic quality of and power in consultation. He has a Bachelor's Degree in Politics, Philosophy and Economics, especially focusing on political science. The first year of his Masters focused on indigenous peoples and international human rights, especially with regard to Sami peoples’ rights and how the Norwegian state relates to these rights.

Dr Roman Sidortsov, J.D. LL.M currently serves as an Assistant Professor of Energy Policy at Michigan Technological University and as a non-resident Senior Global Energy Fellow at Vermont Law School’s Institute for Energy and the Environment. His research focuses on legal and policy issues related to the development of sustainable energy systems, energy security and justice, comparative and international energy law and policy, energy geopolitics, risk governance, and Arctic oil and gas with a special emphasis on the Russian Federation, Norway and the United States. Dr Sidortsov also serves as an editorial board member for *Energy Research and Social Science* for which he recently edited a special issue regarding energy development in the Arctic.

Research Professor Florian Stammler is Research Professor of Arctic Anthropology (http://arcticanthropology.org) and co-ordinator of the Anthropology Research Team at the Arctic Centre, University of Lapland, Finland (fstammle@ulapland.fi). He is also a Research Associate at the Scott Polar Research Institute in the University of Cambridge, U.K. (fms36@cam.ac.uk). He has worked and published since 1998 on Russian indigenous peoples’ encounters with extractive industries. He co-ordinates the International Arctic Social Sciences Association’s working group on extractive industries (www.arcticcentre.org/eiwg), as well as the Uarctic Thematic Network on the same topic (http://www.uarctic.org/organization/thematic-networks/arctic-extractive-industries/). He is the author of *Reindeer Nomads Meet the Market: Culture, Property and Globalisation at the End of the Land.*

Professor Piers Vitebsky is Emeritus Head of Anthropology and Russian Northern Studies, Scott Polar Research Institute, University of Cambridge; Professor, University of Tromsø the Arctic University of Norway; and Honorary Professor, North-Eastern Federal University, Yakutsk. For thirty years he ran a research programme in Cambridge that trained a generation of specialists in the Russian North, and he now trains indigenous social science researchers in Russia and Norway. He specialises in indigenous peoples of Eurasia and his books include *Reindeer people: living with animals and spirits in Siberia; Dialogues with the dead: the discussion of mortality among the Sora of eastern India; and Living without the dead: loss and redemption in a jungle cosmos.*

Dr Emma Wilson is an independent researcher and consultant, director of ECW Energy Ltd, and Associate of the Scott Polar Research Institute, University of Cambridge. She has 20 years’ experience in energy and extractive industries, community relations and corporate responsibility, including social impact assessment and anthropological field research. She speaks fluent Russian and has worked in Russia and Central Asia, as well as Norway, Greenland, Nigeria and South Africa.
Appendix 3 Other project publications
(in alphabetical order)


Wilson, E. ‘Rights and responsibilities: sustainability and stakeholder relations in the Russian oil and gas sector’. In Northern Sustainabilities, edited by G. Fondahl and G. Wilson, in press.


Appendix 4 Project presentations and other outreach

(in chronological order, date descending)


26 January 2017. Address. ‘Ranking oil, gas and mining companies’. Indigenous Peoples and Extractive Industries in the Arctic. Arctic Frontiers Conference Connecting the Arctic, Årran Lule Sami Centre / Centre for Sami Studies, University of Tromsø, Norway. Overland, I.

26 January 2017. Address. ‘Taking international guidelines to the field for critical evaluation by indigenous stakeholders’. Indigenous Peoples and Extractive Industries in the Arctic. Arctic Frontiers Conference Connecting the Arctic, Árran Lule Sami Centre / Centre for Sami Studies, University of Tromsø, Norway. Stammler, F.

26 January 2017. Address. ‘Ethics and extractive industries: pious hope or something worth striving for?’. Indigenous Peoples and Extractive Industries in the Arctic. Arctic Frontiers Conference Connecting the Arctic, Árran Lule Sami Centre / Centre for Sami Studies, UiT The Arctic University of Norway, Tromsø, Norway. Vitebsky, P.


May-June 2016. Policy brief. ‘Definition and delimitation of companies engaged in natural resource extraction in the Arctic’. Circulated to colleagues in several countries. Overland, I.


December 2015. Lecture. ‘Как защищали землю любви в Каутокейно: юридико-антропологическое исследование’ (How they defended the land of love in Kautokeino: a juridical-anthropological study). Ethnokulturalное развитие регионов: молодежный взгляд (Ethnocultural development of the regions:
young persons’ perspective). Institute of Ethnology and Anthropology RAS, Moscow. Novikova, N. I.


2 December 2015. Presentation of the work on the ranking of companies involved resource extraction on the land of indigenous peoples in the Arctic. Mining and Mineral Cluster Norway’s Partnership Meeting. Mo i Rana, Norway. Overland, I.


21 October 2015. Public panel. ‘Corporate social responsibility and Arctic oil and gas’. Public panel presentation, University College London. Wilson, E.


17 October 2015. ‘Participatory governance: comparing institutions in Arctic extractive regions’. Arctic Circle Conference. Reykjavik, Iceland. Wilson, E.


October 2015. Lecture. ‘From Technical Standards to Environmental Assessments: Risk Governance of the Energy Sector under the Russian and Norwegian Policy, Legal, and Regulatory Regime’. Arctic seminar series, the Arctic Center with IntraLaw group. Aarhus University, Denmark. Sidortsov, R.


15 August 2015. Workshop presentation. ‘Confrontation, co-existence or co-ignorance? Indigenous resource rights and implementation negotiations in two Russian extractive industries regions’. Arctic Frost Workshop. St Petersburg, Russia. Stammler, F.


1-4 March 2015. Attendance at the Prospectors and Developers Association of Canada (PDAC) 2015 Convention, particularly the Aboriginal Program. Toronto, Canada. Nystø, S-R.


5 February 2015. Address. “Can ethical guidelines be the key?”. Conference about languages and extractive industries. UIT The Arctic University of Norway and The Norwegian Barents Secretariat. Tromsø, Norway. Nystø, S-R.


23 October 2014. Lecture. ‘The Extractive Industries Transparency Initiative: how relevant is it to you?’ Surrey Business School, Guildford, UK. Wilson, E.


September 2014. Presentation of an article about restorative justice in the mining industry in Sweden, which he is co-writing with Rebecca Lawrence from Stockholm University. Commons Conference. Umeå University, Umeå, Sweden. Åhren, M.


5 December 2013. Lecture. ‘Building dialogue between companies and communities in the Komi Republic’. Presentation for students of the University of the Arctic, University of Lapland, Rovaniemi, Finland. Wilson, E.

2-4 December 2013. Conference paper. ‘What is the social licence to operate?’ Conference In the Spirit of the Rovaniemi Process. University of Lapland, Rovaniemi, Finland. Wilson, E.


12 November 2013. Meeting with the oil company ENI Norway together with Protect Sápmi, on the ENI Goliat oil field project and Barents North East Program, with particular focus on indigenous peoples’ rights and interests. Sami Parliament, Karasjok, Norway. Nystø, S-R.


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