

Democratic legitimacy in consultation processes associated with large-scale projects in Greenland

- MINI-REPORT





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Greenland is and has always been a country rich in raw materials. Today, the waters off Greenland represent one of the last unexplored oil deposits in the world, and a similar potential exists in relation to minerals. Exploitation of these deposits has so far been relatively limited, due to the high costs that have been associated with extraction in a large and remote country like Greenland. Rising demand, and thereby rising prices, have however now made it profitable to extract Greenlandic raw materials, and interest in Greenlandic oil, minerals and other natural resources, such as water, has already drawn a large number of exploration companies to the country. Greenland therefore now stands on the threshold of becoming a raw materials exporting nation.

This development presents many opportunities, but also numerous challenges to Greenlandic society. One of these challenges is to ensure that the people of Greenland are involved in the developmental process, which could potentially bring about a major upheaval in the Greenlanders' social structure and way of life.

The government of Greenland, Naalakkersuisut, has established a number of structures with the aim of ensuring the involvement of the public in the development. Consultation processes have consequently been established in connection with all large-scale projects, with the aim of involving the population in the decisions being made in the area. The question that forms the basis of this report is whether these consultation processes fulfil their purpose and can be regarded as democratically legitimate, i.e. in conformity with the democratic principles that underlie Greenland's political system.

Involvement of the population in political decisions is one of the cornerstones of democratic legitimacy, but there are also many points of view concerning what may or may not be regarded as democratically legitimate. This report is based on an assumption formulated by the sociologist Jürgen Habermas, namely that democratic legitimacy requires that the people, through debate and argument, are given an opportunity to influence the political decision-makers. This report is therefore a study of the possibilities of the people to exert such an influence through the consultative processes established in connection with large-scale projects in Greenland. In addition, ways are identified in which the democratic legitimacy of the consultation processes can be enhanced in order to improve citizen participation.

STRUCTURE OF THE STUDY

The study is divided into two sub-analyses:

Analysis 1 is an analysis of the consultation processes carried out in connection with large-scale projects in relation to an ideal of deliberative democracy. More specifically, five criteria will be drawn up on the basis of the theory which a consultation process must meet in order to be considered democratically legitimate. We will then investigate the extent to which each of the five necessary criteria is present in the consultation process in connection with large-scale projects. If all of the criteria are largely fulfilled, this suggests a process that may be regarded as being democratically legitimate to a high degree. The opposite would indicate a problem with democratic legitimacy.

Analysis 2 is a comparative analysis, in which the consultation process in connection with large-scale projects in Greenland is compared with similar consultation processes in Newfoundland and Labrador (hereinafter referred to as Newfoundland). After having compared the consultation processes with an ideal of democracy in Analysis 1, it may be fruitful to place the Greenland case in a more concrete context, and in this way investigate the relative democratic legitimacy of the consultation processes. This has the advantage that its conclusions are not dependent on a general acceptance of the fundamental ideal, and are therefore more generally applicable.

THE DEMOCRATIC IDEAL

In order to be able to assess the extent to which the consultation process may be viewed as democratically legitimate, it is necessary to possess a normative ideal of democracy against which to measure the reality. It must however be recognised that this ideal is normative, and that there are a wealth of different views concerning which normative democratic ideals are the right ones. The ideal of deliberative democracy has therefore been a conscious choice.

The starting-point of the deliberative democracy ideal is that citizens should have the opportunity to influence policy-making directly with their opinions, and not just through an elected representative. It follows that it is not democratically legitimate for decisions to be taken in closed representative assemblies; the general public must be a part of the decision-making process.

The aim of deliberative debate is to achieve a kind of consensus that can form the basis for a decision. The way to do this, according to Habermas, is through control-free communication – i.e., a form of communication that functions through rational argument, and in which the best argument wins. Power relations such as structural power or resources should not have any significance in this, as it is the good argument that is crucial to the decision taken.

On the basis of this ideal of deliberative democracy, Habermas and Dahl set out five criteria which must be met, if the consultation process is to be regarded as democratically legitimate.

- **Criterion 1:** Special interests must not be incompatible. This ensures that the participants are open to the arguments put forward by other participating parties.
- **Criterion 2:** The most resourceful and powerful stakeholders must take responsibility to equalise power differences in the debate.
- **Criterion 3:** There must be equal access to the public sphere for everyone in society, so that all arguments can be advanced.
- **Criterion 4:** There must be equal and effective opportunities to acquire knowledge of political initiatives and their consequences.
- **Criterion 5:** The consultation process must have a real impact on the political decisions taken.

Precisely because the criteria arise from an ideal, their complete fulfilment would be a utopia. The criteria should therefore be regarded as the yardstick by which the reality should be measured.

EMPIRICAL RESEARCH

In order to make the study as representative as possible, and to prevent it becoming unnecessarily diffuse, cases were selected from three different industries in which there are concrete plans to launch large-scale projects. These are: Alcoa's establishment of an aluminium smelter in Greenland, Cairn Energy's oil wells, and Greenland Minerals and Energy's mine at Kvanefjeld, Narsaq.

ANALYSIS 1: THE IDEAL OF DELIBERATIVE DEMOCRACY IN CONSULTATION PROCESSES IN GREENLAND

CRITERION 1: THE COMPATIBILITY OF SPECIAL INTERESTS

In the analysis of the degree to which the first criterion of compatible special interests has been met, two factors were examined: 1) whether the interests are articulated as mutually exclusive, and 2) whether there are interests in the debate that are borne by one player alone.

The range of the players' interests in the large-scale projects is wide, but a general characteristic is that the environmental organisations and the commercial companies have very few interests in common. The companies' main focus is on such issues as economic growth and skills enhancement, while those of the environmental organisations relate mainly to issues such as respect for nature and the openness of the process. Between these two "outer wings" are other external stakeholders such as the trade union SIK, the Employers' Association of Greenland (GA) and various citizens' groups. These have to varying degrees interests in common with both the environmental organisations and the companies.

The government of Greenland (Naalakkersuisut), the Bureau of Minerals and Petroleum (hereinafter the BMP), the Department of Industry, Agriculture and the Labour Market, and the national parliament (Inatsisartut) are resource stakeholders who appear to some extent to "unite the wings". In general, the public bodies share the vast majority of the interests that are at play in the projects, and thereby help to keep all of the stakeholders in the debate. This is important for deliberative democracy, as it helps to ensure that the deliberative debate is open to the entire general public.

However, there are also issues of which the resource stakeholders are unaware, or which they deliberately exclude. These include bauxite pollution, the preservation of the fishing and hunting industry, and the preservation of ancient

monuments around Tasersiaq. It should be borne in mind that politics is a matter of priorities, and that the government is not entirely objective in its approach to the projects, either. The government naturally has a view on how the various issues should be prioritised, as indeed it should, but as the division of power between the knowledge-weak stakeholders, external stakeholders and resource stakeholders is so unequal, it becomes very difficult for a stakeholder to maintain an issue within the debate if the resource stakeholders do not wish to do so. This is a problem for the deliberative process.

However, it is not only the resource stakeholders' approach to the debate that has an influence on its degree of openness. There is also a very marked division of positions among the stakeholders in the large-scale projects. Some respondents can take such a positive attitude, and others such a negative attitude, towards a project that it can be difficult to comprehend that it is the same project under discussion. This tends to impede deliberative debate, as the stakeholders may have trouble seeing the reasonableness of another party's views, and therefore shut out the argumentation. In relation to the Kvanefjeld mine, in particular, it is a problem for the debate that much of the opposition is based on principle. Arguments about safety or economic gains thus do not appeal to this group. Principle-based opposition is therefore in general an obstacle to the deliberative process.

According to Criterion 1, it is important for democratic legitimacy that stakeholder interests are not incompatible, and that all stakeholders can thus present their arguments in the debate. This criterion has to a large extent been fulfilled in the consultation process in Greenland in connection with large-scale projects. There are certainly some subjects that are excluded, but in general the public authorities provide a good guarantee that all interests are kept within the debate, and very few subjects are excluded. However, it can in general be recommended that the public authorities try to ensure the following:

- **Combating principle-based opposition via information** would improve the climate of debate between the external stakeholders as well as between the knowledge-weak stakeholders, and make the stakeholders more open to each other's arguments. This would create a better basis for an open deliberative debate.
- **Attention to the exclusion of subjects** can prevent a situation arising in which the resource-weak stakeholders stand alone with a subject in the debate and are thereby excluded from the deliberative debate.

CRITERION 2: THE RESPONSIBILITY OF THE RESOURCE STAKEHOLDERS FOR THE DEBATE

According to the second criterion, it is a prerequisite for democratic legitimacy that resource stakeholders counteract the asymmetry of power between the stakeholder groups by assuming responsibility for creating a debate in which power is not a factor. In the investigation of this criterion, the focus is therefore on how responsibility for the consultation process is handled and distributed among the resource stakeholders.

The government of Greenland has in general expressed the political intention to include people in the decision-making process in connection with large-scale projects. Nonetheless, it has failed to take the necessary responsibility for the process in several areas.

In the minerals area, the BMP has retained responsibility for organising formal consultation with the interest groups, while responsibility for holding the public meetings has been left more or less to the companies. This is problematic in relation to the ideal of deliberative democracy, because it creates the risk of exploitation of the asymmetry of power in the area. It has also been observed in some cases that the transfer of responsibility can cause problems relating to the

exclusion of critical information or inappropriate design of the citizen consultation meetings, thereby limiting the ability of the population to influence the decision-making process. The problematic aspect in relation to the democratic legitimacy of the process is the fact that the possibility occurs at all, due to the way the process is constructed.

However, it is not only in those cases where the companies are responsible for the process that problems arise in relation to democratic legitimacy. In the Alcoa project, responsibility for the consultation process has been divided between Alcoa and Greenland Development (hereinafter GD), which is a public body. GD has not however succeeded in sufficiently convincing the public that it has a genuine interest in involving the population. From several sides, it has been accused of excluding critical information from the debate and acting in Alcoa's interests. This mistrust among the resource stakeholders gives rise to a mistrust of the consultation process in general, which has a limiting effect on popular participation. Trust is therefore an important prerequisite for the process of deliberative democracy.

The same criticism has been directed at the BMP. On the basis of a one-door principle, it has been decided to invest all administrative authority for the mineral resources area in this public authority. It is thus the BMP that promotes Greenland and attracts exploration companies, and it is also the BMP that approves the companies' final exploration or exploitation applications. The risk of conflicts of interest in the BMP has attracted a lot of criticism, and generally damages public confidence in the authority. As it is also the BMP that bears the overall responsibility for the consultation process, this also has a negative effect on confidence in the consultation process. The fact that the BMP's transparency is very limited, and that it is not possible to appeal against its decisions, contributes to this general mistrust.

Another aspect of the responsibility of public authorities in the process is to secure public interest in the consultation process. The extent to which this has been successful can be difficult to assess. On the one hand, GD's surveys indi-

cate that 50% of the public lack knowledge about the Alcoa project, which could to some extent be attributed to lack of interest, but on the other hand, there has been a good level of attendance at the public meetings. The participation of the public in the consultation process is a learning process, in which taking a critical attitude to the information presented can be a particular problem. It is important that the responsible public authority supports this learning process and helps to create good conditions for public participation in the consultations.

According to Criterion 2, it is the responsibility of the public authority to secure a process in which public participation is not limited by the asymmetry of power. Part of this task involves ensuring that the public generally trusts and is interested in the process in which they are participating. There are areas in which this does not succeed in the consultation process in Greenland, which is harmful to the deliberative process. The following four measures can be recommended as a way of improving public confidence and interest in the process:

- **Tighter guidelines and guidance to companies in the consultation process** would give companies better opportunities to organise an appropriate consultation process, and give citizens the sense that the companies do not have free rein, but that a public authority is guarantor for their influence on the process.
- **Greater transparency in the Bureau of Minerals and Petroleum** would give the general public better opportunities to obtain insight into the decisions taken in connection with large-scale projects in the minerals area, and thereby help to improve confidence in the BMP.
- **Greater parliamentary supervision of the public authorities** (BMP and GD) would help to improve transparency and thereby confidence in the authorities and in the consultation process in general. As suggested in parliament, this could for example be done by giving the Business Committee greater influence over decision-making in relation to large-scale projects.

- **Appointing an impartial body to carry out the consultation process** would be another way to secure confidence in the consultation process. This would make the consultation process more independent of the resource stakeholders, and thereby create the foundation for a control-free process in which the asymmetry of power and the level of confidence in resource stakeholders would not acquire as much significance.

CRITERION 3: ACCESS TO THE PUBLIC DEBATE

The third criterion for well-functioning deliberative democracy is equal access to the deliberative debate via the public sphere. In the investigation of this criterion, it would be too simplistic to view the public sphere as a unified whole. In effect, the public sphere consists of several sub-publics. In relation to the consultation process for large-scale projects, there are four sub-publics: the media, the NGOs, the formal consultations and the public meetings are the most significant sub-publics, and the following is therefore an analysis of the extent to which access to these four sub-publics is equal for all, and of the possibilities for and constraints on the ability of people to express themselves critically through them.

The level of media competition is not high in Greenland, which gives newspapers and TV stations an opportunity to prioritise according to criteria other than what generates viewer and reader figures. Access to the media is more equal in Greenland than elsewhere, as the requirements towards items published or broadcast are not as strict. In relation to the deliberative ideal, this is a positive feature. There are however a number of structural features which impede the ability of the media to express themselves critically. Firstly, the newspapers and KNR (the national TV station) lack the financial resources to play the role of an informed and critical sub-public. This manifests itself in a lack of time to go into depth with articles on large-scale projects, lack of staff to carry out these tasks, lack of opportunities for training, and a consequent lack of skills.

The media are therefore somewhat dependent on the information they receive from the resource stakeholders, and have a limited ability to check the information. This gives a poor basis on which to be critical.

Furthermore, KNR's grant is dependent on the annual budget negotiations and licensing structure, which means that the media's independence of the state is vulnerable to exploitation. At the same time, there has been a tendency for the political elite to have difficulty in accepting the arm's-length principle between the media and the authorities, which further exacerbates the problematic nature of the grant structure. There are therefore significant structural limitations on the ability of the media to act critically in relation to those in power.

The NGOs are in many areas representatives of the opinions of different groups of people, and if one shares the interests of an NGO, access to this sub-public will be more or less equal for all. In addition, NGOs in Greenland have many opportunities to express their views, for example through the formal hearings, the companies' initial scoping processes prior to their presentation of the EIA (Environmental Impact Assessment) and SSA (Social Sustainability Assessment) reports, and meetings with politicians and political committees. It can however be difficult for NGOs to make optimum use of these opportunities, mainly because they to a large extent lack the economic and human resources to be able to participate in the highly demanding formal consultations, but also because the relationship between those in power and the NGOs can sometimes be problematic. Those in power often react very strongly to criticism from NGOs, and may have difficulty seeing the constructive aspect of their intervention. Conversely, there is also a tendency for NGOs to refuse to co-operate with the resource stakeholders for fear of compromising their independence, and to limit in this way their own access to the public sphere.

The formal consultation process, as opposed to access via NGOs and the media, gives citizens a legally-based opportunity to express themselves critically, and the process was established precisely with the aim of enabling society's stakeholders to take up a critical position. However, not all stakeholders have an

equal opportunity to participate in the process. Lack of resources on the part of NGOs, municipal institutions and other stakeholders can make it difficult for them to draw up an appropriate consultation response within the stipulated timeframe. In addition, the EIA and SSA reports that are sent for consultation comprise highly extensive and complicated materials, and are furthermore formulated in English. As a result, the response deadline comes to act as a limitation on who can gain access to the public sphere via formal consultations.

The final sub-public to be examined here is the public meetings. Like the formal consultation process, participation in public meetings is open to anyone who has an interest in the issue, which provides a good basis for equitable access to the public sphere through this sub-public. Here too, however, too little time is allocated to the process, and an inappropriately large amount of time is spent informing, rather than involving, the participants. This is, amongst other things, because the material is very extensive and often made available to the citizens at far too late a stage. Consequently, the companies need to spend an inappropriate amount of time explaining the material to the audience. As a result, the participants are required to digest at once a great deal of information, towards which they are expected to take up a position immediately. This is difficult for many people to do. On top of this the meetings are often conducted in English, as the consultancy companies that carry out the presentations often speak neither Greenlandic nor Danish, and poor or non-existent interpretation means that the language becomes a further limiting factor for participation. Many of these problems are due to the fact that insufficient requirements are made towards how the public meetings are held. It can easily become a pro forma activity that just needs to be got out of the way so that the companies can move forward in the application process, and this is probably in reality the greatest barrier to equal access to this sub-public. The Greenlandic authorities in this area have not made it sufficiently clear what they want to accomplish with these meetings, which also makes it difficult to impose the right requirements on the companies.

According to Criterion 3, equal access to the public sphere is crucial to ensuring that everyone in the population can participate in the deliberative debate. It is therefore a critical factor in determining whether the consultation process can be regarded as democratically legitimate. In consultation processes in connection with large-scale projects, it is therefore positive that there are so many different sub-publics through which the population has an opportunity to express a critical position. There are however a number of barriers to equal access. Common to the four sub-publics is that the process is generally forced through too quickly, and that the stakeholders typically lack the resources to participate adequately in the process. In addition, the debate culture is often a limiting factor, as the debate tends only to a very limited degree to seek compromise and dialogue. The following recommendations can therefore be made to help to improve equal access to the public sphere and opportunities for people to express opinions which are critical of the resource stakeholders:

The recommendations of this study for improving people's access to the public sphere through the media are based on the recommendations of *the Media Working Group* in the Media Report, 2010:

- **Separation of KNR from the annual budget** process would give KNR the ability to function as a critical sub-public without fear of economic reprisals. This could for example be done by establishing a politically-independent media fund to handle the distribution of economic resources to the country's media.
- **An increase in the size of public grants to the Greenlandic media** would release more funds to create in-depth articles and make journalists better able to take a critical attitude towards the information they receive from those in power and other resource stakeholders. It would also enable newspapers and television stations to provide their staff with better training.

- **Taking a strategic position on the media structure**, in which a position is expressed towards the relationship between the media and the political system, and ways to ensure diverse press coverage.

Recommendations for improving the population's access to the public sphere through the NGOs:

- **Financial support, or allowance for the NGOs' lack of funds, e.g. by providing a longer deadline for consultation responses**, would give NGOs with limited resources a better opportunity to participate in formal hearings, etc., and thereby improve their access to the public sphere.
- **Technical sparring between NGOs**, both locally and internationally, would secure better utilisation of the resources and experience of the NGOs and thereby improve their access to the public sphere. The establishment of a formal NGO network could provide one means of achieving this.
- **Better co-operation between NGOs and resource stakeholders**, with greater mutual trust, would make the debate more constructive and provide a better framework for deliberative debate.

Recommendations for improving the population's access to the public sphere through the *formal hearings*:

- **Longer deadlines for consultation responses and adaptation of the consultation period to the project size** would give stakeholders more time to deal with the very extensive consultation material, and thus avoid excluding some stakeholders from participation due to their lack of time or resources.

- **Updating EIA and SSA statements instead of producing new reports** would limit the extent of the material sent for consultation, and thereby put less pressure on the many stakeholders who lack the time and resources to participate in formal consultations.

Recommendations for improving the population's access to the public sphere through the *public meetings*:

- **Allotting more time to public meetings** would provide better opportunities for everyone to give their opinion, and thereby create better access to this sub-public.
- **Cafe seminars** would make it easier for people who have difficulty speaking in large assemblies to express their views, and would also prevent people from taking too much time to state their position and thereby preventing others from expressing themselves. This would help to make access to the public sphere more equal.
- **Theme meetings** would make the information provided at the public meetings more transparent to citizens, and make it possible to attend only those meetings that are relevant to the individual. Access to the public sphere would thus be less limited by an inability to grasp the information.
- **Greenlandic staff and better interpreters**, would, like the cafe meetings, improve the level of understanding at public meetings and thereby provide more equal access.
- **Taking a position on what the public meetings are expected to accomplish** would give the authorities much better opportunities to impose requirements on the way in which the companies run the meetings. Here it is recommended to begin with Sherry Arnstein's typology and decide which level of participation is desired at the meetings.

CRITERION 4: ACCESS TO INFORMATION

The fourth criterion which was set as a precondition for deliberative democracy is equal and effective access to information. The population's access to information is mainly mediated via the companies and the public authorities (GD and the BMP). Consequently, openness on the part of these three players would have a great influence on access to information. The analysis of this criterion is therefore an analysis of the openness of these three players. It is however difficult to provide any general picture of the openness of the resource stakeholders, as there is great variation in the degree of transparency among these players and in their efforts to inform the population.

The level of openness on the part of the BMP must be described as limited. The BMP does make efforts to inform the public about oil and mining projects, but it seems to apply an overly restrictive interpretation of the public's right to information, particularly in connection with applications for public access rights. In several areas, it is difficult to obtain the desired information from the BMP. There is too little focus on proactive information efforts, in which the responsibility for ensuring that information reaches the public rests with the resource stakeholder and not with the public itself.

Proactive information efforts are more prominent at GD, which through a series of information initiatives has sought to provide information about the Alcoa project. But despite these extensive proactive efforts, there are topics and aspects of information that are not disclosed by GD. This has created a situation in the public debate in which GD has been accused of a lack of objectivity, which has created mistrust of GD's handling of the consultation process in general.

The companies' information strategies vary a great deal from company to company, as there is very little control in this area. GME makes great efforts to proactively inform the public, as it sees information as a means of reducing mistrust and principle-based opposition to their project. Alcoa and Cairn, on the

other hand, are rather more restrained in the area of proactive efforts, and the information they release tends to be limited to meeting the few requirements placed upon them by the authorities.

Among the public authorities as well as the companies, there is thus a lack of focus on proactive information efforts. The lack of control over information efforts can explain a large part of the problem, especially among the companies, who after all have no real interest in providing information on the negative aspects. But a lack of experience with transparent consultation processes can also be identified among the public authorities. There have been significant improvements in recent years, but from the point of view of deliberative democracy, there is a need for more consciously proactive information efforts in connection with large-scale projects.

This applies particularly as a consequence of the fundamental distrust of GD and the BMP. In order to ensure that public access to information is effective, it can be necessary for the resource stakeholders to play a role in sorting the information. But precisely because there is a lack of confidence in the area, it may be necessary in connection with large-scale projects to exercise extreme openness and publish all the information that can possibly be made public. This information thus becomes a way of combating mistrust. In the consultation processes in Greenland, there is quite simply a need for much more information.

Moreover, the quality of the information provided in relation to large-scale projects is open to question. It is to a large extent accessible and easy for the public to find, which is positive. However, efforts should be made to improve the websites of the public authorities. The information provided is free of charge and up to date, but it is a significant challenge to make it understandable and relevant to the general public. The majority of the information on the social and environmental impact of the projects derives from the companies' EIA and SSA statements, which are generally too extensive and difficult for the public to understand, while the non-technical, reader-friendly summaries are poor. There is therefore a challenge here.

According to Criterion 4, equal and effective opportunities to obtain information on political initiatives and their consequences comprise an important prerequisite for a democratically legitimate consultation process. Part of achieving this involves ensuring that information efforts are proactive. The resource stakeholders are in several areas aware of the importance of informing the public, and great efforts are also made to do so. However, there are as mentioned several areas in which the criterion is not met. Four measures may be identified on the basis of the above conclusions, all of which could contribute to improving the public's equal and effective access to information in the consultation process in connection with large-scale projects.

- **A general change in attitude and a focus on proactive information efforts among the resource stakeholders** would provide more equal access to information for the population, as the responsibility for obtaining information would be transferred to those stakeholders with the greatest resources, and the information would thereby in general become more easily accessible.
- **Publication of many more documents**, such as hearing responses and questions and answers from the public meetings, in a manner that is transparent and accessible to the public, would make access to information easier for the population. It is recommended that publication should adhere to the proactive principle that only information which, for important reasons, cannot be published should be withheld, while everything else should be published.
- **Adaptation of information efforts to match the public demand** would increase public confidence in the consultation process, as people could obtain answers to questions that concern them. In this connection it is also recommended to state what information cannot be published, and the reasons for this, so that people do not feel that information is being withheld from them for no reason. This is an essential part of proactive information efforts.

- **Stricter control of information efforts** would produce better and more consistent information dissemination from companies as well as the public authorities, securing the proactive approach, and focusing on making the information understandable to the public. The provisions of the Aarhus Convention provide an obvious starting-point for such control.

CRITERION 5: INFLUENCE ON POLITICAL DECISIONS

The fifth criterion, the influence of the consultation process on the decisions taken in relation to large-scale projects, is an important prerequisite if the consultation process is to be regarded as democratically legitimate. If the objections brought up in the consultation process have no real impact on decisions in the area of large-scale projects, the consultation process will merely be a pro forma procedure. It is therefore important for democratic legitimacy that this criterion is met. It appears, however, that the consultation process does in fact influence the decisions made in the large-scale area.

It is difficult to assess the extent of the influence on the basis of the stakeholders' own statements. Some stakeholders mention instances in which they specifically know that they have changed a decision, and it is also clear that the government has taken criticism of the consultation process into account. Others, on the other hand, feel that Greenland's stakeholders have generally been ignored, and that their influence is very limited. In general, it is however difficult for the stakeholders to assess the extent of their influence, as it is very unclear which suggestions the companies make use of and which ones they reject, and why.

However, some obstacles to the influence of the consultation process can be identified, of which the timing of the consultation process is probably the most significant. The problem is that the consultation process is scheduled so close to the commencement of the activity that there is insufficient time to implement major changes before approval is granted. An example is the municipalities' de-

mand for the use of local manpower; the companies have often hired the labour they need even before the consultation process begins. As the consultation process takes place so late, the demand for the use of local labour is thus impossible to fulfil. The consequence is that the consultation process has very little meaning and becomes merely pro forma, thereby making the deliberative process to a large extent illegitimate.

Despite this barrier, the consultation process nonetheless has an influence on specific large-scale projects, but not all subjects are included in the deliberative debate. The more strategic considerations concerning the development of the mining sector in Greenland seem to some extent to be excluded from the debate. There is for example very little debate concerning which and how many large-scale projects are desired. In the case of strategic considerations, it may be appropriate to leave the tough decisions to the Greenlandic parliament and government, who are after all elected for this purpose. But although it may not be appropriate to involve the population in this issues in the same way as is done with specific projects, this does not mean that there should be no debate about the direction in which to go. This debate is absent in Greenland.

Despite these limitations on the influence of the consultation process in the large-scale projects area, there are however several elements of the consultation process in which the advice of the people is sought. The media, and to some extent the public meetings, are mainly used to inform the population, which does not give them much influence. In the formal consultations, however, and through the NGOs, the people are consulted to a far greater degree. The influence of these sub-publics is further secured through formal guidelines, which give people excellent opportunities to exert an influence, provided that they are able to overcome the previously-mentioned barriers to participation in these sub-publics. In addition, elements of partnership are also seen in the consultation process. This occurs mainly through forums and appointed committees, in which several of society's stakeholders participate. Here, there is more cooperation on finding solutions in the large-scale area than is the case in the other sub-publics, and this is a very positive feature in relation to the influence of the consultation process in the large-scale area.

In general, there are therefore some very good preconditions for Criterion 5 in certain areas, which indicates that the consultation process ought to have a real influence on political decisions. However, this does not apply to all sub-publics. At the public meetings, in particular, it is recommended that this consultative element be strengthened. In general, however, the identified barriers to influence are relatively easy to surmount. The following measures are recommended as ways in which this can be done:

- **Publication of companies' white papers** would make it much more transparent to stakeholders what influence they have had on the projects, or why their objections have not been noted. Such transparency would make the process more legitimate, and would also improve stakeholder confidence in the consultation process, as they would be able to see that they have been heard.
- **Better timing of the consultation process**, for example by scheduling it earlier in relation to the commencement of the activity, would give companies more time to implement proposals put forward during the consultation process, and thereby prevent the influence of the consultation process from being eliminated because the companies do not have sufficient time to implement suggestions.
- **More debate on strategic considerations in connection with large-scale projects** would make the large-scale area more transparent to the population and prevent people feeling that the development was being forced upon them. While this might not provide greater influence, it would instil greater confidence in the consultation process in the area.
- **More elements of partnership in the consultation process** would generally improve the level of influence of the people over the large-scale projects, inasmuch as there would be co-operation to find common solutions. Stakeholders would thereby be secured greater influence than they possess in the current consultations, where their role must be regarded as advisory at best.

ANALYSIS 2: THE CONSULTATION PROCESS IN NEWFOUNDLAND – A COMPARATIVE ANALYSIS

Analysis 1 is a normative analysis, i.e. the yardstick by which the Greenlandic consultation processes are measured is the deliberative democratic ideal. This ideal is expedient in the sense that the criticism presented of the consultation process is thereby not given subjectively, but is related to previously-established standards of “good democracy”. However, the aim of this report is also to take up a forward-looking position concerning what can be done to meet the democratic challenges. Analysis 2, the comparative analysis, allows us to compare the ways in which two states handle the consultation processes, and draw inspiration from the measures that have been successful in Newfoundland to identify ways in which consultation processes in Greenland can be made more democratically legitimate. Newfoundland has been selected as a comparative case, because it has many parallels with Greenland.

The analysis will be undertaken on three levels:

- **Macro-level:** Legislative frameworks and organisational structures
- **Meso-level:** The intermediate layer, made up of NGOs
- **Micro-level:** The country’s citizens

At the **micro level**, Newfoundland and Greenland are struggling with the same problem, namely a lack of interest among the general population in participating in the democratic process of consultation. The problem is not however as great in Greenland as it is in Newfoundland. Efforts are being made in both states to address the problem, but no complete solution has yet been found in either of them. Moreover, the climate debate seems to be in healthier shape in Greenland than in Newfoundland, where the environmental discourse has to some extent been ruled out of the debate. The difference may derive from the fact that there are more reservations in Greenland towards large-scale projects,

due to lack of experience, and that more space is therefore provided for the various discourses. The individual players thus enjoy easier access to the debate in Greenland than they do in Newfoundland, which is in general a boost for the democratic legitimacy of the consultation process.

At the **meso-level**, several areas can be identified in the consultation process which are inappropriate in terms of democratic legitimacy. One of the relevant issues is the “Greenpeace effect”. Greenpeace’s campaign against seal hunting back in the 70s has made the organisation very unpopular in both places. In Newfoundland, this has meant that environmental organisations tend to be associated with Greenpeace, and for this reason are excluded from the public debate. In Greenland, the Greenpeace effect has not had quite so much of an impact on the environmental organisations, who are accorded as much space in the debate as other NGOs. Access to the public debate is therefore easier to obtain for environmental organisations in Greenland than in Newfoundland. On the other hand, a common characteristic of the NGOs in both Greenland and Newfoundland seems to be that they lack the resources to engage in the debate. Specifically, they have very limited ability to undertake studies and obtain information that can complement the information they obtain from resource stakeholders. The responsibility for informing the public thus comes to rest with the resource stakeholders. This is problematic from a democratic perspective, as this responsibility is not always upheld equally well by the resource stakeholders, thereby limiting the influence of the NGOs on the decision-making process.

In Newfoundland, major efforts have been made to address the problem and ensure that all NGOs are given an opportunity to participate in the consultation process. The NGOs’ own efforts consist of coming together in formal NGO networks, thereby increasing their possibility of exerting influence through resource sharing and collaboration. The authorities also provide economic assistance to enable resource-weak NGOs to participate in the debate. This is done via ‘intervenor funding’ – a funding programme, consisting of a lump sum for which stakeholders in a project can apply to support their participation in the consultation process. Both of these approaches make it possible for NGOs to

participate in the consultation process despite their financial constraints, and they could thus also make a positive contribution to the democratic legitimacy of the consultation processes in connection with large-scale projects in Greenland.

At the **macro level**, solutions have been found in Newfoundland in several areas that are much more appropriate for the democratic legitimacy of the consultation process. In Greenland, it is the companies themselves that hold the public meetings, on the basis of very few guidelines. This means that the consultation process becomes highly arbitrary and vulnerable to the company's motives, which generally undermines the trust of the Greenlandic people in the impartiality of the process.

In Newfoundland, in order to avoid this, an independent authority has been appointed to manage the consultation process and the involvement of stakeholders. A commissioner is appointed for each project application, who, on the basis of a set of guidelines determined by the supreme authority in the field, the Canada-Newfoundland and Labrador Offshore Petroleum Board (CNLOPB), lays down the operational rules of procedure for the consultation process. The commissioner thus ensures the impartiality of the process, which makes the consultation process much more legitimate than in Greenland. Moreover, Newfoundland has separated the administrative processing of mining licences from that of environmental approvals, which avoids the conflict of interest seen in the BMP, where both procedures are combined. Both of these measures would make a positive contribution to democratic legitimacy in Greenland.

Thus, on both the meso-level and the macro-level, there are aspects of the Newfoundland way of organising the consultation process which could be implemented in the consultation process for large-scale projects in Greenland, to the benefit of democratic legitimacy:

- **More formal collaboration between the country's NGOs** would promote more efficient use of their limited resources, and enable them to make better use of their opportunities to exert an influence in the consultation process. It would also give them a stronger position in the debate.
- **Intervenor funding** would be another way to strengthen the role of the NGOs in the consultation process. In a Greenlandic perspective, one might even consider extending the scheme to include the unions, who, while they may not lack financial resources, have limited human resources to handle their representation at consultations.
- **A commissioner scheme**, under which an independent party handles the involvement of stakeholders and the population, would contribute to a more democratic process by making consultations independent of the companies. Increased confidence in the process as a result of this approach could also have a positive impact on the lack of interest in the population.
- **Separation of environmental approvals from general tendering procedures and licence issuing** would ensure that no conflicts of interest arise in the BMP. Moreover, this approach would also have a positive effect on public confidence in the consultation process in general. It should be noted that the political will exists to create this separation, but that so far this has not become manifested in other than good intentions.

CONCLUSION

This report has a dual aim. Firstly, the aim is to examine the degree of democratic legitimacy of the consultation process in connection with large-scale projects in Greenland, and secondly, to identify problem areas and indicate ways in which the involvement of the population, and thereby the legitimacy of the consultation process, can be improved. Our recommendations for improvements are described in this summary. There remains the question of how democratically legitimate the consultation process is in its current form.

Not all criteria for the deliberative debate are being met equally, and with respect to the criteria of access to information and responsibility for a control-free debate, major problem areas can be identified. This does not however mean that the consultation process in Greenland must necessarily be regarded as democratically illegitimate. As the deliberative democratic ideal on which the criteria are based is precisely that – an ideal – it is unlikely that any real process could fully meet the criteria laid down by Dahl and Habermas. The criteria are intended to act as pointers to indicate ways in which the democratic legitimacy of the consultation process can be improved.

In several areas, many things are being done in the right way in the consultation process. One of the most important prerequisites for building a more inclusive process of consultation is the existence of an underlying political will to involve the public, and this political will has found expression in Greenland. As is well known, it is mainly thanks to the Greenlandic authorities that no stakeholders have been excluded from the debate, and the authorities have also demonstrated a continual willingness to improve the consultation process. Additionally, the many sub-publics and potential opportunities for influence are of great benefit to democratic legitimacy. The short distance between the country's politicians and the people is for example quite unique for Greenland, and a very positive element.

There are thus several very positive features of the consultation processes in Greenland in the large-scale area, and hence we cannot call the consultation

process democratically illegitimate. However, there are also some highly problematic elements which greatly damage the legitimacy of the processes, and it is vital that action be taken to remedy these.

The lack of transparency and lack of focus on proactive information is one of the biggest problems in relation to legitimacy, both because this is one of the cornerstones in deliberative debate, but also to a very large degree because it damages public confidence in the authorities. In addition to the five criteria set out in this study, public confidence in the process, and towards the authorities that control it, is an essential criterion for the legitimacy of both the consultation process and the government. This is therefore a problem that should be taken very seriously.

For the same reason, it is also of vital importance to ensure that the consultation process does not become pro forma. Confidence in the process and in the controlling authorities depends precisely on the stakeholders feeling that they have been heard. Such issues as the timing of the consultation process and better control of the companies' role in the process are therefore also important concerns.

In general, it is however important to ensure that all five criteria are present in the consultation process, as they are mutually interdependent. It would not for example make sense to secure perfect access to the public sphere, control-free communication and the possibility of compromises between the stakeholders, and moreover ensure that the consultation process had a real impact on political decisions, if the stakeholders could not gain access to information about the projects. Conversely, the presence of the first four criteria is also less important if the consultation process ultimately fails to have a real impact on the decisions taken. All of the criteria must therefore be present in the consultation process.

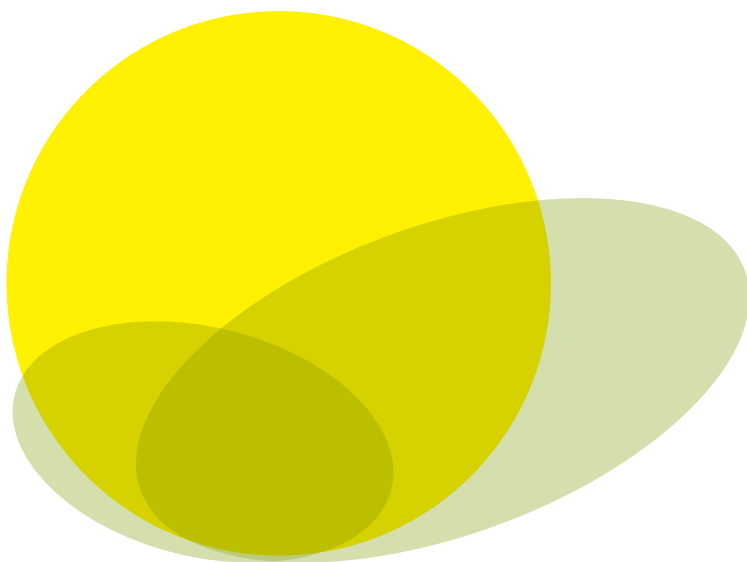
The consultation process in Greenland is not much more problematic than that of Newfoundland; it is merely dominated by other problems. In Newfoundland, there are particular problems in relation to the criteria of the compatibility of special interests and access to the public sphere. There is also a tendency for

environmental organisations to be excluded from the debate because they are associated with Greenpeace, which is very unpopular in Newfoundland. Additionally, there are great difficulties in getting people involved in the consultation process, as the novelty effect is wearing off and the population is growing used to the consequences of large-scale projects. This is not to the same extent a problem in Greenland, where the organisations of civil society are very involved in the process, and environmental issues occupy a very significant part of the debate.

Thanks to Newfoundland's long experience with large-scale projects, however, there are still things that Greenland can learn from the way in which the consultation process is run in Newfoundland, and this is an important point. A significant contribution could be made to the consultation process in Greenland if efforts were made to systematically draw upon the lessons learned in countries with greater experience, and take advantage of these experiences. Newfoundland is just one example.

The consultation process for large-scale projects in Greenland is not illegitimate, either in principle or when compared with that of Newfoundland, but it possesses some very critical problems, and there is therefore a great need to translate the good political will into action and begin a systematic improvement of the consultation process.





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