

Oil development in the North – Concerted dialogue or a dialogue for concern?

A study of CSR and consultations as dialogues between an oil company, the State, municipalities and the Sami parliament



Kristian Osnes Aambø

Thesis submitted for the degree:
Master of Philosophy in Indigenous Studies
Faculty of Humanities, Social Sciences and Education,
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The picture on the front page depicts Polar Pioneer in front Fløya and Tromsdalen in May 2011. It was docked there for maintenance after returning from exploration at the Skrugard oil field. In iTromsø March 3. 2011 the mayor was interviewed about the prospect of being able to conduct such maintenance work on drilling rigs. The start of what is to come, the mayor said.

Summary

The thesis is a case study about the Goliat oil development off the coast of Finnmark, in the North of Norway. The Arctic is opening up for oil and gas development, however, demands from the public and from international actors that the oil companies operate in a sustainable and responsible manner have led the oil companies to use principles of corporate social responsibility in their operations. These CSR initiatives opens up for the local actors to have influence over the development process. In this case study, the oil company, Eni Norge has started dialogues with the local municipalities and the Sami Parliament. The thesis investigates and compares these dialogues to find differences in how these local actors related to the development process. For the Sami Parliament—which through ILO Convention 169 and their status as an indigenous peoples have a right to be consulted in oil and gas development by the Norwegian State—the dialogue with Eni Norge opens another possibility to influence the process. The new possibilities for dialogue may become another alternative for influencing the development process or a complimentary processes to the consultations the Sami Parliament have with the state.

Thank you: To the Sami Parliament, the Ministry of Petroleum and Energy, Eni Norge and Hammerfest Municipality for taking part in this research through interviews and providing the necessary data.

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Pitching a tent in an oil and gas dialogue

This thesis is about a dialogue. A dialogue that is stretched out in time and place, between several actors, situated at several different levels of government. A fieldworkers introductory chapter would perhaps start with an introduction to the field; a description of the ecology and geographical features. However, in this thesis the field is situated outside the realms of ecological and geographical features. That does not mean that the research has not taken place in a geographical field. The research involves a planned oil platform at a specific oilfield; local peoples which live by the coast of Finnmark; local governments that can be localised and which govern a specific area; an oil company with offices internationally (Rome), nationally, (Stavanger) and locally (Hammerfest); and the Norwegian State, geographically defined by its borders. Such a field can be shown on a map, be photographed or described in field notes. However, in addition to the geographical field there is another field, formed by the dialogue between the different actors. This is a place where discourses clash together; consultations are held between actors and agreements made, where actors try to understand each other or strategically position themselves to gain benefits. This field cannot be described by its ecological features, but rather by the regulations, laws, norms and values that guide the interactions between the actors. These interactions are what I have set out to study, and with a social anthropological background, it has been natural for me to approach these dialogues as a field; the dialectic field.

CHAPTER 1:

Introduction to the dialectic field

Goliat: more than just an oilfield?

Goliat is an offshore oilfield, situated 70 kilometres North of Hammerfest, Norway. The oilfield is located in block 7122/7-1, under production license PL229, and is operated by Eni Norge with Statoil as a joint partner in the production licence.¹ PL229 was awarded to Eni Norge and Statoil in the Barents Sea round in 1997, with Eni Norge as the operator and majority extractor with 65% of the share in the licence². They discovered oil at the field in 2000. The oilfield consists of two separate oil reservoirs situated at 1000 meters and 1800 meters below the sea surface. The total amount of oil and gas reserves are estimated to 38 million Sm³ (Eni Norge, 2008: 29-30).

The amount of oil is not the reason why Goliat has become a well known and important project. The field is considered to be small or medium sized and will barely be

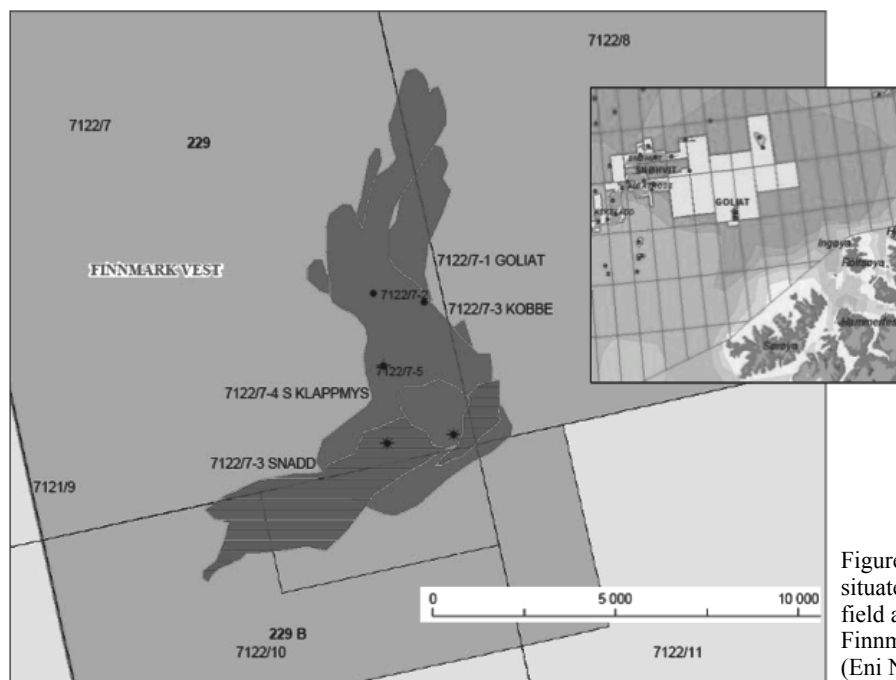


Figure 1.1: The Goliat oil field, situated between the Snøhvit gas field and Western coast of Finnmark. (Eni Norge, 2008: 31)

¹ DNO (Det Norske Oljeselskap) also used to have a share in the production license.

² At that time Eni Norge was known as Norsk Agip.

profitable. However, Goliat is the first oil development project in the Norwegian part of the Barents Sea. It will set the standard for future explorations in the region in regards to the use of technology, environmental concerns, spill-off effects and regional development (Norway, 2009b).

Future oil development in the Barents Sea and in the Northern region of Norway has played a crucial role in the development process of the Goliat oil field. For the oil company, Eni Norge, it has been important to start on good terms as they are not only new to the region, but also new to being an operator on the Norwegian continental shelf. The oil development has also been important for the local actors, and especially the coastal communities as it may provide sorely needed jobs and income to the region. However, oil and gas development is also surrounded by fear as it may pose a threat to the fisheries through competing use of territories as well as the risk of an oil spill, which may affect fisheries, the natural environment and the resource base on the coast.

The mix of concerns and expectations to oil and gas development is not new and is brought up in much of the literature on oil and gas development in the North of Norway and the rest of the Arctic. In 1982 Georg Kamfjord edited a book about the expectations to oil and gas development in the North of Norway. The biggest concerns expressed in the book are concerns about the future of fisheries. The interests of oil and fisheries are seen as conflicting as they compete for extraction in the same areas, and there were raised concerns that oil would compete with the workforce as well and fishers would switch employment to the oil and gas sector. Another issue which were raised was that the oil and gas development would cause cluster-based settlements where some areas would gain but others would suffer from depopulation. Others again argues that oil and gas would be positive as it would stop the depopulation of the region as a whole and decrease unemployment, specifically among women (Kamfjord, 1982).

Many of the same issues are apparent at the present time as well. Arbo and Hersoug (Arbo and Hersoug, 2010: 19) have written about the oil industry in the north. They are cautious about being too optimistic about what the oil industry would bring to the region in terms of employment opportunities. The focus on environmental protection has also become important in the new millennium, making discourses such as “it is our turn now” difficult to

maintain. The discourse around oil development and fisheries has changed since the 1980's, rather than a debate about *fish or oil* the debate is now about *fish and oil* (Arbo and Hersoug, 2010: chapter 10).

The experience from Snøhvit is important in Arbo and Hersoug's book. Hammerfest has gained a considerable income through property tax as well as ordinary tax income and increase in employment opportunities, however, the focus is also on regional development and spin-off effects from the oil and gas sector. Barlundhaug (2006) has been concerned with these themes and has conducted a project with the aim to illuminate the development opportunities oil and gas development creates in the region. In Arbo and Hersoug he is cited as stating that the focus so far has been too much on the tax benefits from oil and gas development and too little on other spin-off effects such as oil spill response and businesses catering to the oil and gas development (Arbo and Hersoug, 2010: 324).

In Trond Nilsen's (2008) *Selskapsstrategier teller, forhandlinger avgjør*, Nilsen looks at the relationships between regional interests and the development projects in two regions in Norway. The focus is on the regional supply and service industries. Following the Snøhvit project and the Soria Moria declaration in 2005, the petroleum industry in the North, has reached national focus, however, a lack of regional competence could be detrimental for the regional development, and the businesses in the region may not be able to provide the services the petroleum sector needs. The international market sets the rules, and the government are not able to demand the preference of regional and national supply industries (ibid.: 12). The regions have to fend for themselves and become attractive partners. While the expectations for the oil and gas industry are high, the result may be that regional industries are not able to gain the benefits in competition with both the international and the national market.

However, corporations have a social responsibility in the areas where they operate. Corporate social responsibility (CSR) incorporates those parts of the corporation's activities which are not reflected by the bottom line (Nilsen, 2008: 66). In Nilsen's study, CSR was not seen as a vital part of the motivation behind the oil company's involvements in the regions. In his case CSR was aimed at the corporation's operations in developing countries. Another study however, has connected CSR with oil development in the Arctic, including Norway.

Mikkelsen and Langhelle (2008b) have also studied the relationship between the local or regional communities and the oil and gas sector. The Arctic has become a part of the global economy, which pose certain challenges in the management of the region. Their research looks at the concept of sustainable development, the responsibility of the oil and gas industry and the main discursive conflicts in the region. In their study about the Norwegian experience they have mapped four discourses; environmental protection, regional economic development, the Sami peoples' rights as an indigenous people, and the international context including cooperation with Europe and Russia (Hansen and Midtgard, 2008). The debate is no longer whether or not to explore, but 'where' and 'how'. Some of the scepticism is gone as experience has shown that fisheries and other industries such as the oil and gas sector can coexist, and replaced with demands that the oil must be brought to shore. The Sami people on their side want to take a part in the decision-making process around oil and gas development. The Sami have rights to self-determination as an indigenous people. There are also discourses which claims the Sami should receive a part of the income from the oil and gas industry's operation in their territory.

The future of resource extraction in the Arctic is important for the Sami People and other indigenous peoples in the region. Henriksen (2006) writes that the survival of indigenous peoples "depends on the sustainable utilisation of their traditional lands and natural resources" (ibid.: 25). It is estimated that the Arctic contains about 25 per cent of the undiscovered petroleum resources (Mikkelsen and Langhelle, 2008a: 2), and the increase in petroleum related activities may destroy indigenous peoples economy and society (Henriksen, 2006: 28). However, international laws such as ILO Convention 169 give indigenous peoples certain rights to their territories and to self-determination. While ILO Convention 169 only pertain to the ratifying states, indigenous peoples rights have also started to enter the corporate world. The International Finance Corporation (2007) states that also corporations should adhere to the principles in the convention. The corporations may suffer the consequences if the government have acted negligible, and following the convention would not only benefit the indigenous peoples, but also the corporations themselves as they will show that they are socially responsible. The concept of corporate social responsibility (CSR) has been a theme in some of the literature on oil and gas in the Arctic. Fjellheim (2006) writes how CSR can be an alternative to social impact assessments, and in Mikkelsen and

Langhelle (Mikkelsen and Langhelle, 2008b) CSR is discussed as they look at the corporation's role in sustainable development in the Arctic.

Research questions

Eni Norge also care about their social responsibility, and with the Goliat development, they started dialogues with both the municipalities and Sami Parliament early in the process to find out the expectations to both themselves and the Goliat development. They also issued an indigenous peoples policy in 2007 aimed towards the Sami People, to acknowledge their status as an indigenous people and the special rights their status gives them. It is these dialogues between the oil company and the municipalities and the Sami Parliament which I have studied. The aim is to get an understanding of what the initiatives by the oil company to conduct dialogues entails for the Sami Parliament and the municipalities.

Corporate social responsibility is an important concept when trying to understand the motivations behind the dialogues between the three actors; the oil company and the two local actors; the Sami Parliament and the municipalities. However, when also including the fourth actor, the Norwegian State, CSR becomes only one factor influencing the dialogues, the other being the concept of consultations between the state and indigenous peoples. It is in defining the role of the oil company and its dialogues with the local actors, in relation to the Norwegian State and its consultation with the Sami Parliament, where my research questions arise.

Given the new opportunities arising through the oil company's dialogue with the local actors I have decided to ask the following research questions, where the first question consists of two parts. The first question is based on a comparison between the Sami parliament and the municipalities, while the second question is based on the relationship between the State and the oil company.

1. How did the Sami Parliament and the municipalities conduct their dialogues with Eni Norge and the Norwegian State? Did the focus on conducting consultations affect the dialogues with the Sami Parliament differently than the dialogues between the oil company and the municipalities?

2. How is the consultation process between the State and the Sami Parliament affected by the new opportunities formed by the oil company's CSR initiatives?

The dialogues are merged

The first question is based on a comparison between the Sami Parliament and the coastal municipalities. A common theme in the literature on oil and gas development in Arctic region of Norway is that it involves more than corporate and national interests. The region have interests and demands when it comes to development solutions, economic development and spill-off effects, and protection of their rights. Therefore, a question that is brought to the forefront is how these interests and demands are communicated. Do the local actors' have influence in the decision-making processes? The development process provide certain possibilities for the local actors to influence the process. The Petroleum Act (Norway, 1996) requires that impact assessments are conducted to safeguard the interests of the society, and in connection with these impact assessments the local actors or other hearing bodies may comment on the assessments both prior to the assessments and after. In addition to the impact assessments, the Sami People, following their status as indigenous peoples, and according to international and national law, have the right to be consulted in issues which affect them directly. In this thesis, I view both the hearings and consultations as forms of dialogue between the State and the local actors. These dialogues are regulated and structured according to laws and regulations.

Both actors are institutions which represent the local population and their interests. However, the motivations to enter into a dialogue may be different considering their different geographical situation and their different interests. Such differences would be made apparent by which themes and issues that are important to them in their dialogues with both the oil company and towards the state. The data would be available at a descriptive level, in the meeting minutes, letter and email correspondence and in the public documents and hearings.

In addition, I also wish to find out *how* the dialogues between the local actors and the oil company and state have progressed. The consultation agreement between the Sami Parliament and the state offer something "more" than the regular hearing process. Consultations should be conducted in good faith and requires that all relevant information is

shared. The parties are required to try to achieve consent, and if not possible, the Sami Parliament's position should be clearly communicated in the corresponding documents. With their CSR policy based on ILO Convention 169, Eni Norge have also committed themselves to conduct consultations with the Sami Parliament. Eni Norge committed themselves to a

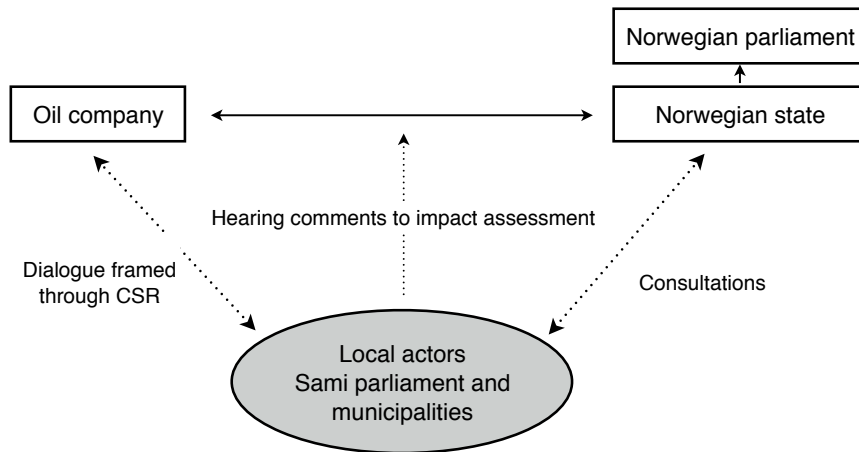


Figure 1.2: Model of possible dialogues between the local actors and the Oil and gas development.

certain framework and certain procedures to follow in their consultations with the Sami Parliament. While the dialogues between the oil company and the municipalities may also be framed as CSR initiatives, these dialogues are not conducted in the same institutionalised manner as the dialogues between the Sami Parliament and the oil company or the state. The municipalities do not have an equivalent consultation agreement with the State as the Sami Parliament, and they do not have an agreement with Eni Norge about how the dialogues should be conducted. The actors may share a goal of having good relations with the other party, however, through the research question I want to find out whether there are structures in place which would ensure that such goals are met. A model (figure 1.2) illustrates the different opportunities the local actors have to engage in dialogue with the State and the oil company in order to influence the development process.

The increased focus from resource extractors and other large-scale multinational corporations on sustainability and social responsibility changes the landscape of these dialogues. The resource extractors want to have good relations with the local communities where they operate. However, what happens with the hearing process and the consultations between Sami Parliament and the State when the oil company enters the field and start their own dialogue with the local actors? This is the basis for my second research question.

The second research question deals more closely with Sami-state relations. While it is possible that the Sami Parliament is not interested in having a dialogue with the oil company, or the dialogue might not materialise as expected by the actors, the strong focus from corporations on corporate social responsibility and the resulting possibility for local actors to have an influence through their dialogue with corporations may also influence consultations. By looking at the two dialogues as one process, ranging from the first contact by the oil company to the approval of the Plan for Development and Operations in the Norwegian Parliament, I want to find out how the dialogues may affect each other. The dialogue with Eni Norge may become an alternative to the consultation process between the State and the Sami Parliament. The two dialogues could also merge and become complimentary to each other. The latter would be a more favourable solution, since an alternative consultation between the Sami Parliament and Eni Norge might undermine the consultations with the Norwegian State.

The aim of the thesis is to get a further understanding of how the consultations between the Sami Parliament and the Norwegian State takes place, not just isolated, but within the context of other dialogues both with the oil company and the municipalities. At the same time, the thesis also deals with oil and gas development in the North of Norway and the Arctic, specifically looking at the local actors and their role and opportunities to influence in the decision-making process.

Method

The study consists of five independent actors; the state, Eni Norge, the Sami Parliament and the municipalities of Hammerfest and Hasvik. While other municipalities also had dialogues with the oil company, I decided to include Hammerfest and Hasvik based on their geographical location—they were two of the possible locations for landing the oil—and the stark difference in the economic situation between Hammerfest and Hasvik despite being neighbouring municipalities.

Data collection

I have collected two sets of data. The first set is the data from the dialogues the local actors have had with the oil company and the Norwegian State. The data I have collected are written sources, such as meeting minutes, letter and email correspondence and interviews with the different actors. I were able to conduct interviews with representatives from the administration of Hammerfest municipality, the administration of the Sami Parliament, a public relations representative from Eni Norge, and a director at the Ministry of Petroleum and Energy. The interviews were open-ended, and the object were to find out how they had experienced the dialogues, their motivations for taking part in them and which themes were important for them in the dialogue. I were only able to find data such as meeting minutes and correspondence from the Sami Parliament's dialogue with Eni Norge and the ministry, however, some secondary sources have shed light on the municipalities dialogues with the oil company as well as with the Norwegian State.

The second set of date pertains to the development process. The impact assessments and the connected public hearing processes have all been publicly available. I have collected the data, starting with the proposed study programme and ending with the treatment in the Norwegian Parliament to get an chronological account of the whole process. This chronological account has become the basis in the data chapters where the data from the interviews and other sources are ordered around the chronological development process.³

Analysis of the data

My research is comparative in the sense that I compare the dialogues the Sami Parliament have had with the oil company and the state with the municipalities` dialogues. The comparison have been on a descriptive level, such as which development solutions are favoured, or which themes such as oil spill response, regional economic development or indigenous rights have been important. However I have also included some text analysis to find out *how* the dialogues have been conducted. The analysis is based on a theory which states that there are certain elements that must be present for the dialogue to be a consultation.

³ A further account of this process can be found in Chapter 3.

In order to answer my second research question I have looked at the dialogues holistically with the aim to see how they fit in with the larger development process.

Strengths and limitations

According to Nilsen (2008) there has been a lack of comparative studies on oil and gas development with a regional perspective. More recently there has been at least one more such study; *Arctic Oil and Gas* (Mikkelsen and Langhelle, 2008b). While the last entry covers viewpoints from both the municipalities and the Sami in an oil and gas perspective, it does not go in depth in studying and comparing the mechanisms and dialogues which takes place between these local actors. This study aims at illuminating the different contexts framing the dialogues with two different local actors, which would add a valuable perspective in the larger academic discourse around oil and gas. The main objective in the research and the motive for such a comparison is to get a better understanding of what consultations, either with the state or the oil company, actually entails in practise. The second objective which derives from the same understanding of oil and gas development as a process including several dialogues between several actors, is to study the process holistically, in order to find out how the dialogues ‘fit’ together.

There are certain limitations that follows a research about dialogues. The data for my research is in the dialogues themselves, and takes place behind closed doors. Ideally I would have been able to be present in these meetings, however, most of the meeting activity happened long before this research were started. The alternative have been to rely on data from the meetings, such as meeting reports and interviews of those who have taken part in the meetings. I have relied on this data material to be available, that the actors are willing to grant me access to it, and that the actors have been willing to be interviewed and answer my questions. My experiences from the data collection in this regard have been mixed. From the municipalities I was informed that they did not have any minutes from the meetings with Eni Norge. The result is a large discrepancy in the amount of data I have collected from the Sami Parliament and the municipalities. I was also not able to conduct an interview with one of the municipalities, Hasvik. While this certainly have changed how I have structured the thesis, I have still managed to collect some data which relates to the dialogues, enabling me to compare the two dialogues. The discrepancy in the amount of data available has also forced

me to look at the development process more holistically and structure the dialogues around this process.

Ethics and other considerations

The majority of the data I have collected have been government documents and other documents available for the public. As these data are readily available to the public, I have not foreseen any ethical consideration in collecting these data. The research have also been based on information provided by knowledgeable informants and spokespersons. The use of this type of data requires an adherence to the informants meaning and understanding of the specific context in which the information is given. I have given the interviewees the possibility to comment on parts of the thesis both to make sure they are quoted correctly.

Another issue I have been aware of since I have actively engaged with the local actors is my own position as a researcher. As a researcher I have also become a part of the same dialogue I have studied. I have also myself experienced how my position relates to the research I am conducting when collecting and comparing the different data. Some of the arguments raised in the data from the actors are based on other academic research. In itself this is not surprising, as arguments in a dialogue should be based on external truths such as academic research. This thesis will by it's position as academic research also be a part of this argumentation basis. In itself, this is not problematic either, however, since some of the actors in my research were very open in how much information they were willing to share while others were more restrictive, it has raised a question of whether the disproportionate data may enable a local actor to potentially advance their agenda through my research. While I have not suspected such strategic actions to have taken place in my research I have felt a need to be aware of the potential for it and my own position as a researcher.

Outline of thesis

In the second chapter I will present the theoretical framework. I will define CSR and consultations as they are both important concepts, enabling the local actors to take part in the dialogue. These concepts, which are based on international laws and institutions frames the

dialogues which takes place between the local actors and oil company and the state. The framework is based on theories derived from regulation theory, dialogue theory and a theory about deliberation. The ILO Convention 169 also provide a part of the framework.

Chapter 3 will look at the empirical background of the research. The chapter will provide an outline of the development process and an explanation of Eni's CSR initiatives and the Norwegian State's consultation agreement with the Sami Parliament. The chapter looks empirically on the frames which I have provided in Chapter 2.

In the fourth and fifth chapters the data will be presented. There will be one chapter on the Sami Parliament's dialogues and one on the municipalities' dialogues. The dialogues will be presented chronologically, from the first contact by Eni Norge, through the impact assessment process and to the final hearing in the Norwegian Parliament in June 2009. Little analysis will be presented in this chapter as a discussion will follow in the next chapter.

The sixth and last chapter will contain both a discussion and conclusion to the data I have presented. The municipalities as a local actor is compared to the Sami Parliament to establish whether the consultation agreement both between the Sami Parliament and the state and the Sami Parliament and Eni Norge have influenced how the dialogues have been conducted. The dialogue between the Sami Parliament and Eni Norge is then seen in connection with the consultations with the state.

CHAPTER 2:

Theoretical framework

Introduction

In this chapter I will provide the theoretical framework for the thesis. I will start this chapter by defining consultations since it is a vital concept in answering both of my research questions. According to ILO Convention 169, consultations places certain requirements on how the dialogues are conducted. As the focus on consultations are on the structure, and on how the arguments are presented, one of my expectations from the research is that the Sami Parliament will focus more on these aspects of the dialogue than the municipalities.

CSR is also an important concept behind Eni Norge's initiative to start the dialogues with the Sami Parliament and the municipalities. There are several definitions of CSR, and the concept has evolved over the years, however, the definitions I have used in this chapter draws on how CSR can be an alternative to political solutions to sustainability. This, I have argued, is problematic as it legitimise the corporate power on behalf of political solutions. Another approach to CSR is one that is based on laws and regulations and thus become complimentary to other political processes rather than becoming an alternative. I will end the chapter by providing a framework for how consultations are structured and explain how all the dialogues fit together in relation to the development process.

Consultations: an international law framework

The dialogue between the Sami Parliament and the Norwegian State is defined by international law and it's manifestations in national laws and agreements. The international law in question is ILO Convention 169, which provides a certain structure for how the consultations should be conducted. The convention deals with the rights of indigenous peoples and has been ratified by Norway. ILO convention 169 is also important to my thesis

as it is the convention referred to by Eni Norge in their statement in June 2007. ILO-169 came in place to safeguard the rights of indigenous peoples to their land and resources. The article that is relevant in this study are Article 6 which deals with consultations. ILO Convention 169 and the consultation agreement between the Norwegian State and the Sami Parliament which is based on the convention, requires the state to consult the Sami people in issues that affect them directly.

Consultation is an important concept within the ILO Convention 169. In the words of the ILO Tripartite Committee, “the spirit of consultation and participation constitutes the cornerstone of Convention No. 169 on which all its provisions are based”(International Labour Organization, 2009: 110) Article 6, which deals with how the states shall apply the provisions in the convention states that:

Governments shall: (a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions...
(International Labour Organization, 1989)

Exactly what these appropriate procedures are is explained further in the International Labour Organization’s own guideline to ILO Convention 169, *Indigenous & tribal peoples’ rights in practice* (2009). The guideline states that “Procedures are considered appropriate if they create favourable conditions for achieving agreement or consent to the proposed measures, independent of the result obtained” (ibid.:62). Further, the guideline states that these procedures entails something *more* than a public hearing process as the indigenous peoples consulted should be able to fully express their viewpoints, based on their full understanding of the issues and leading to them being able to affect the outcome. The article continues:

The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures
(International Labour Organization, 1989).

This part sets a structure for how the consultations should be carried out. The guideline states “that consultations should take place in a climate of mutual trust” (International Labour Organization, 2009:62), that Governments should act fair and genuine, try to reach agreement, carry out constructive negotiations, and comply to the final agreements and “apply them in

good faith” (ibid.). Enough time must also be given for the indigenous peoples to carry out their own decision-making processes. The goal of the consultations should be to achieve consent and the Governments should act accordingly (ibid.). While this provision ensures that the objective should be to achieve consent and that the consultations should be conducted in good faith, it does not ensure that consent is reached.

The focus in consultations are therefore on how the parties act; that the parties are genuine and trustworthy and tries to achieve consent, as well as the procedures; that the consultations take place in a climate of mutual trust, that there are favourable conditions for achieving consent, and that the indigenous peoples are able make decisions based on a full understanding of the issues and fully express their viewpoints. These procedures and conditions ensure that consultations become something more than a public hearing.

While I expect to find these procedures to be present in the consultations with the Norwegian State, I am unsure what to expect from the dialogues between the Sami Parliament and the oil company. Through their indigenous peoples policy Eni Norge have committed themselves to engage in consultations with the Sami Parliament, however, since only national governments and its institutions are required to follow ILO Convention 169, it is difficult to say exactly what this entail for the oil company. This is one of the reason I have elected to compare the dialogue between the Sami Parliament and the oil company to the dialogue between the municipalities and the oil company. The municipalities do not have the same international and national rights, and I would therefore expect differences in the dialogues. The second part of the chapter will deal with the dialogues with the corporations and the context behind the oil company starting a dialogue with the local actors.

Corporate social responsibility

The second part of the chapter will look at the dialogues between the oil company and the local actors. I have chosen to use the term CSR to define this dialogue. To frame CSR as a dialogue is not straightforward. As I will show, the term is ambiguous and may referred many things from the corporation’s health, environment and safety initiatives, workers rights and human rights, transparency and anti-corruptionas well as actions aimed at local communities

and indigenous peoples. Therefore, rather than framing CSR as a form of dialogue, I will focus on how the corporations' CSR initiatives frame the dialogue. CSR takes a similar role as the international legal framework, which places certain requirements on how consultations should be conducted. CSR, as I will show is not only governed by the corporations themselves, but also globally, by investment funds and human rights organisations. Especially indigenous peoples are mentioned in connection with CSR, often as having special rights because of their connection to their territories. Will this special status of indigenous peoples in CSR manifest itself through specific measures towards the Sami not found in the policy aimed at the municipalities? Negotiations—as a part of CSR—is an alternative to social impact assessments, giving indigenous peoples another way of influencing the decision-making process. These negotiations should take place in the context of free, prior and informed consent. However, there may also be reasons to be cautious over corporations focus on CSR as it legitimises corporate power in the society and becomes an alternative to political solutions. The next sections will look closer at these issues.

Definitions of CSR

There are many definitions on corporate social responsibility. Blindheim (2008) traces the concept of CSR back to Berle and Means in the 1930's who noticed that decisions from increasingly more powerful and larger corporations could have a substantial effect on the local communities. The definition of CSR in the 1930's "built upon moral ideas about the primacy of human interest over corporate ones" (ibid.: 57). Human interest were seen as incompatible with corporate interest and CSR were to negate the negative impacts on society. Further theories have defined CSR as "consideration of, and response to, issues beyond its narrow economic, technical and legal requirements to accomplish social benefits, along with the traditional economic gains that the firm seeks" (ibid.: 58) In light of other theories such as classical capitalist theory, stakeholder theory and other more relativistic and moralistic theories, a wide array of theories exist to define the relationship with corporations and society. The most established definition Blindheim argues, would be a four part model of CSR, consisting of "economic, legal, ethical and philanthropic expectations placed on organizations by society at a given point in time" (ibid.: 58). Other terms and concepts have been intertwined with CSR, such as social responsiveness, corporate social performance,

stakeholder approach, corporate citizenship, triple bottom line and corporate sustainability, making CSR “an umbrella term covering economic, social and environmental issues” (ibid.: 58).

From bottom line to triple bottom line: CSR as alternative to political solutions

Not only are there many definitions of corporate social responsibility, there are also many different approaches that are defined as CSR. The term can be ambiguous as corporations’ use of the term varies (Nilsen, 2008). I have chosen to use the classification by Brummer in this study in order to analyse Eni Norge’s CSR approach towards the local actors. The classification consists of four approaches: classical approach, stakeholder approach, social demandingness approach and social activist approach, (Blindheim, 2008). The classical approach states that a company is only responsible for upholding the law and create profit for the shareholders. Social responsibility outside that which is required by law will only reduce profitability. The stakeholder approach states that the company have a responsibility stretching outside shareholders to stakeholders as well (ibid.). A stakeholder is defined as those who: “(i) are or are likely to be, directly affected by the decisions and activities of the business; (ii) have an explicit contractual relationship with it and /or (iii) can directly affect the corporation” (Mikkelsen, Camp, and Anderson, 2008: 352-353). The interest of the stakeholders may be responded to by requirement of law, the self-interest of the corporation or its shareholders, pressure from the public or “from a genuine desire to benefit the lives of stakeholders” (ibid.). Social demandingness approach says that corporations should respond to the demands and expectations from the society. Corporations and their managers should engage in finding out the opinions, expectations and demands of the public, assess them and respond to them. The social activist approach goes another step further to claim that there is an universal and absolute standard for social responsibility which a company should uphold. Mikkelsen et al. writes that “[t]his standard demands concern for the ideal or rational interest of the public, rather than their expressed or present interest [...] it has a scientific, ethical, religious and/or metaphysical basis” (ibid.). These approaches can be placed linearly on a scale from a very reactive stance where social responsibility is a constraint and a negative towards the bottom line, towards a proactive stance where social responsibility is important in the long run for the corporation. The four approaches can also be placed in a matrix (figure

	Tactical	Strategic
Triple-bottom line/social responsibility focus	(3) <i>Social demand:</i> Organizational focus on present/expressed interests of stockholders and stakeholders	(4) <i>Sustainable development:</i> Organizational focus on universal, ideal, rational social interest independent of stockholders and stakeholders
Bottom line/profit maximization focus	(1) <i>Classical:</i> Focus on stockholder interests associated with specific project (i.e. efficiency, effectiveness & legal compliance	(2) <i>Stakeholder:</i> Focus on stockholder and stakeholder project interests that may affect the corporation

Figure 2.2: Corporate approaches to social responsibility. (Mikkelsen, Camp, and Anderson, 2008: 355)

2.2), where the two factors are the corporations focus on either the bottom line or the triple bottom line, and the corporation’s stance, whether it be a reactive or tactical stance to social responsibility or a proactive and strategic stance.

The proactive, social activist approach are based on the principle of stewardship, and therefore is paternalistic and serves to legitimate the hierarchical domination of business in society rather than to encourage democratic pluralism (Blindheim, 2008: 66-67). The social activist approach to CSR is based on philosophical ideals and moral rationality rather than political interests and democracy. Blindheim writes: “CSR, rather than being complementary to political solutions, constitutes itself as an alternative and competing framework for solving social ills and challenges of sustainable development” (ibid.: 77). Blindheim uses a theoretical framework based on regulation theory which indicates that there is a shift in how corporations relate, from the national level to the supra-national and the local level (Hansen, Langhelle, and Anderson, 2008: 92). This shift might be disadvantageous as it legitimise corporate power and “undermine institutional conditions required for a sustainable development path” (Blindheim, 2008).

Instead, Blindheim (2008) propose that the social responsibility of business should consist of institutional and economic responsibilities. The institutional responsibilities consist of capacity building and strengthening institutional frameworks, and compliance with

politically sanctioned standards and guidelines as well as national and international laws and regulations. The economic responsibility consist of making profit and enhancing values for shareholders, employees and the rest of society (ibid.: 76). These responsibilities, based on national and international laws and regulations, become complimentary to political solutions rather than CSR initiatives based on moral ideals, which may become alternatives to the political solutions. A similar understanding can be found in Fjellheim, who grounds the concept of CSR to a larger international laws and regulations apparatus.

Corporate social responsibility: A response to social impact assessments

Fjellheim (2006), in *Arctic oil and gas: corporate social responsibility* has looked closer at the dialogues between the indigenous peoples and the corporations. He defines corporate social responsibility as “a concept that is more and more accepted as a way of addressing the corporate world’s responsibility for its actions in a number of fields” which encompasses “environmental issues, workers’ rights, universal human rights and also indigenous peoples’ rights” (ibid.: 15). Fjellheim takes the perspective of the indigenous people and whether or not social impact assessments (SIA) and corporate social responsibilities maintain indigenous peoples rights. Fjellheim juxtaposes negotiations between states and private corporations and indigenous peoples, with social impact assessments in regards to oil and gas development in the Arctic. Social impact assessments are often used when large developments projects are planned to safeguard the local community and indigenous peoples by giving them the opportunity to comment and share their views. While conducting a social impact assessment is the most used approach to assess social issues in regard to oil development, the approach is still problematic in several ways. The rights of indigenous peoples may be completely ignored in the assessments, or it may be ineffective as the time frame for the assessment is too short or the technical information and inquiries are culturally alien for the indigenous people. Other shortcomings are that projects are assessed in isolation from other potential projects, therefore ignoring the cumulative effects. The assessments are also conducted ex-ante, and usually focus on mitigating negative effects rather than creating benefits (ibid.: 11-12).

Fjellheim argues that some of these shortcomings may be addressed through negotiations. Negotiations, he writes, should be based on international law and human rights standards and include concepts such as free, prior and informed consent. Consultations serves

as a means for the indigenous peoples to be informed, to participate and information to be disclosed. While time and the differences in values may pose constraint about the efficacy of these negotiations, and the negotiations might result in institutionalising the imbalance in power, negotiations still pose the best procedure to minimise negative outcomes and maximise the positive effects (ibid.: 14). Fjellheim sees CSR as a corporate parallel to the public international law standards. CSR was developed as a response to globalisation, the rise of international law, pressure from indigenous peoples and environmental organisations, and increasing demands from investment funds, stock indexes and the World Bank (ibid.: 15). CSR must be seen in this interrelated context where it is not only the corporation's own CSR initiatives that safeguard the local communities but the whole system including the corporate and international level.

The interconnectedness of investment funds and international laws standards that follows may give indigenous peoples an extra protection compared to non-indigenous local communities. In my research I have aimed to answer how this difference will manifest itself in the dialogues the municipalities and the Sami Parliament had with the oil company. The special status of indigenous peoples may not only effect the difference between these dialogues. The special status may also be vital when studying how the dialogue between the Sami Parliament and the oil company effects the consultation process with the state.

Corporate social responsibility: alternative or complimentary to consultations?

For Blindheim, the focus is whether CSR becomes an alternative or is complimentary to political solutions to societal challenges such as poverty, inequality and education. In this thesis I will move these two concepts to the analysis of the dialogues and study whether the dialogues are complementary or an alternative to the consultation process. The reason for such an analysis is that it is through the dialogues with the stakeholders—in this study the local actors—where the corporations would legitimise their initiatives towards capacity building and conforming to the local actors' expectations. However, while dialogues can be used to strengthen institutional framework, dialogues—and specifically in this study, consultations—are also institutional frameworks in themselves. The consultations between the Sami Parliament and the state have come to place as a political solution for the Sami Parliament to have the influence they are required to by international law. At this level, the

question becomes how the dialogue between the Sami Parliament and the oil company relates to the consultation process between the Sami Parliament and the state, and if this is an alternative or a complementary relationship.

Moving Blindheim's two terms to the analysis of the dialogues raises the question of whether dialogues can be seen as complimentary or as alternatives. By transferring Blindheim's understanding of CSR to the dialogues, the corporations should comply to international and national rules and regulations regarding consultations. The regulation which governs the consultation between the state and the Sami Parliament is ILO Convention 169. The convention is also the basis for Eni Norge's policy towards the Sami People. While both the state and the oil company have dialogues with the Sami Parliament in the form of consultations, it may not mean that the dialogues are complimentary. Further, since the corporations are not required to follow ILO Convention 169 there is some uncertainty about exactly what these consultations entail. According to ILO Convention 169, consultations set certain criteria for the procedures and how the parties act in the consultation. There are many variables in play; how the actors act, and their motives may affect the consultations, the structure of the dialogue may be a variable, and the notion of CSR as complimentary to political solutions is difficult to translate to the dialogues. This poses a problem in the analysis, as it becomes difficult to pick out certain elements in the actions or procedures which will point towards the dialogue being complimentary or an alternative to the consultations between the Sami Parliament and the state. The solution have been to look at the development process holistically; the motivations of the actors, the structures of the dialogues, the time frame of the dialogues, and which themes have been brought up. There are, however, some means of analysing the dialogues which will be essential in my study. This arises from my comparison of different dialogues.

The study of dialogues

I have elected to study the interaction between the different actors as dialogues. Parts of the framework presented above are based on the framework in *Arctic Oil and Gas* (Mikkelsen and Langhelle, 2008b). The study presented in that work has many similarities with this

thesis. It studies oil and gas development in the Arctic, including Norway. It studies the local population; both coastal municipalities in Norway and indigenous peoples in Norway and the other Arctic countries, and how they relate to the oil and gas development. However, Mikkelsen and Langhelle, use a framework based on storylines and discourses, which I have found to be difficult to use in this thesis. The reason behind this is my perspective which compare the municipalities with the Sami Parliament. The comparison arises in the question of whether the difference in how the dialogues are structured affect the actual dialogues, and it is these differences that have made discourses difficult to use. The differences between the dialogues of the Sami Parliament and the municipalities are that the dialogues that the Sami Parliament have engaged in have been framed as consultations; consultations required by law with the Ministry of Petroleum and Energy, but also consultations with the oil company, Eni Norge. Consultations do not lend themselves easily to the storyline and discourse analysis in Mikkelsen and Langhelle. Storylines are combinations of discourses which are linked and as such are simplifications of the discourses they entail. Mikkelsen and Langhelle focus on which storylines that are used and which stakeholders shares those storylines. Consultations on the other hand are based on acting in good faith and on achieving consent. The focus is on how the actors relate to each other rather than on whom and what they relate with. In consultations the actors are meant to expand on their positions and explain why something is important for them.

Consultations are only parts of the dialogues between the actors. The dialogue between the municipalities and Eni Norge does not have the same structure as the consultations. In this research I have aimed to find a framework which will allow me to compare consultations to the dialogue between the oil company and the municipality as well.

One such framework I have found useful in my research is Walton (2007). He argues that dialogue is any communication between two actors. There are then many different types of dialogue. These types of dialogues differ in the actors individual goals as well as the goal of the dialogue itself. In a consultation the goal of the dialogue is consent or agreement achieved in good faith. In the case of negotiation, the goal of the dialogue is settlement, and in a case of conflicting discourses, the goal is to resolve the conflict (ibid.: 23). This understanding of dialogue as different forms of communication have been important in my study. The Sami Parliament and municipalities can be compared based on what type of goals

they have in the dialogue and thus what type of dialogue that ensues. However, rather than focus on the individual goals of the dialogue, I wish to focus on another aspect of consultations, how it is structured.

Broderstad and Hernes (2008) draw a similarity between consultations—with its focus on arguments—and deliberation. In their study dialogue is a part of a deliberation, describing a certain form of communication where the actors actively engage with each others views through a mutual exchange of arguments (ibid.: 130). Conversations can be difficult to study since it is difficult to know the intentions behind what is said, and if the actors mean what they say. However, since consultation is based on deliberation, it requires an appeal to an external reality, such as theoretical truths, former legislations and agreed upon norms.

Four elements are identified as parts of a deliberation; institutional framework, process and dialogue, basis of argumentation and outcome. These elements form ideals which makes it possible to discuss the extent of deliberation that takes place within the consultation (ibid.: 127-129). The institutional framework requires that there is openness in the process, that there is equality between the actors and that a statement is judged by its content, not by who says it. It also requires that no actors, themes or point of views are excluded from the process. Process and dialogue requires that arguments are supported and can be discussed, and that there is an element of dialogue, meaning that they actors take turns in presenting the arguments and engage in the arguments. There should be mutual respect between the actors and the arguments should be respected. The actors should be sincere in their argumentation, and there should be room for reflection in the process. The basis of argumentation requires that the arguments are based on an external validity, either through external authorities, established norms and agreements or verifiable knowledge. Last, deliberation requires that the outcome of the deliberation is to either reach a consensus, or come to a mutual or partial understanding. Learning and facilitation of trust can also be outcomes of a deliberation (ibid.: 130-131). Following Broderstad and Hernes definition, consultations, rather than being a form of dialogue, provides a context for, and frames the dialogue. The specific context of this dialogue is based on the Sami peoples status as an indigenous people pursuant to international and national laws and regulations.

Both the state and the oil company are required to establish and conduct consultations with the Sami Parliament. The state is required to do so by an international ratified convention, ILO Convention 169, while Eni Norge has elected to follow the same standards based on their CSR policy. Since corporations are not required to follow this convention, it is uncertain exactly how this policy will manifest itself or even whether it is followed or not, however, I have assumed that the oil company wants to live up to their own high standards. Since Eni Norge has decided to implement the same international legal standard, ILO Convention 169, that the Norwegian State is required to follow, I have expected to find differences in the company's dialogues towards the Sami Parliament and the municipalities.

A dialogue framework

In the chapter I have provided a framework for understanding the dialogues between the different Arctic actors. I have defined the parameters for what constitutes a consultation. Broderstad and Hernes as well provides an understanding of an ideal deliberation within the consultations which I have used as a framework to judge the consultations between the state and the Sami Parliament as well as the oil company and the Sami Parliament. Further, these elements and structures that are found in consultations may not be present in the dialogues between the oil company and the municipalities as their dialogue does not have these structures present. The oil company's dialogue with the local actors must also be understood as a part of—and framed by—the company's CSR initiatives. Blindheim argues that the activist approach towards CSR might give corporations too much power. The question I raised in the introductory chapter which ties in with Blindheims's argument is whether Eni Norge's consultations with the Sami Parliament affect the consultations between the State and the Sami Parliament. Further, I have defined CSR in relation to social impact assessments and negotiations and consultations. Both social impact assessments and negotiations can be part of a CSR strategy, however, CSR can also be seen as an extension of social impact assessments. CSR is not just the individual company's effort towards society but consists of a larger system of interrelated actors.

Together, the legal framework behind consultations and CSR creates opportunities for the local actors to take part in the oil and gas development outside of the public hearings. The municipalities had an opportunity to be in direct dialogue with the oil company, and the Sami

Parliament had the opportunity to be in dialogue with the oil company as well as to have a consultation with the state. The relationship between the different actors in the research is best shown in the model presented in Chapter 1 (figure 2.2). The oil company and the state, together with the Norwegian Parliament forms a development process, a process which chronologically goes from handing out licences, through exploration drilling, impact assessments, plan for Development and Operations to completion of the platform. In this thesis I have focused on the period from initial contact made by the oil company towards the municipalities and the Sami Parliament, and to the finalisation of the plan for development

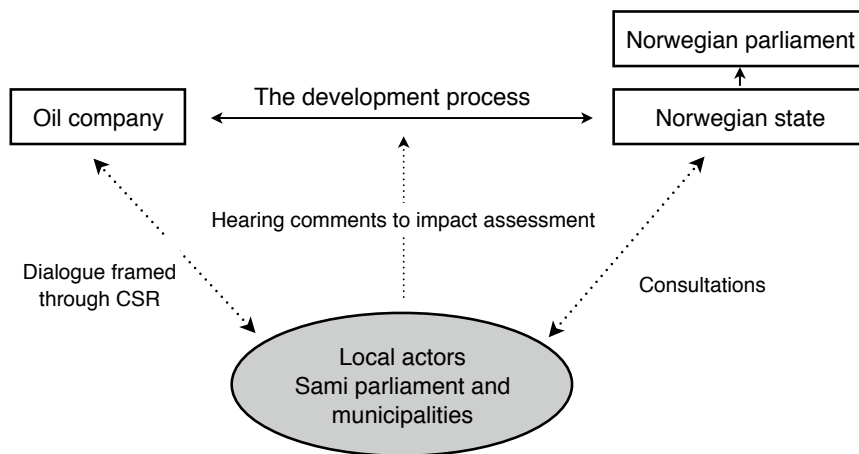


Figure 2.2: Model of possible dialogues between the local actors and the oil and gas development.

and operations and the following treatment in the Norwegian Parliament. The local actors have three channels where dialogue can take place: dialogue with the state; with the oil company; or responses to the impact assessment, which can be seen as a part of the dialogue with either the oil company, the state or both. For the Sami Parliament, the dialogue with the state is framed by international laws and regulations regarding consultations. For both the Sami Parliament and the municipalities the dialogue with the oil company is framed by CSR. These dialogues with the oil company are framed both by the corporations own social responsibility, however, in the case of the Sami Parliament, also the international and national legal standards the oil company have committed themselves to.

By comparing the dialogues the municipalities and the Sami Parliament have had with the state and the oil company I aim to find out how the consultations manifest themselves in practice and relative to the dialogue between the municipalities and the oil company and the state. I will also compare the dialogues between the oil company and the Sami Parliament with the consultations with the state. There is a concern that CSR initiatives become

alternatives to political solutions rather than complementary. In this study the aim is to find out whether the dialogues are alternatives or complimentary to each other. By holistically comparing the two dialogues my aim is to get an understanding of the relationship between these two dialogues with a special focus on whether they becomes alternatives to each other or whether they are both a part of the same dialogue.

The focus in this chapter has been on how international laws and regulations and CSR becomes contexts which structure and frame the dialogues. The next chapter will look closer at these specific contexts as I will explain the development process, Eni's CSR policy as well as the consultation agreement between the Norwegian State and the Sami Parliament.

Oil and gas: a beacon of hope?

“Come! You will see it better from outside”. A door I had not seen earlier led to a catwalk in front of the lounge. Inside our conversation about the future of Hurtigruten had been interrupted when I spotted a bright yellow light far away on the horizon. We Stepped outside. The ship was gliding between the moonlit, snow covered mountains of Sørøya and Stjernøya. “Is the light coming from Melkøya?” I asked while I wondered; would Melkøya even be visible over the horizon this far away? We had just passed Hasvik on Sørøya on port side and were about 50 kilometer away from Hammerfest. He did not know. I continued to watch the light as we slowly approached

It was in fact the flame from the chimney at the Melkøya plant. I realized then, the importance of oil and gas development in the North had just presented itself symbolically; the gas flame, as a beacon of hope in the North. The Goliat field, about 50 kilometers away from the coast, might also be seen from land, and become a beacon of hope.

CHAPTER 3:

Empirical Background: The dialectic field

Introduction

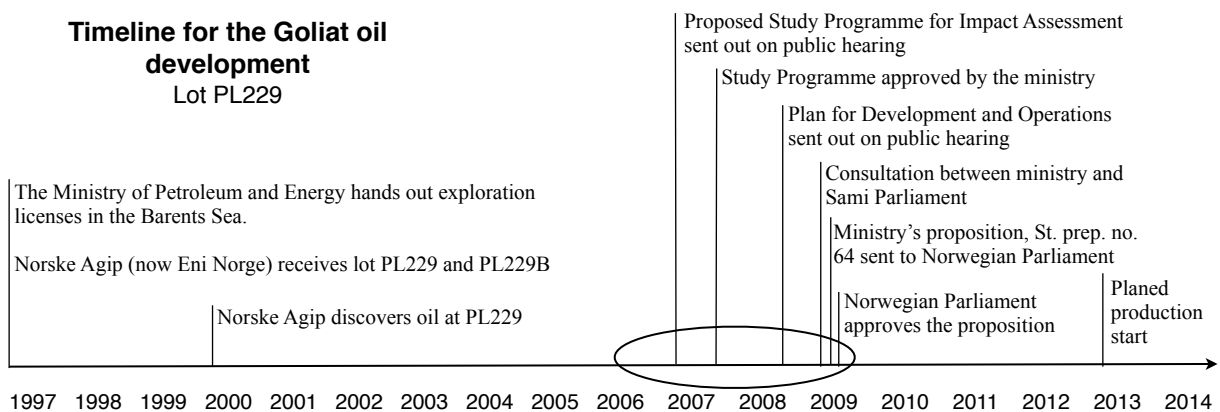
In the previous chapter I presented a theoretical perspective on the dialogues I have studied. The key concepts presented were CSR and consultations, and I discussed how these two concepts can frame the dialogues between the actors. The next step is to provide the empirical background to the dialogues, since the background for Eni Norge's CSR activities, the consultations with the state and the oil and gas development process is important to understand the present dialogues.

The dialogues I have studied take place during a small part of the larger process that is oil and gas development. The process contains several phases, an introduction to these phases will make it easier for the reader to understand the process later when I change the perspective to the dialogues between the local actors and the oil company and the state. An understanding of Eni Sp.A.'s CSR initiatives internationally will explain some of the motivation for Eni Norge to start a dialogue with the local actors, and an introduction to the consultation agreement between the Norwegian State and the Sami Parliament is important to understand the background for the consultation about the Goliat development.

This chapter will present the oil and gas development process at Goliat, Eni Norge's corporate social responsibility initiatives, and the State and the Ministry of Petroleum and Energy's understanding of Sami rights and consultations—both as a background and as structures that frames the dialogues—but also as parallel processes that started before the dialogues and continued throughout, and after the dialogues I have studied have ended. The development process, the dialogues with Eni Norge and the government's consultations with the Sami Parliament are all also channels which give the local actors the possibility to influence the decision.

Goliat development process

The dialogue that I am to investigate in this thesis is a part of a larger process that spans from opening up the area for oil and gas development, to handing out licenses for exploration drilling, discovery of petroleum resources, conducting impact assessments, getting approval to extract oil and gas, construction of infrastructure, to the opening and daily operation. The timeline underneath illustrates this whole process, how it has taken place so far and is expected to continue in the future.:



The time line shows the time span from opening up an area and handing out licenses, to the start of production. The dialogue I am investigating takes place within the oval frame; a little bit more than three years compared to the 16 years it took from getting a license until the field can start production.

Oil and gas development in Norway is a process between two actors; the state and the oil company, or in cases where there are more than one licensees, the operator⁴. The state opens up the area and hands out licenses, the oil company conducts the impact assessments and the Norwegian Parliament approves of the Plan for Development and Operations. However, hearings are conducted two times during the whole process, so actors or stakeholders—either local, regional or national—can comment on the process and express their views. The first hearings are conducted as a response to the oil company's proposed study programme for the impact assessment, and the second one, as a response to the final impact assessment.

⁴ In cases where a group of companies share a license, the Ministry of Petroleum and Energy appoints an operator to deal with operative activities (Ministry of Petroleum and Energy and Norwegian Petroleum Directorate, 2009: 28) .

The part of the process I am going to investigate in this thesis takes place just prior to and parallel to these hearings. Prior to the first hearing, the oil company contacted the municipalities and the Sami Parliament in order to start a dialogue. This have given the Sami Parliament and the municipalities another way in addition to the hearings to take part in the process and marks the starting point of the thesis. The end of the dialogue is marked by the decision to approve of the Plan for Development and Operations by the Norwegian Parliament. While in my study, the actors expected that the dialogue would continue throughout the construction period, the decision by the Norwegian Parliament is a good place to end the investigation as it marks a shift from planning how the development will take place to the actual start of the development itself. The timeline, with the most important events for the process I am looking at, as well as the most important events in the dialogues looks like this:

2006	January	Eni Norge established contact with the Sami Parliament. The contact with the municipalities also started at this time. The dialogues have continue throughout the whole process.
2007	March	The proposed study programme for the impact assessment was sent out on a public hearing (Eni Norge, 2007b). The deadline for receiving comments was set to April to June 2007, and an approval from the Ministry of Petroleum and Energy was set to August 2007. A total of 52 different actors and stakeholders received the proposed study programme (Eni Norge, 2007a).
	June	Eni Norge released a policy about the Sami people (Eni Norge, 2007c). The policy respected the Sami as indigenous peoples, following national and international law and and requireed Eni Norge to conduct consultations with the Sami Parliament, and incorporate the result from these consultations.

Eni Norge received the hearing comments from the different actors (Norway, 2007a). 33 of the actors commented on the proposed impact assessment, 8 answered without commenting and 11 did not respond back (Eni Norge, 2007a).

August and October	Meetings between Eni Norge and the Ministry of Petroleum and Energy were conducted.
November	Eni Norge responded to the hearing comments to the proposed study programme.
December	The Ministry of Petroleum and Energy approved of the study programme for the impact assessment.
2007 – 2008	Impact assessments are conducted. There were a total of 19 specific assessments conducted, 11 of the reports assessed the environmental impacts while eight reports assessed the social impacts (Eni Norge, 2008). Hasvik conducted several meetings with ministries as well as meetings with Eni Norge (Hasvik, 2009a).
2008 November	The impact assessment for Goliat was sent out on hearing by the Ministry of Petroleum and Energy. The assessment was sent out to 102 different actors and stakeholders (Norway, 2009a).
2009 January	The hearing comments were returned. A total of 71 hearing comments from 73 different stakeholders (Norway, 2009a). Due to bringing the hearing comment up for the plenary in February The Sami Parliament and Sami Parliamentary Council's comments were returned at a later time.
April	The Ministry of Petroleum and Energy conducted consultations with the Sami Parliament.

May	The ministry sent their Proposition No. 64 (St.prep. no. 64) to the Norwegian Parliament. The proposition is treated in the Standing Committee on Energy and the Environment. The committee conducted a hearing where several of the municipalities attended.
June	On the last day before the summer, and thus before the parliamentary election in the Fall 2009, the propositions is voted over in the Norwegian Parliament. Proposition No. 64 is approved with 87 to 12 votes. Kristelig Folkeparti (the Christian party) and Venstre (the Left party) voted against the proposition.

The PDO/PIO and impact assessment process

The Petroleum Act states that the Norwegian State is the sovereign owner of the petroleum resources located at the Continental shelf (Ministry of Petroleum and Energy and Norwegian Petroleum Directorate, 2009: 28). The oil companies' operation on the shelf are governed by a concession based licence. Areas are opened up for exploration, licenses are handed out, and following a discovery, a development process takes place including both a planning phase and a implementation phase (Norway, 2010). In order for an oil company to be given approval by the state to start extraction of a petroleum resource the oil company needs to produce a plan for development and operations of a petroleum deposit (PDO) and sometimes a plan for installation and operation of facilities for transport and utilisation of petroleum (PIO). This requirement of a PDO and PIO are regulated by the Petroleum Act§ 4.2 and 4.3 (Norway, 2010, 1996). The PDO describes the development of a petroleum resource while the PIO are used when there is a special need for land based construction in connection the the petroleum development. The PDO consists of two parts; a development part which deals with the actual plans for how to develop the petroleum resources, and an impact assessment part. The impact assessment can be circumvented if the production on the filed is expected to be low and the development is expected to have little effects commercially or on the environment. In the case of Goliat, however, Eni Norge was required to conduct an impact assessment (Eni Norge, 2007b). The proposed study programme for the impact assessment is sent on a public hearing by the oil company and the plan must be approved by the government following this hearing.

The final impact assessment is also sent out on a hearing, and the impact assessment, the hearing comments, as well as the plans for development and operations of the field are combined to an PDO and sent to the Ministry of Petroleum and Energy for approval. If the project is of a certain size, such as Goliat, the plans are sent to the Norwegian Parliament for approval. In such a case, the ministry will draw up a draft proposition to be sent to the Norwegian Parliament (Norway, 2010).

The ministry's PDO/PIO guideline also lists the structure of both the study programme for the impact assessment and the final impact assessment. They have a list over the different areas that should be assessed as well as how it should be structured chapter by chapter in the two documents. The areas that should be covered are divided into three parts: impacts on the environment, area use, consequences for the fisheries, and the social impacts from the development (Norway, 2010). The guidelines also address the importance of public hearings in connection with the study programme and the impact assessment itself.⁵ The hearings for the study programme give the hearing bodies a possibility to point out conflicts and provide alternatives to the proposed plans, thus contributing to the issues that should be addressed in the impact assessment. The hearing for the impact assessment is important to establish whether the impact assessment have been carried out according to the study programme (Norway, 2010). The hearings therefore give the hearing bodies—including the municipalities and the Sami Parliament—the possibility to influence the development.

In Chapter 1 I mentioned that a prominent part of the early events of the Goliat development was whether the oil would be processed offshore or brought to land. The next section will look closer at the different development alternatives that were assessed by Eni Norge.

FPSO or seabed installations?

In the case of Goliat, Eni Norge had several different development alternatives which they wanted to assess before handing in the PDO. Eni Norge presented three possible development solutions in the Proposed Study Programme for the Impact Assessment. The

⁵ In the English translation of the guidelines the word consultations are used instead of hearings. As consultation is a key concept in this thesis which I have defined as something more than hearings I have decided to use the word hearings instead, which is consistent with the Norwegian version of the document.

three solutions are shown in image 3.1. The first alternative was full processing and export of the oil offshore on a FPSO (floating production storage and offloading). The different FPSO solutions available were processing and storage on a ship hull, processing and storage on a floating circular hull, or processing on a semi-floating platform with a permanent adjacent

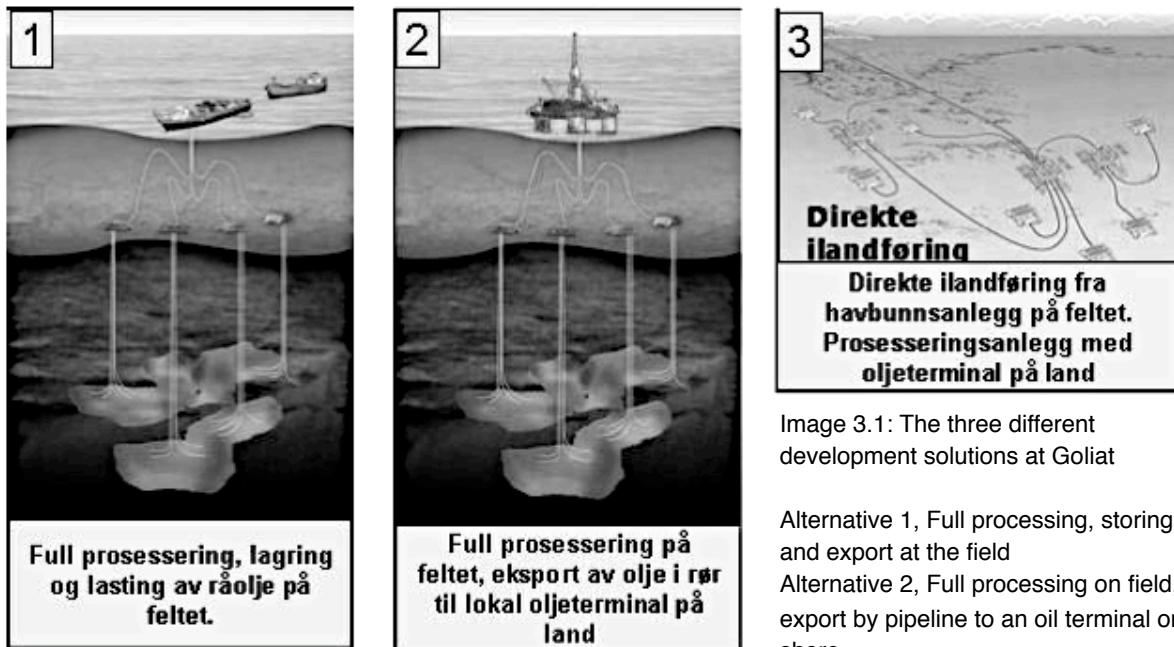


Image 3.1: The three different development solutions at Goliat

Alternative 1, Full processing, storing and export at the field

Alternative 2, Full processing on field, export by pipeline to an oil terminal on shore.

Alternative 3, Oil brought on shore from a seabed plant, processing and export by land based terminal.

(Eni Norge, 2007b: 19)

ship for storage. The two others entailed either offshore processing and bringing the oil to shore by pipeline for further export (alternative 2), or both processing and export from a terminal on shore from a seabed plant (alternative 3). The second alternative is similar to one of the offshore processing and storage alternatives, except that the platform would include a more powerful oil pump to transport the oil through pipes to a storage facility on-shore. The last alternative would include wells and a production unit on the seabed to separate oil from gas before export to a land-based processing plant (Eni Norge, 2008). In total, Eni Norge had listed nine different locations in six municipalities to be assessed as possible locations for on shore facilities. In their impact assessment they landed on an offshore solution with a circular FPSO as the best solution (Eni Norge, 2008). This may have come as a bit of a shock, as many expected the oil to be landed. In their project about regional development and spill-over effects from the oil development Barlindhaug Norfico (2006) assumed that the oil would be landed.

The potential landing of oil for processing or storage were perhaps a deciding factor for Eni Norge to start dialogues with the municipalities and the Sami Parliament. In my interview, the representative from Eni Norge stated that was a part of the reason. The municipalities would certainly be involved if any structures or installations were to be build in their municipalities, and the Sami Parliament and other Sami institutions would be involved in regard to possible reindeer pastures and cultural heritage sites. However, the representative also said that Goliat was their first project on the Norwegian continental shelf and that they wanted to get off on a good footing. The concept of corporate social responsibility, however, encompasses both these explanations, and the next section will deal with Eni Sp.A. and Eni Norge's social responsibility initiatives.

Eni and corporate social responsibility

Eni Sp.A. is a company that has many guidelines regulating how they should conduct their business. On their website they have an own section about company governance. Eni writes that their governance is based on the principles of integrity and transparency.⁶ These principles are found in their work with sustainability as well, and they further state that they have adopted many international guidelines into their sustainability work, committing themselves to aligning their strategy and operations according to The United Nations Universal Declaration of Human Rights, The International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, The Rio Declaration on Environment and Development, Agenda 21 and The United Nations Convention Against Corruption.⁷ They have a community focus in their operations “aimed at promoting sustainable development based on dialogue, cooperation and on the will of integration into the local context”⁸. Eni carries out environmental and social impact assessments in all of their operations. “Eni identifies and evaluates the environmental, social, economic and cultural

⁶ Eni S.p.A. Corporate governance system and rules: http://www.eni.com/en_IT/governance/governance-model-policies/governance-model-policies.shtml. Accessed November 20, 2011.

⁷ Eni S.p.A. International guidelines: http://www.eni.com/en_IT/sustainability/commitment-sustainability/international-guidelines/international-guidelines.shtml. Accessed November 20, 2011.

⁸ Eni S.p.A. Community relations: http://www.eni.com/en_IT/sustainability/communities/relations-with-communities/relations-with-communities.shtml. Accessed November 20, 2011.

impacts of its activities, including on indigenous populations, guaranteeing mitigation and putting in place processes for improvements”⁹. The use of impact assessments are exemplified further in their section about local investments, where they aim to create partnerships and cooperation with local stakeholders and institutions. Eni aims at following a process which starts with identifying stakeholders and their needs, conduct social baseline analysis, carry out social impact assessments, identify and plan initiatives towards the community and monitor and evaluate whether these initiatives reach their targets.

Eni’s human rights initiatives includes the introduction of Guidelines for the Protection of Human Rights in 2007, launching a project called The Human Rights Compliance Assessment in 2008, and recently, in 2011 starting a working group to implement the UN Guiding Principles on Business and Human Rights. According to their website, their human rights commitment is based on the United Nations’ Protect, Respect and Remedy paradigm. A section covering indigenous peoples rights are also found in the human rights section. They write that indigenous peoples have specific rights because of their ties to their territories and that Eni have adopted specific policies towards indigenous peoples in these areas. They only list two countries where they have adopted such specific indigenous peoples policies, Australia and Norway.¹⁰ Comparing these two policies, certain passages are identical, however, on a few important places the policies differs.

Incorporated versus feasible

While both policies recognize indigenous rights based on national and international law, the policy about the Sami also specifically mentions ILO-169 since Norway have signed this convention. This difference is instrumental for other differences in the policies as well. The second bullet point in Eni Australia’s policy reads:

Consult with Indigenous Peoples before taking any decision that may affect them directly with the objective to achieve agreement and consider their perspectives in our company decision-making (Eni Australia, 2007).

⁹ Eni S.p.A. Impact assessment: http://www.eni.com/en_IT/sustainability/communities/impact-evaluation/impact-evaluation.shtml. Accessed November 20, 2011.

¹⁰ Eni S.p.A. Human rights: http://www.eni.com/en_IT/sustainability/commitment-sustainability/commitment-human-rights/human-rights.shtml. Accessed November 20, 2011.

While the corresponding passage of Eni Norge's policy reads:

Consult with Sámi People before taking any decision that may affect them directly with the objective to achieve agreement and incorporate their perspectives in our company decision-making (Eni Norge, 2007c).

Eni Australia's policy only acknowledge that they will consider their perspective, while the similar passage in Eni Norge's policy is worded far stronger. The second notable difference is in the oil company's commitments. The second bullet point under Eni Australia's commitment heading reads:

Assess, in cooperation with Indigenous Peoples, the impacts that the development of our operations may have on them and where feasible, take into account the findings of such assessment and the outcomes of the consultation in the design and conduct of our activities (Eni Australia, 2007).

The corresponding passage in Eni Norge's policy reads:

Assess, in cooperation with Sámi People, the impacts that the development of our operations may have on them and incorporate the findings of our assessment and the outcomes of the consultation in the design and conduct of our activities (Eni Norge, 2007c).

The wording is again stronger in Eni Norge's policy, committing to incorporate the findings and outcomes of the assessment and consultations in the design and conduct of their activities. The third difference is an inclusion of a new bullet point under both the policy and commitment heading in Eni Australia's policy. These bullet points reads:

Avoid adverse impacts of projects on Indigenous Peoples, or when avoidance is not feasible, to minimize, mitigate, or compensate for such impacts.

And;

Seek Agreement, wherever possible, with the affected communities on measures to mitigate, and compensate for adverse impacts (Eni Australia, 2007).

It is interesting that a bullet point that deals with the effects of the project was not added in Eni Norge's policy. Norwegian sovereignty to oil and that the oil is offshore might be a

reason for not including these last paragraphs. The Australian policy was written five months later, and while there are other small differences in the document that seem to stem from the policy text evolving to a more correct English, it seems odd that the differences are due to some internal or external evolution in acknowledgement in rights, especially since the Australian policy is the one that in general uses a weaker language. The policy aimed at the Sami People is certainly written with the Sami-Norwegian context specifically in mind, however, the differences do seem to be more based on the legal context than the dialogue between the Sami Parliament and Eni Norge taking place the prior year. The difference between the two policies is most likely based on a difference in legal context between the two states, including the added protection through ILO Convention 169.

Eni: Best in the World on CSR?

Eni's CSR initiatives are certainly very impressive, and they have not gone unnoticed. Eni was voted to be the company in the world with the best online communication of their CSR initiatives in both 2009 and 2010. They finished third in a similar Italian award in 2011. In 2009 they also won an award for their "outstanding contribution to sustainable growth and corporate social responsibility".¹¹ They have also won awards for ethics, transparency and reporting the last five years.

It seems then that Eni is a company that puts much work into its corporate social responsibility. They adhere to, and have included into their policies many international guidelines and covenants when it comes to human rights, sustainability, governance and health, environment and safety. The only comments I would have to add is that they have only developed indigenous policies for two of the places they operate, and it seems that the majority of the initiatives Eni have listed have been conducted in the last three years, which means they may not necessarily be relevant to my research which started before that time. However, it does support that Eni values their corporate social responsibilities, both in Norway and the rest of the world. Regarding the first comment, Eni certainly conduct business in more than two countries where there live indigenous peoples. On their own website they discuss their involvement with local communities in Ecuador specifically

¹¹ Eni S.p.A. Awards and recognitions: http://www.eni.com/en_IT/sustainability/commitment-sustainability/awards-recognitions/awards-recognitions.shtml. Accessed November 20, 2011.

mentioning their involvement in community relations with the indigenous population.¹² Their relations are based on national law as well as ILO Convention 169 and they use ‘free, prior and informed consultations’¹³ to protect the rights of the indigenous population. They have agreements in place with the Curaray-Liquino and Wichucachi indigenous population for socio-economic development. While they have not issued their own indigenous policy in Ecuador they certainly are aware and have implemented structures for the indigenous peoples to have a say and gain socio-economic development.

Eni Norge and CSR

The Norwegian division of Eni, Eni Norge does not have an equally impressive website when it comes to sustainability and community relations. Under ‘Social Responsibility’ in the Goliat section of their website Eni Norge writes that they have started contact with local organisation regarding regional businesses’ participation, they have established guidelines with the Sami Parliament and taken initiative with local actors regarding oil spill response.¹⁴ There is also a link to the indigenous peoples’ policy referred to earlier. They also list their social involvement with a focus on sponsorship, education, and skills and expertise development. As stated earlier, for Eni Norge, Goliat was their first project in Norway as an operator. They knew it was going to be the first oil development in the Barents Sea and wanted to establish good relations with the communities. They had been advised by Statoil that they should contact the Sami Parliament early in the process, however, they contacted the municipalities on their own initiative. The representative from Eni Norge explained that Statoil advised them to contact the Sami Parliament based on the PDO experiences from Snøhvit, however, in 2005 there were also several meetings between the Sami Parliament and Statoil regarding indigenous rights in Norway and other countries where Statoil operates (Norway, 2006). This might have played a role in why Statoil advised Eni Norge to start a dialogue early. Regardless of Statoil’s role in the start of the dialogues, there were, as shown earlier, at least an increasing focus from Eni centrally on corporate social responsibility. That

¹² Eni S.p.A. Eni in the World, Ecuador: http://www.eni.com/en_IT/eni-world/ecuador/local-development/local-development.shtml. Accessed November 20, 2011.

¹³ See a further discussion of free, prior and informed consultations in Chapter 4.

¹⁴ Eni Norge AS Social Responsibility: <http://www.eninorge.com/en/Field-development/Goliat/Corporate-responsibility/>. Accessed November 20, 2011.

Eni Norge started a dialogue towards the municipalities would support that some community relation guidelines from Eni centrally were in place, even if not formulated explicitly. In their response in the public hearing comment from Finnmark County to the impact assessment, Eni Norge writes that dialogue and cooperation are very important for them. They have a communications plan in place to make sure that dialogue and openness is achieved (Norway, 2009a: 43-44)

While there are some local factors that have sparked the early contact between Eni Norge and the local actors, it certainly seems that there are some principal guidelines for social responsibility in the company based on international guidelines for sustainability, human rights, and good business ethics. This is certainly consistent with an understanding of CSR as interconnected on a global level between human rights advocates, investment funds and the corporations. In Chapter 2 I showed how CSR frames the dialogues between the oil company and the local actors, and becomes a channel for the local actors to influence the development process besides the public hearings. For the Sami Parliament there were also the possibility of a third channel of influence; consultations with the Norwegian Government.

The consultation agreement.

In the last chapter I explained how ILO Convention 169 define consultations as a standard to which the ratifying states must uphold their communication with indigenous peoples regarding matters that affect them. On May 11th, 2005 the Norwegian State and the Sami Parliament agreed on a consultation agreement which establish when it is necessary to conduct consultations between the state and the Sami Parliament and how these consultations are conducted. The agreement lists four objectives:

- Establish a practical means for the state to uphold its international law obligations to consult indigenous peoples;
- try to achieve agreement in cases which affect the Sami directly;
- establish a partnership between the state institutions and the Sami Parliament which will strengthen the Sami culture and community;

- and develop a common understanding of the situation and needs for the Sami community¹⁵.

The procedures would be used in cases that affect the Sami directly and would apply for the government, the ministries and the directorates as well as other non listed government entities. The agreement further lists the procedures, which includes that the consultations should be conducted in good faith and with an aim to reach agreement, that all relevant information should be exchanged between the parties, and that in cases where the government and the Sami Parliament does not reach agreement, the Sami Parliament's position shall be clearly expressed in the document. In addition to procedures regarding cases that affect the Sami directly the consultation agreement also establishes that there will be conducted biannual meetings between the Sami Parliament and representatives from the ministries. These meetings are meant for the parties to plan and prioritise cases which requires consultations (Norway, 2008).

It is also important to note that the right to be consulted should not be seen as an alternative to hearings. In White Paper 28, 2007-2008 (2008) the Ministry of Labour writes that consultations are a parallel process to hearings which already have been covered in Sameloven §2.2. Consultations are said to reach further, both in content as well as the possibility for the Sami Parliament to have a real influence in the decision-making. However, the ministry writes, the hearing comments create a good basis for a further consultations with the government (ibid.: 87-88).

Summary

The oil and gas development process is a long process which involves many stages. One of these stages is the impact assessment, a stage of the development process which gives the local actors and other stakeholders the possibility to express their views through public hearings. However, in the Goliat development there were other possible ways for the local

¹⁵ Fornyings-, administrasjons- og kirke departementet: Prosedyrer for konsultasjoner mellom statlige myndigheter og Sametinget: <http://www.regjeringen.no/nb/dep/fad/tema/samepolitikk/midtspalte/prosedyrer-for-konsultasjoner-mellom-sta.html?id=450743>. Accessed December 3, 2011.

actors to take part in the process. For the Sami Parliament, the consultation agreement has been put in place as a means for the Sami Parliament to protect Sami rights by requiring the state to consult them in all cases which may affect the Sami People. Eni Norge has through their CSR focus on community relations and their policy towards the Sami People opened up the possibility for the local actors to be in direct contact with the oil company.

The second part of the thesis will look closer at how the local actors relate to these opportunities, both in the individual contact with either the oil company or the state, but also holistically as the different dialogues may become alternatives to each other.

CHAPTER 4:

The dialogue between the Sami Parliament and Eni Norge and the State: The oil company taking on the responsibility of the State?

Introduction

I was first made aware that there was contact between Eni Norge and the Sami Parliament when I found the policy issued by Eni Norge in July of 2007. I stumbled over the policy on Eni Norge's website in Fall 2008, as I was interested in the Goliat development and wanted to write about the development in connection to the Sami people. I knew that Sami interests certainly would be affected by oil development, especially as it seemed to me at the time that the oil would be brought to shore, however, up until that time I had struggled to find out how to approach the subject. Reading the policy I realised that I could approach the subject by looking at the dialogues between the Sami Parliament and Eni Norge, and how the Sami Parliament acts, rather than how the Sami are affected by the development. I wanted to make the Sami Parliament the subject of my study, not the object of the study, and the policy had a vital part in my approach.

In the policy Eni Norge recognised “the special rights and expectations of the Sámi people, deriving from their status of Indigenous Peoples under Norwegian and International Law (mainly ILO Convention No.169)” (Eni Norge, 2007c). In the policy, Eni Norge commits to:

Establish an effective and inclusive framework for the free and informed participation of Sámi People in the consultation process, based on their social and cultural values and on the disclosure of all relevant information in the local language.

Assess, in cooperation with Sámi People, the impacts that the development of our operations may have on them and incorporate the findings of the assessment

and the outcomes of the consultation in the design and conduct of our activities
(Eni Norge, 2007c).

While this policy in many ways became the starting point for my thesis, it was not the starting point for the dialogue. The Sami Parliament and Eni Norge had four meetings before Eni Norge issued this policy. The policy was followed by a long impact assessment process which included two hearings and additional meetings before the final consultations took place between the Sami Parliament and the Ministry of Petroleum and Energy. In this chapter I will present the data connected to this process, the meeting minutes, hearing comments and resolutions from the Sami Parliament, email correspondence as well as the data collected through interviews with the three actors.

Timeline for the dialogue

A chronological list of the events which makes up the dialogue would look like this:

2006	January	Email correspondence started between Eni Norge and the Sami Parliament.
	March	First meeting conducted between Eni Norge and Sami Parliament.
	November	Second meeting conducted between Eni Norge and Sami Parliament.
	December	Third meeting conducted between Eni Norge and Sami Parliament.
2007	March	Eni Norge's proposed study programme for the impact assessment was sent out to the hearing parties.
	June	The Sami Parliament commented on the proposed study programme. Eni Norge released their policy on indigenous peoples in Norway.
	November	Eni Norge responded to the hearing comments. Eni Australia issued a policy on Australian indigenous peoples.
2008	December	Eni Norge presented the impact assessment for Sami Parliament.
2009	February	The Sami Parliamentary Plenary decided on the hearing comment to the impact assessment.
	April	A consultation was held between the Sami Parliament and the Ministry of Petroleum and Energy.

May	Proposition No. 64 was sent to Norwegian Parliament.
June	Norwegian Parliament approved of the proposition.

The dialogue begins: the first Meeting

The dialogue between the Sami Parliament and Eni Norge started in January 2006. In the archive of the Sami Parliament the dialogue is archived under case number 07/81 (Sami Parliament, 2007a). The case number contains documents relating to all the meetings between the Sami Parliament and Eni Norge, email correspondence and the hearing comments to the Impact Assessment. The case number also includes an invitation to a follow-up research initiated after the timeframe of this study. Eni Norge contacted the current Sami Parliament president Aili Keskitalo by email, requesting to start a dialogue with the Sami Parliament regarding the oil development and asked for a meeting. This email correspondence resulted in a meeting in March 2006. The meeting was attended by both politicians (Aili Keskitalo) as well as administrative personnel from the Sami Parliament and leaders from Eni Norge as well as two representatives from the Eni Group in Italy. At the meeting, Eni Norge informed the Sami Parliament representatives about their guidelines for social responsibility and briefed them on the planned exploration drilling and the internal work leading up to a potential PDO. According to the minutes, at this stage of the development process, the feasibility of the project was not yet determined and a decision of whether to continue with the project or not was to be taken in the Fall of 2006 (ibid.). The guidelines for social responsibility which were presented at this meeting were not recorded in the minutes and it has been difficult to find out exactly what was said. A reason for this is probably that the minutes were recorded by Eni Norge, presumably for their use, and the comments from the Sami Parliament were prioritised. The Sami Parliament's part in the dialogue is therefore well documented in the minutes as well as in an internal document, written prior to the meeting, which were to function as a background note for the representatives from the Sami Parliament who were attending the meeting.

The Sami Parliament stressed that indigenous peoples inhabit most of the circumpolar region and thus have the rights to resources in the region. These rights are protected by the ILO Convention 169 and other international laws, which place restrictions on the state regarding operations directly affecting the Sami people (ibid.). In the minutes, it is further specified that material rights are primarily the responsibility of the State, a point that is not made explicit in the background document.

Free, prior and informed consent versus free, prior and informed consultations

In the background note the Sami Parliament addresses corporate social responsibility.¹⁶ They discuss the different policies implemented by different organisations and businesses all over the world. More precisely, the World Bank, formerly criticised for its policies towards indigenous peoples, have changed their policies to respecting the principal of free, prior and informed *consultations*. In contrast, indigenous peoples require that the principle should be free, prior and informed *consent* to conform with the ILO convention 169. In the note they also mention that large investment firms employ even stricter guidelines for their investments. According to the Sami Parliament, one of these investment companies, Calvert, seeks to invest in companies that respect nature, sovereignty, rights to natural resources and the territory and places of importance for indigenous peoples. That companies establish and follow guidelines following human rights and indigenous peoples right to self determination, and that the companies support positive images of indigenous peoples and their culture and traditions. The Sami Parliament mentions British Petroleum as an example of an oil company's guideline that have adapted the ILO convention 169 into their corporate social responsibility and have quoted parts of their policy (Sami Parliament, 2007a).

Eni Norge on their side continued to refer to their social responsibility approach and guidelines. The details of these are not listed in the minutes and can only be assumed to be similar to those on their website.¹⁷ According to the minutes, the Sami Parliament were positive to be involved at such an early stage in the development process (ibid.). In my

¹⁶ While there are no references in the background note, the information seems to be the same as the one in Fjellheim's article in *Gáldu Čála*. Also, a further discussion about the actors and their use of research can be found in the *Methods* section in Chapter 1.

¹⁷ See a further discussion in Chapter 3

interview with the representative from the Sami Parliament I was told the same thing. It was concluded in the meeting that there was a need for an extensive process¹⁸ if the development solution involves land-based facilities.

The dialogue continues

There were two other meetings between the Sami Parliament and Eni in the Fall of 2006 . One took place at the Sami Parliament in Karasjok in November in connection with *Forvaltningen av ikke-fornybare naturressurser i nord*, a seminar about non-renewable resources in the North. The other was held the following month. Unfortunately I was not able to find the minutes for this December meeting, however, some information about what was discussed is available through other documents, notably the minutes from the second meeting and email correspondence between the Sami Parliament and the Nordic Sami Institute.

Second meeting: The Sami Parliament informs about the Sami-State affairs

The November meeting was attended by three representatives from Eni Norge, three representatives from the administration at the Sami Parliament, as well as one Sami Parliament elective, Johan Mikkel Sara. The agenda of the meeting was to address the future dialogue and involvement from the Sami Parliament in regards to the planned impact assessments. Eni Norge wanted to get input about research institutions that would assess Sami interests. The Sami Parliament in return suggested several, though no names were mentioned in the minutes. A later email correspondence with the Nordic Sami Institute would indicate that some of these included NORUT, NIBR and Barlindhaug (Sami Parliament, 2007a).

Reindeer herding and sea-sami interests were mentioned by the Sami Parliament as important areas to assess. The rest of the meeting minutes are divided into three parts; ILO

¹⁸ The minutes only mentions process, however I would assume they refer to both an increase in the amount of consultations required to come to an agreement as well as an increase in the assessments in regards to cultural heritage and Sami interests.

Convention 169, a discussion about cooperation and benefits, and fisheries and oil spill response. The Sami Parliament maintained that International law—in this case ILO Convention 169—is considered to be an issue between the State and the Sami Parliament, however, they stressed that the ILO Convention 169 is a minimum standard, and that they felt parts of this standard are not met at the present¹⁹. For the companies operating in Sami traditional territories this is primarily an ethical question which calls for CSR policies (ibid.).

Under the information, cooperation and social benefits heading the parties discussed how the dialogue should proceed. Contact was to be maintained on a regular basis, both through general information meetings as well as more specific meetings when required. Eni Norge also mentioned that there were strong historical ties between Norway and Italy that could be an element in cooperation between Eni Norge and the Sami Parliament, and mentioned specifically that Italy were known for their institutions for culture and gastronomy. Other themes mentioned were scholarships, exchange and competence-building. For the Sami Parliament it was also a question of capacity to be able to take part on an equal footing in the dialogue, the impact assessments and sharing of information (ibid.).

The meeting was concluded by a discussion about the use of local fishermen and fishing vessels as part of the oil spill response. The fishermen's traditional ecological knowledge of local stream and ocean beds were to be utilised, and would be a valuable alternative income for the fisheries. Eni Norge had already been in dialogue with Finnmark Fishers' Association about using local fishers and fishing vessels for future oil spill response. For the Sami Parliament it was important to have satisfactory response plans and they intended to continue to work towards state guarantees, including measures aimed towards sami interests if a oil spill were to happen (ibid.).

Third meeting: does the dialogue turn into a consultation?

While no minutes were available for the December meeting, it was possible to get a general understanding about what was discussed. The minutes from the November meeting mentioned that the parties wanted to go into more detail and be more concrete about the issues that should be addressed in the impact assessment. Furthermore, in the email correspondence

¹⁹ Presumably by the Norwegian State.

with the Nordic Sami Institute mentioned earlier, the Sami Parliament mentioned that the meeting indeed had been used to further clarify issues in regards to the impact assessment and corresponding measures. Of more interest however, is that in the email correspondence some of the themes from the November meeting were mentioned further. The main subject for the correspondence was the Norwegian State's High North Strategy, but in connection to that the Sami Parliament also wanted to discuss their consultation process with Eni Norge. Themes that were raised were which research institutions to use in the impact assessment and the different possibilities in regard to competence building and scholarships. The Sami Parliament asked for input from the Nordic Sami Institute on these themes (Sami Parliament, 2007a).

At this early stage in the dialogue it is surprising that the Sami Parliament viewed their dialogue with Eni Norge as a consultation process. The indigenous policy from Eni Norge that followed six months later would certainly indicate that Eni Norge viewed their dialogue with the Sami Parliament as a consultation. Likewise, the background notes from the Sami Parliament to the first meeting showed that the Sami Parliament would like the dialogue with a resource extractor to be based on ILO Convention 169 and free, prior and informed consent. It is therefore quite possible that the Sami Parliament and Eni Norge already agreed in the previous meetings that their dialogue should take the form of a consultation. However, neither of the meetings mention consultation in connection to how the dialogue should proceed. Regardless of whether they have agreed to frame their dialogue as a consultation at this early stage, it becomes clear that it is how the Sami Parliament views the dialogue with the oil company. It is certainly how they have acted.

Proposed study programme for the impact assessment

In March 2007 the proposed study programme for the impact assessment (Eni Norge, 2007b) was distributed to the identified stakeholders and hearing partners. The document starts out by describing the project as well as the area that will be influenced by the development and continues to give a broad and general description of the consequences for the environment, the local societies and the local industries. Eni Norge lists three different development

alternatives; offshore processing and terminal, offshore processing with a land based terminal and on-shore processing and terminal. The oil company list eight possible landing sites in connection with alternatives 2 and 3. The level of analysis regarding the description of the area is broad. As an example, the social analysis is a general description of Finnmark as a whole. In the chapter describing the impact area, Eni Norge identified reindeer husbandry in an own sub-heading. Reindeer husbandry as well as reindeer ecology in general were outlined in broad strokes, with an overview of Finnmark and Norway as a whole. Additionally, in the sections covering each specific landing site, possible reindeer pastures at each site were covered.

In the document's evaluation of possible impacts, reindeer husbandry is listed as one of the industries that might be affected. Sea Sami fisheries are also mentioned, although only briefly while discussing fisheries in general. Sami culture and society is mentioned in the discussion of possible impacts on society. This section starts by acknowledging that Norway have ratified ILO Convention 169, and that Eni is obligated by their own guidelines to respect human rights and thus will cooperate with the Sami people and local communities. They also list the Finnmark Act §4 as a set of principles they will uphold in their assessment. The Finnmark Act §4 states that the Sami Parliament have the right to establish guidelines of how effects on reindeer herding, use of outlying fields and Sami culture and society are measured (Norway, 2005).

Eni Norge further writes that the primary industries such as reindeer husbandry are important for the cultural survival. They also write that economical and social development in the area following the Goliat development might affect Sami interests. Whether such economical development will affect the possibility for Sami cultural survival will have to be assessed.

The proposed study programme ends by listing which Sami interests that will be assessed; impacts on Sami reindeer herding, Sami traditional use of outlying fields and other resource use, and Sami culture and society.

Some of the themes brought up in the earlier dialogues between the Sami Parliament and Eni Norge show up in this proposal as well. Whether or not the ILO Convention 169 is mentioned as a result of the consultations are difficult to know, especially in light of the

indigenous policy mentioned earlier. However, Sami fisheries and reindeer herding were specially brought up in the November meeting.

The hearing comment from the Sami Parliament

In their response to the proposed study programme in June 2007 the Sami Parliament write that they have already been in dialogue with the Eni Norge and that their remarks have been taken into consideration. While they acknowledge that Eni Norge will assess reindeer herding, use of outlying fields and Sami culture and society, the Sami Parliament would like the impacts on Sami fisheries to be more prominent in the Study Programme for the Impact Assessment. Further, the Sami Parliament expands on the Finnmark Act §4 in regards to outlying fields/meahcci. They state that these guidelines includes concrete principles that will have to be followed. They argue that there should also be compensating measures that will be advantageous for Sami culture and bring positive effects. As such they expand the list in the proposal regarding which Sami interest that will be assessed:

- Effects for Sami culture and society, including settlements, employment, competence and capacity building, cultural practice and identity development etc.
- Assessing measures, also of compensating character, that will be advantageous and bring positive effects for Sami culture and society.
- Impacts on reindeer husbandry
- Impacts on traditional Sami trades including use of outlying fields and Sami fisheries.

In the official documents, this is the first time that the Finnmark Act §4 was referenced. I found it surprising that it was brought up first by Eni Norge. However, in my interview with the Sami Parliament representative I was told that it was important for them to include this paragraph in the process. The paragraph was likely discussed in an earlier meeting and something Eni Norge included. Fisheries were also mentioned earlier in the debate and the points about Sami culture and society is a continuation of their understanding of the Finnmark Act §4. The Sami Parliament then is communicating their own expectations of what will be covered in the impact assessment as well as clarifying their understanding of the the

Finmark Act §4, listing the concrete measures that should be taken based on the Sami Parliament's guidelines for the change of use of outlying fields.

The second part of the comment to the proposed study programme is an extensive account of Sami cultural heritage at the potential locations for development alternatives 2 and 3. The Sami Parliament argues that the impact assessment must include a thorough investigation into what has been done in regard to mapping and registering Sami cultural heritage, and then be complemented with new registrations and investigations. Interviews should also be a part of these investigations.

Eni Norge was given an opportunity to address the comments from the different stakeholders to the proposal before the Ministry of Petroleum and Energy would approve the study programme for the impact assessment. The comments regarding Sami interest were followed up, with Eni Norge stating that these conditions would be included in the part-assessments and presented in the final impact assessment. In regards to the Sami cultural heritage sites, Eni Norge answered that a broad mapping of cultural heritage sites would be conducted and if they were to decide on a concept that required land based development, a thorough mapping would take place as required by law (Eni Norge, 2007a).

On the 29th of June 2007, the Ministry of Petroleum and Energy approved the study programme for the impact assessment as presented by Eni Norge conditional on Eni Norge following up on comments from the different stakeholders (Norway, 2007b).

In June 2007 Eni Norge also released a policy regarding the Sami as indigenous peoples. Based on the meetings so far it is certainly possible to draw the conclusion that the content in this policy—the recognition of Sami rights to be consulted, based on ILO Convention 169 and Norwegian Law—had been developed based on the meetings between the Sami Parliament and the oil company. Through the meetings the Sami Parliament were able to address that they would like the CSR strategies to be based on ILO Convention 169. In my interview with Eni Norge, when asked if the dialogue so far had had any influence on how the policy had been written, the representative from Eni Norge denied this was the case. The policy was developed by the Eni head office in Italy, and was apparently a general statement that Eni Norge themselves had no influence over. The representative said that the

policy had been adapted to the Norwegian context, and while I was first led to believe that this adaption was not much more than ‘filling in the blanks’, the comparison I did with the Australian policy indicates—as concluded in Chapter 3—that the policy had been written in a Norwegian legal context.

Impact assessment and the Plan for Development and Operations

During the time when the impact assessments were conducted the Sami Parliament was silent. I learnt from the representative that they were waiting for the impact assessments to be conducted and that they had also decided to stay silent in the media during the same time. In November 2008 Eni Norge contacted the Sami Parliament to arrange a meeting to present the impact assessment (Sami Parliament, 2007b). This meeting took place the 16th of December in Oslo. I have not received any minutes from this meeting. The representative from the Sami Parliament administration also said that they received the Norut report from Eni Norge before it was finalised so that they were able to review it in advance and make any objections. He reported that they looked through it briefly and did not make any comments at the time. There was also contact between Finnmark county and the Sami Parliament regarding a possible meeting in December, however, the Sami Parliament declined the invitation to the meeting (Sami Parliament, 2007b). The Sami interests in the impact assessment were assessed by Norut, Northern Research Institute, in their report *Utbygging og drift av Goliat oljefelt: Konsekvensutredning samiske forhold* (Vistnes et al., 2008).

The Sami Parliament muddles it.

The next step in the process was the official hearing of the Plan for Development and Operations. The plan had been sent out to the different stakeholders and other actors for comments. From the Sami Parliament’s side, these comments have turned out to be both interesting as well as puzzling. Both the Sami Parliament and the Sami Parliamentary Council made comments to the Impact Assessment. The event behind having two different comments to the Impact Assessment is of interest as it might have effected the consultation process with the Ministry of Petroleum and Energy.

A short introduction to the Sami parliamentary system is necessary in order to understand the distinction between the Sami Parliament and the Sami Parliamentary Council. It can be beneficial to compare the Sami Parliament to the separation of power in Norway and many other states. The Sami Parliament consists of an elected, legislative body which meets in a plenary four times each year, and an executive body—consisting of members of the majority party or a majority coalition—called the Sami Parliamentary Council. In this section Sami Parliament is used in connection with the hearing comment which were voted in favour over in the plenary.

Double vote and a change of mind

In the plenary meeting February 24th, 2009 The Sami Parliamentary Council decided to pass the hearing comment to the Plan for Development and Operations in front of the plenary. The opposition parties came up with their own comments which they proposed in the plenary. Two of the comments were either not voted over or rejected, however the comment from one of the opposition parties, NSR received 17 votes for and 17 votes against, splitting the plenary in half, and was voted in favour by the double vote of the Sami Parliament chair which at the time belonged to a NSR representative (Sami Parliament, 2009). The result was that the Sami Parliamentary Council, which is the political representative in consultations with the government had to go into the consultations with the government with a political decision, or resolution, they had not themselves voted in favour of.

As I will show further down in the chapter, the result of the consultations with the ministry were that the Sami Parliament would not support the Plan for Development and Operations. Would bringing a resolution they did not themselves supported have anything to do with that? In their own comment which the Sami Parliamentary Council were able to add to the hearing comments, they started by saying that the Sami issues were well assessed and they were in favour of the proposed development. During the consultations that were to follow they changed their mind and in the ministry's assessment of the Plan for Development and Operations in Proposition No. 64, they wrote that they agreed that the oil company had carried out their assessment of the Sami issues well, however, that there were disagreements over Sami rights to the petroleum resources and over the creation of a indigenous peoples fund. Because of these disagreements, the ministry writes, the Sami Parliament did not find

the parliamentary proposition to be adequate, and they could not give their approval for the Plan for Development and Operations (Norway, 2009a: 23).

Two comments, two meanings?

My initial thoughts about this situation were that by bringing a political decision with them into the consultations the Sami Parliament had become locked to a position, and the oppositions comment was worded in a way that would not make it possible to approve the proposition without having the rights issue resolved. The two hearing comments are different in certain parts which would support that it was made more difficult. While there were many differences between the two hearing comments in the Proposition No. 64, I later found out, after looking at the meeting report from the February 2009 Sami Parliament plenary meeting that some of those passages in the Proposition No. 64 that were different must have been omitted by the oil company or the ministry or the Sami Parliamentary Council themselves as they were identical in the plenary meeting report.

While being structured differently, the wording in the two texts is very similar. However, they differ in certain areas as some parts from the Sami Parliamentary Council have been removed and others have been added. The parts of the Sami Parliamentary Council's comment that are omitted in the oppositions comment are the recommendation for approval of the impact assessment, which development solution is favourable, a paragraph about establishing knowledge and management regimes and a sentence about the dialogue between Eni Norge and the Sami Parliament and that the ethical guidelines must be upheld. The last two omissions are both covered by other parts of the text, however, the two first omissions remove actual meaning from the text.

The most notable additions are several paragraphs which brings up global warming in the Arctic in connection with environment, and reindeer husbandry. Another addition is a paragraph about fisheries and oil spill response, saying that there are differences between the Norut report and the impact assessment in regard to the impact on fisheries. These issues together amount to an assessment that the Plan for Development and Operations is lacking in several areas. A third addition is a paragraph that is added following the paragraphs about the Snøhvit experience and following resolutions. The paragraph reads: *The position of the Sami*

Parliament have not changed since the Snøhvit resolution in 2002. The Sami Parliament is still waiting for a clarification in regards to the rights issues that are brought up in the resolution (Norway, 2009a). A fourth difference is a substitution of the word *could* for *must* in the paragraph discussing the establishment of an indigenous fund. The Sami Parliamentary Council writes that an indigenous fund *could* be established to improve regional economic development while the opposition's hearing comment states that an indigenous fund *must* be established.

Did bringing the opposition's political decision to the to the consultations with the Ministry of Petroleum and Energy effect the outcome? Hypothetically it would be difficult to conduct a consultation even based on their own hearing comment had the plenary voted in favour of it. It would still be a political decision voted over by the plenary and thus be difficult to use as a basis for a consultation. However, that the approval of the project had been removed in addition stating that the Sami Parliament's position had not changed and they were still waiting for a clarification of the rights issue does make it difficult for the Sami Parliamentary Council to act differently than they did in the consultations.

Consultations with Ministry of Petroleum and Energy

The consultation with the Ministry of Petroleum and Energy was held in April 2009. Compared to the dialogue the Sami Parliament had with Eni Norge, these consultations were very brief. They consisted of one meeting on both the administrative and political level, followed by a short e-mail correspondence mostly on the administrative level. I retrieved the protocol from the consultation and the e-mail correspondence from the Sami Parliament representative, and documents are archived under case number 07/1677 (Sami Parliament, 2007b). This case number also includes documents and correspondence from, among others, Eni Norge Finnmark County, Directorate of Cultural Heritage. I was not able to find the attachments and background information from the two parties, however, this should not pose a problem as the context in the e-mail correspondence have provided me with the information I required.

The meeting minutes began by going through some of the administrative issues. The time to prepare the parliamentary proposition was short and the Sami Parliament were asked to respond to the text within a week. The Sami Parliament were prepared to respond quickly but wanted more time for real consultations as well. The second part of the minutes deal with the establishment of an indigenous fund. The ministry referred to White Paper No. 7, *Om Sametingets virksomhet i 2005* from 2006-2007 (Norway, 2006), stating that the Sami have no rights to a part of the income from the petroleum sector on the continental shelf. The ministry also argued that they were working to increase the regional economic development which made the establishment of an indigenous fund difficult. The ministry did agree that it was important that the communities got something back from the risk connected to petroleum activity, however they found regional development to be of greater importance in achieving this (ibid.).

The email correspondence that followed the meeting dealt with forming the exact text to be added to the Proposition No. 64. The initial text drafted by the ministry mentioned that they had not reached agreement regarding the rights to subsurface resources or the establishment of an indigenous fund. While the ministry had listed their reasoning behind the disagreement they did not list the Sami Parliament's reason to disagree. From the Sami Parliament side the correspondence went up to the political level where a text was written addressing the issues. The Sami Parliaments reasoning regarding an indigenous fund was added, however, their reasoning behind the rights issue was still omitted. The final conclusion—that the Sami Parliament would not approve of the Plan for Development and Operations based on the consultations—was also omitted. These omissions made it into the final text with slight differences in the wording as the line 'do not approve[...]based on the outcome of the *consultations*' were changed to 'do not approve[...]based on the outcome of the *disagreement*' (ibid.).

The Ministry of Petroleum and Energy's position

The Sami Parliament had discussed the rights issue with the Ministry of Petroleum and Energy prior to the consultation about Goliat. Following the consultation agreement in 2005 there was a parallel dialogue between the ministry and the Sami Parliament, about the consultations between the Sami Parliament and the ministry. This dialogue established the

ministry's position when it comes to Sami rights to be consulted and Sami rights to subsurface resources. In a letter dating September 5th, 2006, the Sami Parliament stated that they had not changed their opinion from their 2002 resolution regarding the Snøhvit development (Sami Parliament, 2005). The indigenous dimension relating to oil and gas development must be established before the Sami Parliament can accept oil and gas development in the Barents Sea. They listed three issues that needed to be resolved: material rules which acknowledge Sami rights and access to resources, rules which safeguard Sami interests and rules which secure Sami self-determination and co-determination in resource management. The Sami Parliament wrote that they expected the government to consult with the Sami Parliament about these issues and conduct an official Norwegian report (NOU) about Sami right to petroleum resources (ibid.).

The reply from the Ministry of Petroleum and Energy, dating December 20th 2006, does not acknowledge that such rights exists. In regard to consultations they refer to the consultation agreement from 2005 and acknowledge that petroleum related activity in the Barents Sea may directly affect the Sami people, specifically when the oil is brought ashore. As such the ministry would assure that the Sami Parliament was consulted in these cases. The ministry would also take part in the biannual consultation meetings (ibid.). This position is maintained in the White paper 28, 2010-2011 *An industry for the future – Norway's petroleum activities*:

The Sami people have a special status pursuant to international and national law, including the right to be consulted in matters that could have a direct impact on them. An agreement has been signed between the State and the Sami Parliament regarding how consultations will take place. The consultation procedures apply to all types of cases, such as in the work with laws or administrative measures that could directly impact Sami interests. This also applies in connection with the petroleum activity (Norway, 2011: 144).

The protocol from a consultation meeting between the Ministry of Petroleum and Energy and the Sami Parliament prior to the White Paper 28 indicates that the Sami Parliament wanted their views regarding bringing the land ashore, electrification, ownership of the resources, sami interests, and the Sami Parliaments role in the management of the petroleum resources to be expressed in the white paper (Sami Parliament, 2011). The ministry and the Sami

Parliament agreed that the Sami Parliament would write a short note identifying their position regarding petroleum activity and preservation of Sami interests and the ministry would include the relevant issues where they deemed fit in the white paper. I have not been able to get a hold of the actual note that they Sami sent to the ministry, however, in a follow-up correspondence in Fall 2011, the Sami Parliament representative said that they did address rights to petroleum resources, something that is not added to the white paper. The above quote is all that is written about the Sami in White Paper 28. (2010-2011).

The ministry then acknowledged that oil and gas development in the Barents Sea is an area which directly affect the Sami and that consultations should be conducted. However, they have been adamant that the Sami rights does not stretch any further than consultations and have even been restrictive in adding the Sami Parliament's view in their white paper. This conflict between the Sami Parliament and the ministry about what should be consulted about is not an isolated event. In their yearly report from 2007 the Sami Parliament writes that in the consultations, the questions about indigenous rights are postponed or take place in parallel processes and are not treated holistically (Norway, 2008). There have been other problems with the consultations as well. The ministries often have little room to achieve agreement with the Sami Parliament because of a lack of mandate from the government, which results in the ministry having to go back to the government instead of entering negotiations. They also report about a lack from the ministries of sharing relevant information with the Sami Parliament. Overall, the procedures have varied between the different ministries, however the Sami Parliament acknowledges that Sami issues have been more prominent in the legislation and consultations have served to legitimise the decision-making processes. (Norway, 2008). The above examples points to a lack of a mutual understanding of what the consultations should entail, even though a consultation agreement is in place between the Sami Parliament and the Norwegian State.

Aftermath

How has the whole process with the consultations between the oil company and the State and the Sami Parliament influenced future consultations and actions by the Sami Parliament? I

ended the interview with the representative for the Sami Parliament asking him to comment in this regard. They have certainly learned from the process surrounding their own parliamentary debate. A process which resulted in the Sami Parliamentary Council having to bring the opposition's hearing comment to the consultation table. The representative indicated that this was not an ordinary procedure and they usually would arrange consultations before any plenary session. In fact, the administration did not want to bring up the hearing comment in the plenary, but the parliamentary council had insisted, according to the representative, it should be brought up, most likely to fill up the meeting agenda. This case has therefore solidified the importance of adhering to their ordinary procedures. I was also made aware by the Sami Parliament representative that the Sami Parliament issued an internal consultation guideline where the Goliat case was used as an example. By voting over their comment to the Impact Assessment before the consultation with the state, the Sami Parliament had already made their position. Also—and perhaps more importantly—they did not vote over the final result following the consultation. Goliat is an example of how the Sami Parliament should not act when bringing issues which also shall be consulted about up for the plenary.

The process influenced them in perhaps another way as well. Late in the summer of 2009 the Sami Parliament were involved in a consultation process with the State about the new mineral law. While the Sami Parliament had been relatively quiet regarding the Goliat process they were vocal in the media at this time. They were not satisfied with the new mineral law, and when the State did not listen to their views they decided to draft their own 'guidelines' for the mining companies operating on traditional Sami territories, explaining the conditions they would require from the mining companies to approve of the mining activities (Sami Parliament, 2010). They argued that the new law would not give the Sami Parliament the right to consultations for mining taking place outside Finnmark (Finnmarkseiendommen). They voted against the law and in a response posted on the Sami Parliament website to an editorial in Finnmark Dagblad the 5. June, Egil Olli wrote that if the law was approved in the Norwegian Parliament the Sami Parliament would have two choices: Either they could tell the mining companies to abandon their mining activities or they could enter into constructive

processes with the companies over Sami interests to fulfill the shortcomings of the new mineral law.²⁰ The Sami Parliament, chose the latter.

In the fall of 2011, I was made aware by the Sami Parliament representative about a new project called Protect, which would be funded by, but remain independent from the Sami Parliament. Protect would function as a consultation organ and work directly with resource extractors who want to extract in traditional Sami territories, to help them to get in touch with the different local actors and interest organisations in the area. It is a project between the Svenska Samers Riksförbund (SSR, a Swedish Sami association), Sami Reindeer Herders' Association of Norway (NRL) and the Sami Parliament in Norway. Protect will be started in the first half of 2012 and the information about the project is scarce, however, it is a development which will be interesting to follow further.

Summary

The actors indicated that the dialogue between the Sami Parliament and Eni Norge has been good. This is also the impression given by reading the meeting minutes and other documents. The Sami Parliament has been positively inclined towards oil and gas development and expressed early the concerns and expectations they did have towards the development. From the oil company's side, while there is still a question about how they act in other places of the world²¹, they have acted upon their written policy towards the Sami People. The consultation between the Sami Parliament and the Ministry of Petroleum and Energy has been very brief and only seemed to involve the establishment of an indigenous fund and the rights to subsurface resources. These are both issues that have been external to the Plan for Development and Operations and which the ministry have not wanted to discuss. As such it seems that the oil company have taken on the responsibility for consultation from the State. I will develop further on this notion following the presentation of the data from the municipalities' dialogues with Eni Norge and the Norwegian State.

²⁰ Sami Parliament. Retrieved Oct. 13, 2011: <http://www.sametinget.no/artikkel.aspx?MIId1=3299&AIId=3090>.

²¹ See Chapter 3 for a further discussion.

CHAPTER 5:

The dialogue between the municipalities and Eni Norge: A beacon of hope?

Introduction

Earlier in the thesis I provided an account of my fieldwork trip to Hammerfest, standing at the bough of Hurtigruten, gliding through the Mountains of Sørøya, Seiland and Stjernøya while the gas flame at Melkøya illuminated the distant Horizon. The image outlined in that account, of oil and gas discovery as a beacon of hope for the Finnmark coastal communities is fitting and has very much been guiding the dialogues between the municipalities and the oil company. It is also an account which resembles my initial image of the municipalities. At the same time I found Eni Norge's policy on indigenous peoples, I came across many reports in local and national media about the local municipalities and their efforts to gain influence in the development process. Reports which were fitting to this account. The municipalities became a fitting comparison to the Sami Parliament and their dialogues.

In my research of the municipalities I have found that the dialogues have been difficult to follow as the data has not been as readily available as with my research of the Sami Parliament. While the Sami Parliament have archived their meeting minutes and email correspondence with the oil company I was told by both the municipalities I contacted that such documents were not available. Furthermore while I was able to schedule a meeting and interview a representative from the municipality of Hammerfest I was not able to conduct an interview with the representative from the municipality of Hasvik.

The first part of the analysis in this chapter will be the dialogues leading up to the impact assessment and Plan for Development and Operations. This part will be divided by the municipalities; Hammerfest and Hasvik. Secondly I will discuss the comments to the impact assessment, before looking at the process and dialogue the municipalities have had towards the State and the Norwegian Parliament.

Timeline of Dialogue

Similar to the former chapter about the dialogues with the Sami Parliament, I have structured a chronological list of the specific events which make up the basis for this chapter.

2006	—	Hasvik reported of meetings with Eni Norge starting in 2006.
	August	Municipalities were positioning themselves as lucrative partners in the Goliat development. There were contact between the municipalities and Eni Norge.
2007	January	Hasvik and Nordoil Cavern agreed on working for Dønnesfjord as a landing site for the Goliat oil.
	April - June	The municipalities sent in their comments to the progress plan for the impact assessments.
	November	Ministry of Petroleum and Energy approved of the progress plan for the impact assessments.
2008	—	Hasvik conducted several meetings with Eni Norge. They also had meetings with the Ministry of Petroleum and Energy and the Ministry of Fisheries.
2009	January	Municipalities sent in their hearing comments to the impact assessment.
	May	The Norwegian Parliament conducted a hearing were Hammerfest, Hasvik and other municipalities attended.
	June	The Norwegian Parliament approved of Proposal No. 64 and the Plan for Development and Operations for the Goliat oil field.

The dialogue with Eni Norge

In August 2006 Finnmark Dagblad wrote that the municipalities were positioning themselves in regards to the Goliat development. It was noted that the atmosphere between the different mayors were relaxed and rather than competing, the most important goal was to land the oil in the region. The mayor of Alta stressed the aspect of cooperation between the municipalities and that the development would benefit the municipalities with the least resources, specifically mentioning Hasvik²².

Oil development as a beacon of hope could not be more fitting than for the small coastal municipality of Hasvik. While being a neighbouring municipality to Hammerfest, the two could not be more different. Hammerfest is almost twice the size of Hasvik in area, and the population is ten times as large. Moreover, while the population of Hammerfest has doubled the last 60 years, the population of Hasvik is almost half of what it used to be (Statistisk sentralbyrå, 2011; Statens kartverk, 2010). Hammerfest also has the Melkøya plant within their municipality, and benefit largely from the extra income the plant generates. In a national index of living conditions by SSB in 2008, Hasvik came out worst among all 430 Norwegian municipalities²³. Hammerfest on the other hand ranked as the best municipality in Finnmark. When made aware of these stark differences in living conditions and economy it is not surprising that there are differences in their perspective on oil and gas as well. A difference that has also manifested itself in the dialogues these two municipalities have had towards Eni Norge.

Hasvik

Out of the two municipalities I have included in the research, my experience with Hasvik has been the one most different from the experience with the Sami Parliament. While the Sami Parliament immediately responded to my request and sent me all the information I requested, I did not receive an answer to the first email I sent to Hasvik until almost two months later. There were some correspondence going back and forth for a while, however, when I wanted to schedule an interview the correspondence ultimately ended with several unanswered

²² Finnmark Dagblad, 2006. Retrieved 12.12.2011: <http://www.finnmarkdagblad.no/nyheter/article2222276.ece>.

²³ Finnmark Dagblad, 2008. Retrieved 31.10.2011: <http://www.finnmarkdagblad.no/nyheter/article4536596.ece>

emails. As a result very little information outside that of the official hearings and media reports were available. These sources do reveal some information about the dialogue that took place. There has also been one other source of information about the dialogue; a document prepared by Hasvik (2009a) about the facts about Goliat and the potential impact on the Hasvik community. In this document Hasvik writes that they have had several meetings with Eni Norge, starting in 2006. In 2008 they had a total of 9 meetings where oil spill response were on the agenda. They write that it has been of importance to have a good and constructive dialogue with Eni Norge.

I am not the only one who found dealing with Hasvik to be different than dealing with Hammerfest and the Sami Parliament. When asked about the differences in dialogue between the municipalities and the Sami Parliament, the representative from Eni Norge, said that the biggest difference where between the smaller municipalities such as Hasvik and Måsøy, and Hammerfest and the Sami Parliament. Hammerfest and the Sami Parliament had a larger administration and were perhaps more experienced in dealing with oil and gas and resource extractors than the smaller municipalities.

Hasvik's response to the proposed study programme for the impact assessment

According to Eni Norge, Hasvik delivered the same comment as Finnmark county to the proposed study programme for the impact assessment (Eni Norge, 2007a). Finnmark county's comment were based on several meetings between them, the coastal municipalities and other national and regional stakeholders. The county then tries to preserve the best interest of all the actors in the region, and does not specifically show the interests of Hasvik. In January 2006 Hasvik made a political decision that the oil must be brought to land (Hasvik, 2009a). Finnmark county made a similar decision in June 2007 together with other decisions that were listed in the hearing comment: The impact assessment should not just focus on negative impacts but also on which positive regional development the Goliat development would bring to the region. There should be a focus on environmental standards, and the Goliat project had to be seen in relation to a larger industrial and strategic connection. Since the comment is based on the interest of so many different stakeholders it is difficult to know exactly what was been important to Hasvik at this stage in the development. I have mentioned oil spill response, and the political decision that the oil must be brought to land certainly indicate that

this has been important for them. In 2007 the mayor also proudly presented their cooperation with Nordoil Cavens and the Hammerfest Port Authority over the development of a potential oil terminal i Dønnesfjord in the municipality of Hasvik²⁴. Slettnes, in the municipality of Hammerfest was also deemed a suitable place for landing the oil, and the mayor expressed the importance of cooperating with Hammerfest on the project.

Hammerfest

Like Hasvik, Hammerfest reported that they had had several meetings with Eni Norge. The representative I interviewed said that the dialogue had been good and they had welcomed the initiative from Eni Norge. The representative informed me that they had had both formal and informal meetings with the oil company. Certain parts of the dialogue had been easier to discuss in the informal meetings, such as bringing the oil to land. Oil-spill response on the other hand was easier to discuss in a formal manner. While Hammerfest made a distinction between informal and formal meetings, the representative from Eni Norge, when asked about this distinction, had not noticed such a difference. Here it is important to note that Eni Norge did switch representatives during the process.

The difference in the types of meetings were probably not the most important factor that influenced the dialogue around ‘landing the oil’. In my interview with the representative from Hammerfest I was made aware that, just like Hasvik and Finnmark county, Hammerfest had made a political decision that the oil must be brought to land. When it became clear that Eni Norge favoured an off-shore solution, they had to agree to disagree on this subject and move on to discuss other themes instead. A new political decision leading up to the public hearings for the impact assessment changed the dialogue, as Hammerfest accepted the offshore development plans. In Hammerfest’s view, the train was leaving the station and they would rather be on it to be able point out the direction later than standing on the station still wanting to bring the oil to shore. The dialogue then, the representative said, changed with the project; from general when all the development solutions were discussed, to more specific when Eni Norge landed on a solution.

²⁴ Finnmark Dagblad, 2007. Retrieved 31.10.2011: <http://www.finnmarkdagblad.no/nyheter/article2539088.ece>

For Hammerfest, the most important theme in the dialogue was regional economical development. Their experience from Snøhvit was important in this regard. Following Snøhvit they had seen both large national corporations as well as smaller local businesses establish themselves and develop in the municipality. According to the representative I interviewed, Hammerfest went into the dialogue with Eni Norge viewing Goliat as a viable project from the start and welcoming oil and gas development to the region. Their previous experience with economic development in the municipality may have influenced the dialogue with Eni Norge as well. Hammerfest have treated Eni Norge as any other business who wanted to or already had established themselves in the region. The representative emphasised the importance of being able to be open and to discuss issues both on a political and administrative level and on the premises of the oil company without having political decisions restricting what to talk about. The structure of the dialogue then has seemed to be a bit ad-hoc, especially compared to the dialogue with the Sami Parliament which was conducted as a consultation. The representative expressed however, that they were looking at getting more structure into the dialogue; together with Eni Norge, Finnmark county and the other neighbouring municipalities they were going to create a meeting point where they would be able to discuss the future development of Goliat. By the time of the interview the structure was not set, but ideally it would compromise a group rather than opposing individual parties.

Hammerfest's response to the proposed study programme for the impact assessment

In their comment to the proposed impact assessment Eni Norge writes that the comments from Hammerfest were very similar to the ones from Finnmark county and Hasvik (Eni Norge, 2007a). This is partially true; a large part of the texts are word by word the same. There are however, some important differences, both omissions and additions. A part of the comment from Finnmark county addressing that all the alternatives must be assessed equally has noticeably been omitted (Norway, 2007a). The reason behind this omission manifests itself in the additions in their comment. Instead of writing that Eni Norge's administration should be located in Finnmark, they write that it should be located specifically in Hammerfest. They argue that Statoil and other industries are situated in the same town, and use a Norut NIBR report to argue that Finnmark will get more regional development by having the development at the same place. Further comments bring up the possibility for

cooperation between Snøhvit development and Goliat development regarding energy supply, that Hammerfest got a hospital with a 24 hour emergency response and that Sørøya would be the best location for bringing the oil to land (Norway, 2007a).

Impact Assessment and Plan For Development And Operations

The next stage in the process was the public hearings for the impact assessments. Following the impact assessment Hasvik had prepared a document regarding the possible impact the oil development would have on Hasvik. This document also contained the official response prior to the treatment in the municipal council. The final comment sent to the ministry contained a list of demands unanimously voted over in the council: The oil must be brought on shore at Sørøya, and Dønnesfjord must be assessed as a potential area; Oil spill response must be established with a central base at Hasvik; and a windmill park must be build at Sørøya in order to provide Goliat with electricity (Hasvik, 2009b). Hammerfest's response (Hammerfest, 2009) was also voted on in the city council and contained a political demand: "Oljen skal opp!", or in English: *the oil must come up!* For Hammerfest it was important that the progress was upheld according to plan in order to assure predictability and thus continuity in regional development and competence building. There were some themes that were important to both the municipalities as well as the other coastal municipalities and Finnmark county. The most prominent were oil spill response, bringing the oil to land, regional development and development fund.

Oil spill response

Hasvik's comments were in many ways identical to another coastal municipality; Måsøy. Both of these comments were again similar to the comments from Finnmark county. The difference between Måsøy and Hasvik were that Måsøy expanded on their comments about local oil spill response stating that many of the most exposed areas in case of a oil spill were located in their municipality. Both Hasvik and Måsøy wrote that it is an absolute demand that if they would have to bear the risk of a potential oil spill they should also be the ones that would have the different oil spill response barriers located in their municipality: *Our concrete*

demand is that all response connected to barrier 1 and 2 is localised in the municipality of Måsøy, the coastal response connected to barrier 3 and 4 is localised in the municipality of Hasvik (Norway, 2009a: 60, 77 [My translation]). They also wrote that all education connected to response and oil exploration activities should be based in the municipality of Nordkapp. Nordkapp itself however, did not respond with any comments to the impact assessment. Hasvik also comments that they have had several meetings with Eni Norge regarding oil spill response and that none of the comments they had during these meetings were found in the impact assessment. Neither were the efforts proposed by Eni Norge during these meetings.

Bringing the oil to land

The other important theme was on-shore development solutions. In the hearing comments, Hammerfest, Hasvik, Finnmark County as well as other municipalities such as Kvalsund, Gamvik and Måsøy were all in favour of bringing the oil to land for processing. The Language in the comments ranged from Hammerfest who very much accepted the development solution as it was, to Hasvik who demanded that the oil would have to be transported to land. Finnmark county used another language by stating that bringing the oil to land would be the best alternative in regards to regional development and environmental concerns. Hasvik used almost the exact same wording as Finnmark county in their comment except for writing that bringing the oil to land was the *best* alternative they used the word *only acceptable* alternative (Norway, 2009a).

Hammerfest stated that their preference would be to bring the oil to land, however, since such a solution did not appear favourable to the other parties, they would like the offshore facility to be prepared for later transporting of the oil on-shore. While Hammerfest, as shown earlier moved away from their demand for bringing the oil to shore Hasvik were still standing by its earlier demand (Norway, 2009a).

Regional development

During my interview with the representative from Hammerfest it became clear that regional economic development was the most important theme for them. This is also evident in their

comments where they list many ways that Eni Norge could support regional development, including establishment of offices and positions directly working with maximising local and regional development, placing demands on businesses winning contracts to establish themselves in the region, develop contracts that ensure the inclusion of local and regional businesses and contribute to a program to make sure all the local municipalities will have positive economic development (Norway, 2009a: 56-59). Hasvik also writes that their positive view on oil development in the Barents Sea has been based on regional development. However, they write that an on shore solution is the only way to ensure the largest regional development possible (Norway, 2009a).

Development fund

A demand that showed up in comments on the impact assessment was the demand for a development fund. Such a fund had different names depending on which municipality had mentioned it, however the idea of a fund was widespread throughout the municipalities of Hasvik, Måsøy, Hammerfest and Gamvik as well as Finnmark county. In my interview with the representative from Hammerfest I received some information about the thoughts behind such a fund. The establishment of a fund regarding oil and gas related income was not a direct response to the Goliat development, however it was a separate discussion between the municipalities and Finnmark county in the different regional councils. While Hammerfest was already benefiting largely from tax income from Snøhvit these funds had already been tied up into future investments. The representative said the municipalities understood that and the discussion had been around other ways of sharing the income from natural resource extraction between the municipalities. From the perspective of Hammerfest the idea of a fund would be connected to any development and extraction of natural resources in Finnmark, not just oil or property tax income from on-shore oil facilities. The idea of a development fund had therefore been established parallel to the Goliat development and surfaced as an independent demand when it became clear that Eni Norge would go for an offshore solution (Norway, 2009a).

The municipalities and the state

While there has been some contact with the municipalities and the state, it has not been as prevalent as towards Eni Norge. From the Ministry of Petroleum and Energy's side, they have been in contact with everyone that wanted to contact them. The contact from the municipalities has mostly been on a political level. Hasvik in their report (Hasvik, 2009a) wrote that they had held three meetings with the government, two with the Ministry of Petroleum and Energy and one with the Ministry of Fisheries and Coastal Affairs. The first meeting with the Ministry of Petroleum and Energy in June 2008 was attended by the mayors from Hasvik and Måsøy as well as, at the time, former mayor of Hammerfest and current parliament representative, Alf E. Jacobsen, and political and administrative leaders in the ministry. In the meeting the representatives from the municipalities proposed their demand for bringing the oil to shore, and handed over the report from SINTEF regarding Dønnesfjord. The second meeting, December 2008 was attended by the mayors of Hammerfest, Hasvik and Måsøy as well as a representative from Nordoil Caverns and a hired Consultant. The meeting with the Ministry of Fisheries and Coastal Affairs in October 2008 was attended by the mayors of Hasvik and Måsøy, the hired consultant, representatives from Eni Norge and political and administrative leaders from the ministry. The representative from Hammerfest said there had been no meeting with the ministry on an administrative level, but most likely had been so on a political level. They had also contact with the Norwegian Parliament.

Parliamentary hearing

The representative from Hammerfest said that they had been in contact with the Norwegian Parliament together with the Mayor of Hasvik and Finnmark county for a hearing in May 2009, where they were able to present their views. The representative said that for them, the parliamentary hearing opened up the opportunity for them to influence the Plan for Development and Operations. At that time they knew the position of the ministry and could work from that position. For Hammerfest the focus was fully on regional development and regional competence building. The representative also mentioned that the possibility that the parliament would vote over the Plan for Development and Operations before the summer, and thus before the 2009 parliamentary election meant that the development would be on track which would be beneficial for the regional development. While each party was only allowed

five minutes to comment in the hearing, the representative said that he had noticed that some of their comments were adopted into the Plan for Development and Operations.

Other research

There have been a few other studies about the Goliat development and the municipalities published after I carried out my data collection. One of these studies looked at the discourses surrounding the Goliat development during the exact same time frame I have used in my research, 2006-2009. The research, titled *Kampen om Goliat. En Casestudie av avisenes og politikernes vinklinger av Goliat-saken* (Leknes and Thygesen, 2010), and found in Arbo and Hersoug's (2010) *Oljevirksomhetens inntog i nord: Næringsutvikling, politikk og samfunn*, studies the coverage in four Norwegian newspaper and compare it to the views of the politicians in the Norwegian Parliament. The study does not deal with the dialogue with Eni Norge, and focuses on whether the media influences the political process. While not all of their findings are relevant for my research, there are still a few of their findings which supports my own findings. They wrote that landing the oil was important for the politicians, however the Mayor of Hammerfest changed her view when it was clear that Eni Norge favoured an offshore solution. They also wrote that there was a focus on employment—an aspect of regional development—in the local newspapers and by the local politicians.

Another study was carried out by Norut (Ringholm and Nilsen, 2011). *Finnmarkskart i endring? Samhandling mellom nabokommuner og Eni Norges Goliatprosjekt* study the cooperation between municipalities and Eni Norge following the approval of the Plan for Development and Operations in the Norwegian Parliament. As such, the report also dealt with the 'meeting point' discussed earlier in this chapter. At the time of the study this meeting point, called *Samarbeidsgruppe Goliat* was up and running. Summing up the research, Ringholm and Nilsen wrote that the "data point in the direction of a tension between the public, institutionalised network that is Samarbeidsgruppe Goliat and other collaborative relations where the municipalities as well as the operator are important participants" (ibid.: 9-10). The authors questioned whether the municipalities would be able to cooperate in this

institutionalised setting as they have already had strategic cooperation with the oil company which may be in conflict with the development of mutual strategies by the municipalities.

This finding seems to oppose my own finding that there seem to be some communication between the municipalities about which themes are strategically important for them. A lack of data might be one reason for this difference, however, the time frame for the study is also different.

Another finding I thought to be interesting in Ringholm and Nilsen's study was that the municipalities often used political channels and contacts with the Norwegian Parliament in order to influence regional development from the Goliat development rather than dialogue with the oil company. The mayors expressed a wish for more interference centrally, including more guidelines and directives aimed at the oil company to create spillover effects and regional development (ibid.: 47).

Summary

While there has been some indication that both Hammerfest and Hasvik to a certain degree acted strategically in regard to maximising their share of the oil and gas development, the most notable finding through the limited data has been the cooperation between the municipalities. Landing the oil was an important theme for the municipalities, and while they made both political decisions that the oil must be brought to shore and argued that their municipality would be best suited for on-shore development, landing the oil was a regional demand and sparked cooperation rather than competition. The parallel dialogue about a regional development fund was perhaps the catalyst for this cooperation. The municipalities did have other demands which were favourable for themselves, however these demands were not competing. Hammerfest demanded that offices and organisational activities should be placed in Hammerfest, while Hasvik demanded that the oil spill response should be located in their municipality.

There are other signs of cooperation as well. Hasvik and Hammerfest cooperated with Finnmark county and the other coastal municipalities on coordinating their responses to the

hearings, as well as working together on establishing a contact point with Eni Norge, and working on a regional development fund on a tangent with the Goliat development. The biggest difference between the two municipalities was how they reacted after it became clear that Eni Norge would go for an offshore solution at Goliat. While Hasvik maintained that the oil must be landed, Hammerfest decided they did not want to be left at the station.

While there were no institutionalised agreements between the state and the municipalities such as the consultation agreement between the Norwegian State and the Sami Parliament, there was some contact between the municipalities and the State on a political level. Ringholm and Nilsen's study shed some further light on this contact as they argue that the municipalities used their connections with the Norwegian Parliament to influence spill over and regional development.

Lavvu Dialogues

I was standing outside the auditorium at the University of Tromsø. Men in suits dominated the crowd. As I passed by, one group were discussing corporate social responsibility, that it was vital that there was a closer relationship between the corporations and communities without having to by-pass the government. They were there for Arctic Frontiers 2012, a conference attracting corporations and businesses, government officials and scientist alike to discuss the future of the Arctic.

One year prior I was a part of the conference as one of the student in the Nansen - Lomonosov workshop. We, the students, held a presentation where we introduced the term Lavvu Dialogues as our understanding of the need for more dialogue between scientists and students, and governments and those having economic interest in the Arctic. Instead of standing on the podium and proclaim findings or policies, it was important to sit down, and talk. Like in a lavvu.

A lavvu can be packed down, moved, and pitched at another location, and so happened when the Lavvu Dialogues spread to the opening of the Circumpolar Reindeer Institute in March 2011.²⁵ Now the Lavvu Dialogue had returned to Arctic Frontiers and marked the end of the policy programme at the conference.

There were other instances during my studies where lavvu was connected to dialogue. At the festival, Riddu Riđđu a lot of the seminars were held in a lavvu or in other more permanent but similar structures. Throughout the studies, the meaning of 'pitching a tent' have changed from a malinowskian entry to the field towards being a tool for disseminating knowledge and facilitating the dialogue itself. And with all of these dialogues taking place, perhaps there is also a need for tents to be pitched?

²⁵ ICR: http://icr.arcticportal.org/index.php?option=com_content&view=article&id=1862%3Auarctic-ealat-institute-opening-march-24-kautokeino&catid=108%3Anews-latest&Itemid=4&lang=en. Accessed January 20, 2012

CHAPTER: 6

Discussion and Conclusion

Introduction

In this chapter I will discuss the findings I have provided in chapters 3, 4 and 5. The chapter is divided into three sections. In the first two sections I will discuss the findings in connection to the research questions. In these sections I will draw on the theoretical framework and the analysis of the data I have collected. In the last section I will look a bit further at how dialogues between the Sami Parliament and resource extractors may continue in the future. The process seems to have been positive for all the actors, however, there may be hurdles in the future which may effect the dialogues.

Research question 1: Comparison

The first research question I asked was if there were differences in how the Sami Parliament and the municipalities related to the development process that took place between Eni Norge and the Norwegian State. The question also asked how the dialogues themselves would be different. In the theory chapter I presented a framework were CSR initiatives and consultations would frame these dialogues. My hypothesis were that the dialogues the Sami Parliament had with the State and the oil company would be more focused on the structure of the dialogues themselves, while there would not be such a strong focus for the municipalities. In this section I will first look at how CSR and consultations have framed the dialogues. Then I will turn the attention to Eni Norge and their CSR approach, to find out how Eni Norge acted in the dialogues. The last section will deal with the differences between the local actors acted in the dialogue.

How does CSR and consultation frame the dialogues?

Eni Norge have certainly had a different CSR policy towards the Sami than to the municipalities. The policy they issued give the Sami People rights that stretches further than the right to public hearings. In the policy, the oil company state that they will *incorporate* the Sami perspective in the decision-making and *incorporate* the outcome of the consultations in the conduct of their activities. This is in accord with both the Norwegian and international legal framework, as both the guidelines to ILO Convention 169 (2009) as well as White paper 28, 2007-2008 (Norway, 2008) states that consultations should be something more than a public hearing. However, in their CSR initiatives they have also listed a lot of initiatives towards the local communities and stakeholders. They focus on dialogue and cooperation in order to achieve their community focus. Therefore, the focus from Eni Norge's side was to conduct dialogues with both actors. However, a consultation, as I have defined it in the theoretical framework is more structured. The actors are required to try to achieve consent, and there are certain rules on how arguments should be presented and supported.

In this study, I have found it likely that the consultations have been conducted accordingly. Since I have not been able to participate in the consultation meetings, and instead, the research have been based on meeting minutes and interviews, it is difficult to absolutely conclude so, however, I have not found anything pointing towards the dialogue not being consultations. From the two actors side, they have both been very pleased with the consultations and how they have been conducted. Both parties seems to have been able to express themselves freely, and especially the Sami Parliament was good at providing external validity to their arguments by referring to international law. The Sami Parliament have also expressed their position, both to oil development, the Norwegian State and the rights issue clearly as well as their expectations to the oil company. Certain issues brought up in the consultations have also been followed up, such as the Sami Parliaments guidelines for measuring the impact on Sami industries and culture which is regulated by the Finnmark Act §4, which indicate that Eni Norge indeed tried to incorporate the Sami Parliament's perspective into the decision-making.

It is more difficult to analyse the dialogues between the municipalities and the oil company. There are a few reasons for this. First, I gathered little data about how the dialogues were conducted. Second, while Eni mention dialogues as an important ingredient

in their community focus, it has been difficult to find out exactly what this entail. In itself, conducting dialogues does not contain any commitments to achieving consent or incorporate findings, or that the participants should be on an equal footing. My interviews with the different actors indicate that they are satisfied with the dialogues. Hasvik has also indicated as much in the data even though they may not have been equally satisfied with the outcome of the impact assessment. The representative from Eni Norge found that the biggest difference in how the dialogues were conducted were between Hammerfest and the Sami Parliament, with their large administration on the one side, and the smaller municipalities such as Hasvik on the other. The actors with the larger administrations acted more professional in the representative's opinion.

It is also difficult to find out whether the municipalities had a real influence on the outcome of the dialogues. While the demand for landing the oil were not listened to in the end, other issues which were brought up have been followed up by the oil company. Eni opened a office in Hammerfest, and it seems likely that a large part of the oil spill response will be located in Hasvik and Måsøy.

Dialogues: A CSR approach?

First, the question which must be answered is whether their dialogues with the local actors are part of CSR initiatives. Trond Nilsen (2008) found in his study of Statoil's operations in two regions in Norway that the company's CSR guideline could not be used to explain the contact between the oil company and regional supply and service interests. CSR, or sustainable development was instead used about their operations in developing countries. In this case, Eni Norge have a policy specifically aimed at the Sami People which I would certainly consider a part of a CSR approach. Eni Norge may also have a different approach to CSR than Statoil as they write on their website that they have a community focus in their actions. Rather than specifically addressing developing countries, the impression was that this focus relates to all of their activities.

According to Eni's community focus, they aim at following a process which starts with identify stakeholders and their needs, establish a social baseline analysis, carry out social impact assessments, plan initiatives, and monitor these initiatives. In the development

process I have seen indications that they have followed this process up to the planing of initiatives. While many of the shortcomings of social impact assessments listed by Fjellheim (2006) has not been relevant to this case, it seems some of the shortcomings were alleviated through the dialogues. The Sami rights have certainly not been ignored in the assessments. This is in part due to Eni Norge's focus on the subject, however, also the state has acknowledged that the Sami have some rights, and I would consider it unlikely that they would approve of any impact assessments which did not deal with Sami rights.

Through the dialogues Eni Norge have informed the Sami Parliament about the plans and shared information, identified the needs of the Sami Parliament, and while many of the same themes were raised by the Sami Parliament in the hearing comment to the study programme, I do not believe the hearing comment alone would make Eni Norge equally aware of the Sami Parliament's expectations and needs. I do not make this assumption based on the shortcomings of social impact assessments listed by Fjellheim (2006), but rather on the Sami Parliaments sharing their understandings and expectations. There is more uncertainty about the dialogues with the municipalities, however, it is natural to assume Eni Norge got similar information through those dialogues as well. While Eni Norge has not conducted their own social impact assessment besides the one required by the Norwegian State, they have included a section in the Impact Assessment (Eni Norge, 2008) on their own social responsibility. In this section they have listed strategies for building the competence on petroleum extraction and oil spill response and to strengthen spill-off effects in the region. A change from the focus on mitigating effects found in impact assessments according to Fjellheim (2006).

The dialogues, however, have not only been used as a part of the process to identify the stakeholders needs, they have also been going on parallel to the process. Therefore the dialogues serves a larger function than establishing the needs of the local community. For Eni Norge, the dialogues may function to establish good-will and similar to the consultation agreement, foster understanding for each other and facilitate learning. It seems Eni Norge's focus on partnerships and cooperation are genuine. Eni Norge also indicated that the dialogues would continue after the PDO were approved. I mentioned in Chapter 5 that the local municipalities and Eni Norge started a meeting point, however at the time of my fieldwork it was uncertain what this would entail, and the article by Ringholm and Nilsen

(2011) also reported that the group did not seem to really have any set functions at the moment besides for Eni to provide information about the Goliat project. At this early stage, it is too early to say whether this partnership has been successful or not.

Dialogues have been a vital part in Eni Norge's CSR initiatives, both in itself and as a part of the process leading to the impact assessment and planning of initiatives in their community focus. While it is difficult to conclude whether or not the dialogues have been fruitful as a part of their CSR approach, all the representatives I interviewed were satisfied with the dialogues. This is one indication that the dialogues had some positive results.

For Eni Norge it seems to be important to communicate their social responsibility. Based on their policies and guidelines, their focus is certainly on the triple-bottom line. Also, in the case of Goliat, it was important for them to create good relations with the local actors. While I doubt that their CSR initiatives would in anyway be in counter to profit maximisation, their motives when entering the region have been wider than purely to make profit.

The answer to whether their approach is reactive or proactive is not as clear. For a clearer answer, Eni Norge's approach should be analysed at a later stage when Goliat is in operation and Eni Norge has started implementing their strategies listed in the Impact Assessment. In this study the focus was only on the dialogues as part of and framed by CSR. There are some indications that the motive for starting a dialogue was proactive. The representative from Eni Norge said that they started the dialogues to create good relations with the municipalities as they envisioned to operate in the North for a long time. The dialogues themselves though were—in the data available to me—mostly on very specific issues in regard to the Impact Assessment. The dialogue with the Sami Parliament as well focused on the international laws and regulations, and the policy towards the Sami People was written with the Norwegian context in mind.

It was difficult to find any indications that Eni Norge acted differently or had a different framework in place for the dialogues with the Sami Parliament than with the municipalities. Eni Norge started a dialogue with both actors early and with similar motives, so from their side the reason might have been similar despite their policy aimed at the Sami people. Eni Norge were advised by Statoil to start a dialogue with the Sami Parliament early, however, they started dialogues with the municipalities on their own initiative. As such, it

seems that whether the dialogue is framed by consultation rights according to national and international law or by the company's own CSR guidelines makes little difference.

The dialogues with the local actors does seem to have been closely tied to Eni Norge's CSR approach, and the dialogues also seem to have been fruitful as a part of such an approach. The dialogues gave the actors the possibility to have influence in the development process, though, not in contention with the corporation's economic considerations. While it is difficult to find any differences in the dialogues from the oil company's side—and there even are indications that such differences are unlikely—there have, however, been differences in the dialogues from the local actors side.

Differences in the dialogues

The differences between the local actors can be structures around 4 themes; the development solution, the themes brought up in the dialogue, decision-making and the process itself. The first two themes deals with the content of the dialogues, while the two latter themes deals with how the dialogues have been conducted.

On-shore vs. offshore development

First off, the municipalities and the Sami Parliament were in favour of different development solutions. This is not surprising, both actors acted according to what would be most beneficial for themselves. For the municipalities it would be favourable with a land-based development solution where they would get a large income in property tax. For the Sami Parliament an offshore solution would be beneficial as it would mean less conflict with Sami industries such as reindeer herding and other interests such as use of outlying fields and cultural heritage. While regional development and spill-off effects have been important to the Sami Parliament as well, they did not connect such development to landing the oil. The Sami Parliament did not have the same incentive for acting strategically when it comes to landing the oil, as they would not benefit directly from the tax income land based installations would generate, however, the lack of incentives may not be the reason behind their position. There have been other factors as well pointing towards the Sami Parliament focusing more on the dialogues.

Which development solution the local actors favours has stayed constant through out the process, however there have been differences between the actors in how important such a claim have been for them. From the Sami Parliament's side, the offshore development solution has never been demanded. They stated that they would favour an offshore solution, however, they also said that landing the oil would mean more extensive impact assessments. For them it was more important to minimise the impacts from on-shore development and offer adequate compensating measures for negative impacts. The municipalities on the other hand made political decisions that the oil must be brought to shore. This demand have stayed constant for Hasvik, while Hammerfest quickly changed their position when it became clear that Eni Norge had decided on an offshore development solution.

Rights vs. development

The second set of differences in the dialogues are ordered around which themes were important for the local actors. The Sami Parliament, had several themes which were highlighted in the interview and the data which were not found for the municipalities. Throughout the process they focused on indigenous peoples rights, often connected to specific legal instruments such as ILO Convention 169 and the Finnmark Act. They brought up their position in regard to the Norwegian State and their expectations to the oil company in reference to CSR and had concerns about their own capacity to take part in the consultations. Since the data material is as asymmetrical as it is, it is difficult to make conclusions about the municipalities, however the interview I had with the representative from Hammerfest did not indicate that they had a similar focus on the dialogue process. The natural explanation for this is that the municipalities do not have the same rights which specifies that there should be consultations. That, however, does not mean the municipalities did not have the option of drawing on Eni's own CSR policy and CSR generally to address how the dialogues were structured. Instead, there were other themes that were important for the municipalities.

Landing the oil was one of the themes which were important for the municipalities, specially early in the process. Other important themes were oil spill response, economic development in the region and spin-off effects. Oil spill response may also be seen as a form of regional economic development as the argument, specially from Hasvik and some of the other small municipalities, was that if they should carry a large part of the risk of oil spill,

they should also be the ones getting the reward, by having the oil spill response barriers located within their municipality. The arguments have not been as strategic as I may give reason to believe here; the solution which was in their favour was communicated as the best possible solution. That they were heard, and oil spill response barriers have been planned in the municipalities in the impact zone (Hasvik and Måsøy), should be seen as a testament to that.

Oil spill response and regional development were also found in the meeting minutes from the meetings Eni Norge had with the Sami Parliament and in the hearing comments from the Sami Parliamentary Council, however, they were more prevalent in the data from the municipalities. Also, in my interview with the representatives from Hammerfest and the Sami Parliament they answered very differently regarding which motives they had for taking part in the dialogues. For Hammerfest, it was important with regional economic development. This was highlighted in their decision to not be left at the station when Eni Norge decided on an offshore solution. They rather be on the train and have the possibility to influence the process and secure future regional economic development. The Sami Parliament on the other hand, answered that for them it was important how the impact assessments were conducted.

Political decisions

The municipalities made several political decisions throughout the process. They decided the oil should be landed, and made decisions on a political level regarding their response to the public hearings. The Sami Parliament also conducted their consultations on a political level, with representatives from the Sami Parliamentary Council present, together with representatives from the administration, however, the plenary did not make decisions during the process except for the hearing comment to the Impact Assessment. Their experience with such a decision was negative. While they acknowledged in their internal consultation guidelines that it was important to bring the issue up for the plenary, it was problematic to bring it up before the consultations with the government. The result was that they had to change their opinion about the Goliat development as they had a difficult starting position entering the consultations.

Process

The last set of differences were the process itself. The Sami Parliament has focused on the actual process of the dialogues and the oil development. They focused on international and national laws and regulations which provides principles on how the consultations should be conducted, and on how impact assessments should be conducted. The municipalities on the other hand focused more on the outcome of the dialogue than the actual process. They focused on which development solution should be developed; the location of offices and installations; the type of regional development in place; and that the oil spill response barriers were located in their municipality.

Another difference in the process was in connection to my data collection. There was a notable difference between the municipalities and the Sami Parliament in the availability of the data. While the Sami Parliament was able to provide most of the information I requested—including email correspondence—all archived with a case number, and in an expedient matter, the municipalities of Hammerfest and Hasvik did not have any minutes from the meetings with Eni Norge. Sometimes, not getting a result may be a result in itself, and this might be one of those situations. It does say something about the difference between the Sami Parliament and the municipalities in how they have entered the dialogues. For the Sami Parliament these meetings have been a process which should be documented and archived, while for the municipalities it seems to have been more *ad hoc* and informal. While it was difficult to get information from the Ministry of Petroleum and Energy and Eni Norge as well, and there may be other reasons behind why there were no meeting minutes, this finding—or lack of finding—follows some of the other findings I made which indicates that the Sami Parliament was more focused on the dialogue process itself than the municipalities.

The differences in the dialogues all point in the same direction; that the Sami Parliament focused more on how the dialogues and the impact assessment were conducted. My hypothesis was that such a difference would be present because of the dialogues are differently structured. Consultations, I argued, and referred to Broderstad and Hernes (2008), is based on deliberation, which places certain requirements on the actors and how the dialogue is conducted. The structure of the dialogue, the justifications behind the arguments, that the actors may participate on equal terms, and that the actors respect each other are important elements in a deliberation. While the outcome of the deliberation also is important,

the legitimacy of the outcome is based on the process leading up to the outcome. The outcome should ideally be a consensus or some form of agreement, however, agreement in itself is not required. The requirement is that the process is aimed towards reaching an agreement, which places the focus of the deliberation on the process leading up to the outcome. For the process to be legitimate the requirements to the framework, the process of the dialogue, and the basis of the arguments must be upheld. For the Sami Parliament, the legitimacy of the outcome was the most important factor in the dialogue.

Research question 2: are the consultations affected?

The second research question was whether the dialogue between the Sami Parliament and the oil company influenced the consultations between the Sami Parliament and the Ministry of Petroleum and Energy? I have already argued that the dialogue with the oil company was a form of consultation, and both Eni Norge and Sami Parliament mentioned the dialogue as a consultation at different times during the process.

The subject of the consultations have been about the Sami Parliaments expectations to how the impact assessment and the development is conducted, and there seem to have been some indications that they have reached an agreement through the process, both on what to assess, but also which compensating actions should be in place. I would also argue that through the consultations both parties developed a common understanding of the needs of the Sami community, which is one objective of the consultation agreement. The consultations started early—before the study programme for the impact assessment—which means that the Sami Parliament had a real possibility to have influence prior to any decision-making.

The consultations with the Ministry of Petroleum and Energy however, started at a very late time, after the PDO was finalised by the oil company. The time frame for the consultations were also very short; one meeting was conducted, and the Sami Parliament had to respond to the text within a week. While the question of rights undoubtedly was a hurdle in the consultations and something the two parties did not agree upon, and the time frame were short, the meeting does seem to be a consultation. There were few issues to consult about, as the issues the Sami would like to have assessed—local and regional development,

reindeer husbandry, fisheries and other Sami interest, as well as education and cooperation initiatives—were all brought up in the consultation with Eni Norge. The issues were assessed in the impact assessment together with any compensating measures that were to be taken, and included in the Plan for Development and Operations. The only themes brought up in the consultations were regional development and competence building, which both parties agreed should benefit the Sami, and oil spill response which they both agreed should be of a high standard.

The brevity of the consultation may be because a lot of the issues were already brought up in the consultations with the oil company, and as such there were only one issue left; the question about rights to oil and gas. It is difficult to conclude that the brevity resulted in the consultation rights not being upheld, however, as the situation stand, the consultations between the oil company and the Sami Parliament did play a large role in the development process and the oil company certainly took on some of the responsibility for the state. For the Sami Parliament this gave them some actual influence *prior* to the decision-making. As such, the early involvement must be seen as a positive for the Sami Parliament. It has also been positive for the oil company, as the dialogue, as a CSR initiative was successful, both for the Sami Parliament, but also for their own self-interest, as they created good-will through their actions. For the state as well it seems to have been a favourable process, as it helped them uphold their responsibilities towards the Sami people. However, there is still a question about whether the dialogues were alternatives to each other or they were complimentary.

Alternative or complimentary dialogues?

The question about whether the dialogue between the Sami Parliament and Eni Norge was alternative or complimentary to the consultation with the state is complex. I have not wanted to see it as a dichotomous relationship between the two, where the categories are mutually exclusive. Rather I have chosen to view the terms as ends to a spectrum, where the relationship between the dialogues are placed somewhere between. The question, therefore, is to which degree these dialogues are both alternative or complimentary. I have decided to analyse the degree of how alternative or complimentary the dialogues are, by looking at the process holistically. A complimentary dialogue would mean that it is in essence the same dialogue only with different actors, and that one of the dialogues contain elements which are

continued in the other dialogue. An alternative dialogue would mean that the Sami Parliament had other motives for taking part in the dialogue, see other possibilities or reasons for partaking in the dialogues, or that the two dialogues are separate from each other.

In the case of Goliat, it seems that the dialogues were mostly complimentary to each other. The issues that were brought up in the first meetings were continued throughout the public hearings to the Impact Assessment and all the way up to the consultations with the Ministry of Petroleum and Energy. A large part of the reason for the dialogues being so interconnected must be attributed to the oil company. Blindheim (2008) writes that in order for CSR to become complimentary to political solutions the company should focus on their economic and institutional responsibilities. Their economic responsibility is to make profit while following everyday principles and norms. The institutional responsibility is to follow the national and international laws and regulation but, also to strengthen the institutional framework. I would argue that by using the principle of consultation in the ILO Convention 169 in the dialogues, Eni Norge has not only followed national and international laws and regulations, but, by conducting consultations they have also, contributed to strengthen the consultation framework by addressing some of the present problems in the consultations between the Sami Parliament and the state; namely the short time frame for conducting consultations and giving the Sami Parliament a real influence prior to any decision-making.

I have also tried to find out whether the Sami Parliament had any influence in whether the dialogues were more complimentary or alternative. The underlying assumption is that also the Sami Parliament, as an local actor, was able to influence and shape the dialogues as either complimentary or alternative. This assumption goes beyond Blindheim's framework, as he focuses on the role of the corporations. There are some indications that point toward the Sami Parliament having an influence on whether the dialogues have been complimentary or not. First, from the Sami Parliament's side, the dialogues were from the beginning connected up to the development process, and as such, even though there have been two actors for the Sami Parliament to relate to, they have in practise only related to one process. While they mentioned the rights issue in the dialogue with Eni Norge, the Sami Parliament was adamant that it was an issue between them and the Norwegian State, and instead they focused on how the impact assessment was carried out and how negative impacts were mitigated. The oil

company has a share in the responsibility here as well, as both actors focused on the development process.

It seems plausible that the Sami Parliament themselves viewed the dialogues as complimentary to the consultations with the state; that the focus have been on the whole process instead of which specific actor they have been in dialogue with. It is difficult to know if the Sami Parliament, by acting differently or more strategically would have made the dialogues less complimentary. In any case it would certainly be helpful to view the processes more holistically, rather than solely focus on the role of the oil company's CSR initiatives.

In this thesis I have only studied one development project, Goliat. The findings as such are limited in how much they can be generalised over to other development projects and other context, however, some of the data I have provided do aim outside of the development project and on how the dialogues between the Sami Parliament and resource extractors may be realised in the future.

What has been learned from the Goliat dialogues?

I have chosen to focus on the Sami Parliament in this last section. The reason is first and foremost based on the data available. While the municipalities probably have learnt from the dialogues as well, the lack of data regarding the municipalities have made it more difficult to see any changes in how they acted from the beginning of the process towards the end. It is also a question about perspective, as the thesis naturally is more grounded at an indigenous peoples' perspective.

The dialogues between the Sami Parliament and Eni Norge in regard to the Goliat development was a process about the right to be consulted in matters which affect the Sami People. This process goes back to the consultation agreement with the Norwegian State, and before that, the consultation with the Norwegian Parliament about the Finnmark Act. While Sami interests and indigenous rights were hardly mentioned in the Snøhvit development, with Goliat, indigenous rights were brought into the public view. Some of the reason behind this shift stems from the increasing focus internationally on indigenous rights in the UN apparatus

as well as financial organisations, however, the increased professionalisation of the Sami Parliament when it comes to protecting their rights may also have played a role. The Sami Parliament has grown to be a large stakeholder in the Arctic, with a lot of knowledge about the Arctic ecosystem, indigenous rights and cultural heritage. In the data it has been clear that the Sami Parliament has acted in a very professional manner in the dialogues. They have been prepared in the consultations and proposed well reasoned arguments. The municipalities, do not have this same expertise. While Hammerfest has a lot of experience with oil and gas development and catering to businesses and corporations, the other municipalities had to join forces and cooperate with each other and Finnmark County in order to take part in the development.

For the Sami Parliament, the process is still evolving, as the Sami Parliament gathered further knowledge from the Goliat development process. The Sami Parliament has started to engage more closely with resource extractors. The parliament expressed that they had the choice of either being fully against any form of mining or engage directly with the mining companies, and in order for them to fulfil the shortcomings of the new mineral law, they implemented their own guidelines for mining companies that wanted to operate in traditional Sami territories. Protect is another recent development aimed at increasing the dialogue between resource developers and Sami communities and organisations.

Based on my research, I believe such contact would be beneficial for the Sami Parliament. They do gain some influence over the decision-making process, and are made more capable in protecting the Sami peoples rights as indigenous peoples through such measures. Considering that oil companies and other resource extractors also have CSR guidelines in place it would be beneficial for them to be a part of Protect and be able to use these CSR guidelines in practise—practise what you preach, so to speak—and as such, legitimise their presence in the area. However, I am unsure if it would be beneficial for the Norwegian State. The example about the mineral guideline could point to the Sami Parliament viewing contact with the resource extractors more as an alternative than as a complimentary process to consultations. As shown in Chapter 4, the Norwegian Government was opposed to the mineral guidelines. I would expect that for them, it would be more beneficial to structure the dialogues similarly to the Goliat development, so the consultations and dialogues between resource extractors and the Sami Parliament are on the state's terms and as a part of the larger

development process with the resource extractor. I doubt the Sami Parliament would be opposed to such a solution; it would give the Sami Parliament the possibility to have influence prior to any decision-making, not only by the state, but by the resource extractor as well, and it would provide the amount of time necessary for achieving agreements based on free, prior and informed consent. The consultations between the state and the Sami Parliament would most likely improve as well.

There is, however, one caveat to such a solution, especially in regard to oil development. The question about sub-surface rights must first be answered. As of now, the issue will always be a hurdle in any consultations about oil and gas development, perhaps resulting in the Sami Parliament viewing dialogues with the resource extractors as alternatives to the consultations. For the state to refer to a white paper on the general state for the Sami, every time the issue is raised is not enough; the rights should be assessed properly by judicial experts, as an extension of the Finnmark Act and Sami coastal fisheries rights. As the representative for the Sami Parliament said in the interview, the Sami Parliament do not demand rights to subsurface resources, but they demand that such rights are assessed. I can understand that the government would be opposed to even assess such rights, however, I do not believe that it would undermine any state sovereignty as Norway has an extensive history of oil exploration and the income from the oil and gas sector already benefits the Sami as well as everyone else in Norway.

Perhaps there are other ways of bridging the disagreement between the Sami Parliament and the state on this matter besides assessing their rights to oil and gas. If so, any solutions would be welcomed. However, assessing the rights would be a solution which the Sami Parliament would favour. Conducting such an assessment would not only be beneficial for the Sami people, however it would also be beneficial for the Norwegian State as it would remove one hurdle currently present in the consultations. It would also make it easier for any resource extractors' CSR initiatives to become more complementary to the consultation process, rather than become alternative processes.

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