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Rights and Responsibilities: implementing international CSR standards in oil and gas projects in the Russian North

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Acknowledgements

- ***Indigenous peoples and resource extraction in the Arctic: evaluating ethical guidelines***, led by Arran Lule Sami Centre and funded by the Norwegian Ministry of Foreign Affairs
 - This project brings together a team of international specialists to analyse and evaluate ethical guidelines for extractive industries in the High North in territories inhabited by indigenous peoples. The study includes oil, gas and mining, and focuses on Norway and northwestern Russia, with implications for other parts of the world.
- ***Sustainability and Petroleum Extraction: Corporate and Community Perspectives in Northern Norway and the Russian Arctic***, funded by the Norwegian Research Council
 - This project aims to identify and reconcile differences in perceptions and practices of CSR in Northern Norway and Arctic Russia, providing a baseline for cross-border dialogue and collaboration amongst players related to petroleum extraction. Comparison of case studies in Norway and Russia. (Hammerfest, Nenets AO, Murmansk, and Komi Republic).

Presentation outline

- CSR in theory
- Key international CSR standards
- Focus on UN Guiding Principles on Business and Human Rights
- Implementation challenges
- Case study findings: Russia's Komi Republic

CSR in theory

- 19th century European factory owners – responsibility to workforce and local community
- 1950s – 1980s – evolution, expansion (and contraction) of CSR concept and evolution of related concepts such as corporate citizenship
- 1970 Milton Friedman: the only social responsibility of business is to maximise profits for shareholders
- ‘Stakeholder theory’ – moral argument that companies should share value not only with shareholders, but all their stakeholders.
- Recent re-framings: ‘shared value’ and ‘social licence to operate’.
- UN Guiding Principles on Business and Human Rights: responsibilities of government and business to protect and respect human rights.

CSR in international standards

- **UN Global Compact** (2000) (human rights, labour, environment, anti-corruption) (Companies communicate on progress)
- **OECD Guidelines for multinational enterprises** (1976, last updated 2011) (OECD reporting and government National Contact Points)
- **UN Guiding Principles on Business and Human Rights** (2011) (the Ruggie principles) (National implementation plans; company policy)
- **UN Declaration on the Rights of Indigenous Peoples** (UNDRIP, 2007), includes free, prior and informed consent (FPIC)
- **IFC environmental and social performance standards** and guidance notes (last updated 2012)

The UN Guiding Principles

- Why are they special? (UN not OECD; universally accepted, with UN endorsement; industry buy-in)
- National implementation plans (UK, Spain, Italy, Netherlands, Finland, Denmark, plus 22 countries committed to do so)
- Calls for a binding Treaty
- But what do local people think of them? (e.g. compared to UNDRIP)

Find the principles with commentary at:

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Protect, respect and remedy

(p.1) The **31 Guiding Principles** are grounded in recognition of:

- a) States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.

Nothing in these Guiding Principles should be read as creating new international law obligations, or as limiting or undermining any legal obligations a State may have undertaken or be subject to under international law with regard to human rights.

Which human rights?

'At a minimum' ...

International Covenant on Civil and Political Rights

Right to physical wellbeing, life and safety, protection from any discrimination, freedom of speech, the press, assembly, etc. Right to seek redress or a legal remedy, rights of participation in civil society and politics such as freedom of association, etc.

International Covenant on Economic, Social and Cultural Rights

Right to education, housing, adequate standard of living, right to health, science and culture. Specific conventions cover rights of women, children, racial discrimination, persons with disabilities.

Declaration on Fundamental Principles and Human Rights at Work, 1998.

- Freedom of association/recognition of the right to collective bargaining
- Elimination of all forms of forced or compulsory labour
- Effective abolition of child labour
- Elimination of discrimination in respect of employment and occupation

N.B. Indigenous peoples' rights not specifically mentioned, but covered in the 'commentary', (summarised here): 'depending on circumstances, business enterprises may need to consider additional standards ... UN instruments have elaborated on the rights of indigenous peoples; women; migrant workers, etc.'

State responsibilities

- laws, policies, enforcement, oversight
- guidance, incentives, encouragement of business
- information sharing, capacity building of government departments, joined-up government
- investment treaties, contracts with companies, procurement practices
- role of state-owned companies, joint ventures, export credit agencies; state membership of multi-lateral institutions
- key focus on conflict areas
- N.B. no coverage of government responsibilities to conduct early-stage consultation with local populations or conduct strategic assessment

Business responsibilities

[Five foundational principles, of which the fifth is ...]

Principle 15

In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

Principles 18-21: comprehensive risk governance framework

Key areas for business are thus: policy, due diligence, meaningful consultation, impact assessment and management, monitoring, communication

‘Meaningful consultation’

Principle 18.

In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships.

This process should:

- (a) Draw on internal and/or independent external human rights expertise;
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

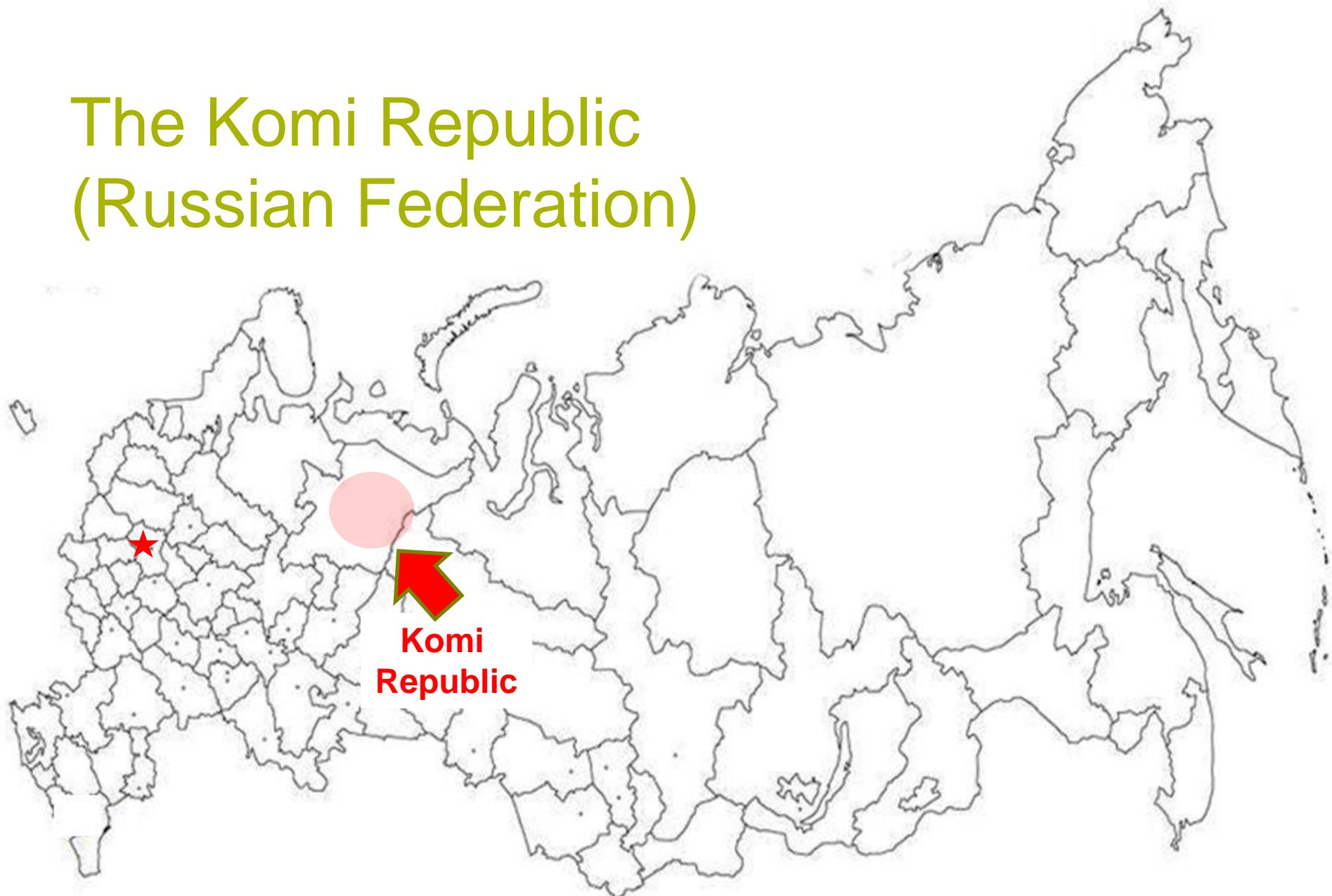
Access to remedy

- Major focus on company-community grievance mechanisms by Ruggie Team (e.g. Rees, 2011)
- Different levels of GMs and cross learning: 1) factory floor; 2) project/company level; 3) national contact points (NCPs) of OECD Guidelines; 4) GMs associated with IFIs (e.g. CAO); 5) national human rights commissions; 6) multi-stakeholder initiatives such as RSPO
- Measuring effectiveness:
 - The UN effectiveness criteria (Rees, 2011)
 - Need to move beyond process and look at outcomes to assess effectiveness (Scheltema, 2013)
- Cases where human rights situation can't be resolved through company mechanisms (Porgera – Barrick Gold in Papua New Guinea)
- More case study evidence needed ...

Implementation challenges

- From understanding to effective local implementation by companies, including contractors, JV partnerships, national companies (Wilson and Kuszewski, 2011)
- What to do if governments don't play their part? (IFC, 2007)
- Community understanding and empowerment to hold government and industry to account; responsibilities of civil society? (Makagon et al, 2014)
- La Vega et al (2011) UNGPs fail to provide legally binding remedy in cases where national systems are inadequate.
- The UN Special Rapporteur on the rights of indigenous peoples, observed a high level of acceptance by states and businesses, but ambiguity and a lack of understanding/conviction around how relate to the specific rights of indigenous peoples (Anaya, 2012).
- Gaps in coverage of human rights – could some issues be overlooked by applying a human rights lens?

The Komi Republic (Russian Federation)

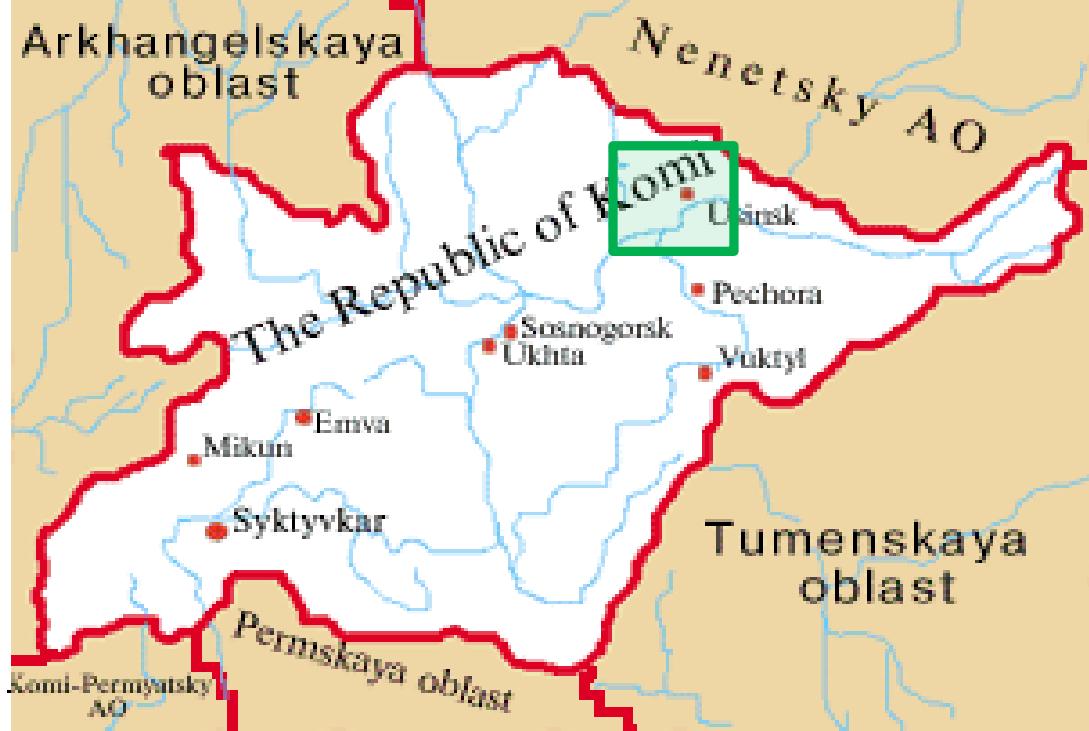


Summary fieldwork findings

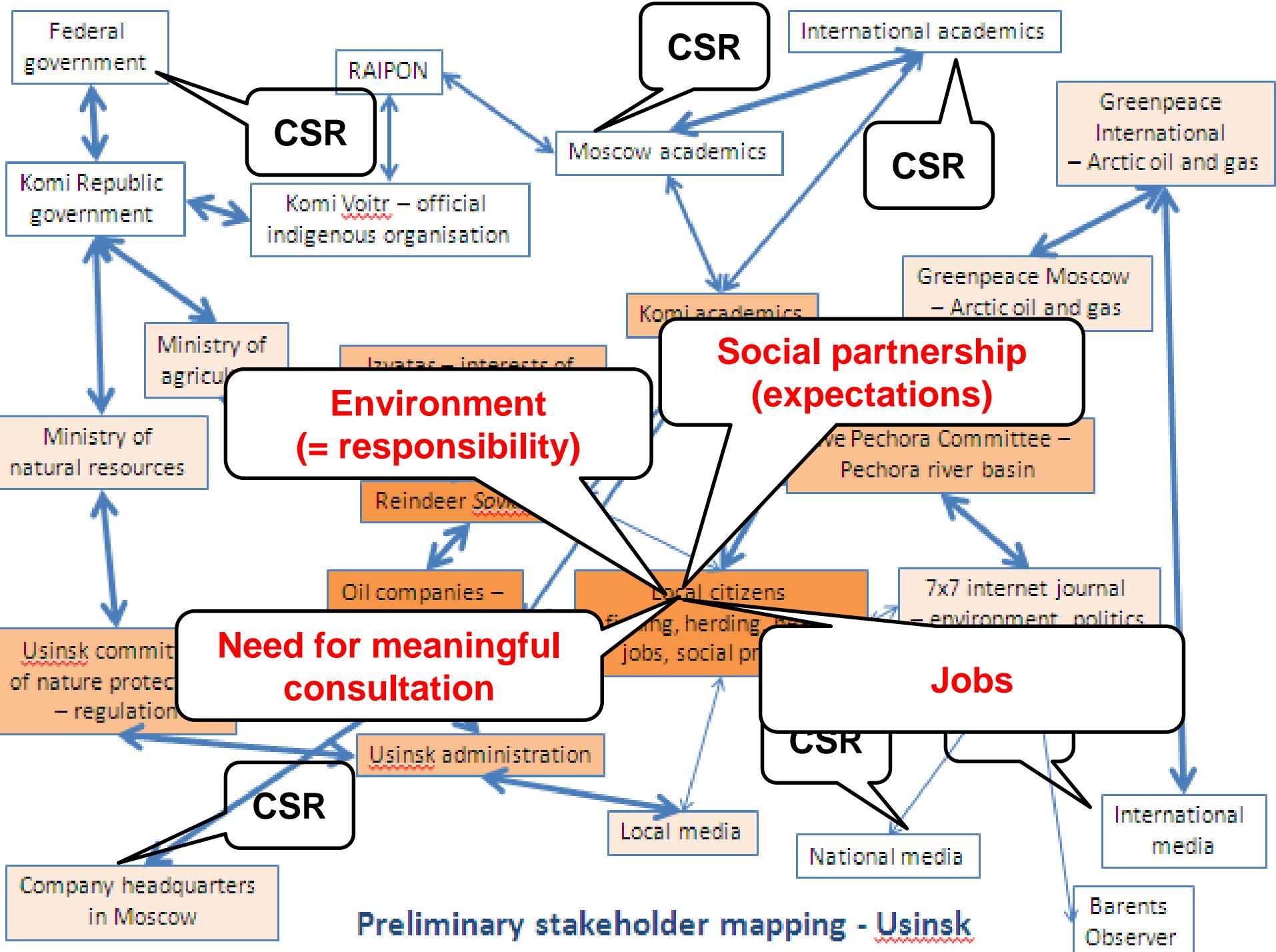
- Indigenous Komi are not officially recognised, which is a challenge when implementing international and national standards for indigenous rights.
- At the national level, companies use CSR terminology and have well-developed CSR policies; local level implementation is weak.
- Local people do not use the term CSR. The main concerns of people in the Usinsk region are oil spills and jobs/development. They feel there is no real dialogue with companies or the authorities, levels of trust are low on all sides.
- International standards are not used to hold industry or government to account; generally there are low levels of awareness about them and how they might help
- However, the core principles of international standards are in line with the core concerns of local people

Komi Republic

- **Size:** 415,900 km²
(< France, > Germany)
- **Population of Republic:**
1.2 million
- **Komi people:**
300,000 (23%) **(not officially indigenous)**
- **Izhma Komi in the North:**
40,000
- **Reindeer:**
110,000
- Collapse of state farm system made agriculture unviable in the North of the Republic; some forestry



- **Timan-Pechora Basin:** 1.3 billion tons oil; 800 bln cub m natural gas
- **Since 1970s:** Intense oil extraction
- **Lukoil – major player,** but also Rusvietpetro; Severnaya Neft' (Rosneft'); Kolvanef (Nobel Oil) and others
- **1994 Usinsk oil spill:** 100,000 tonnes oil over 72 square miles of tundra



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Thank you for your attention
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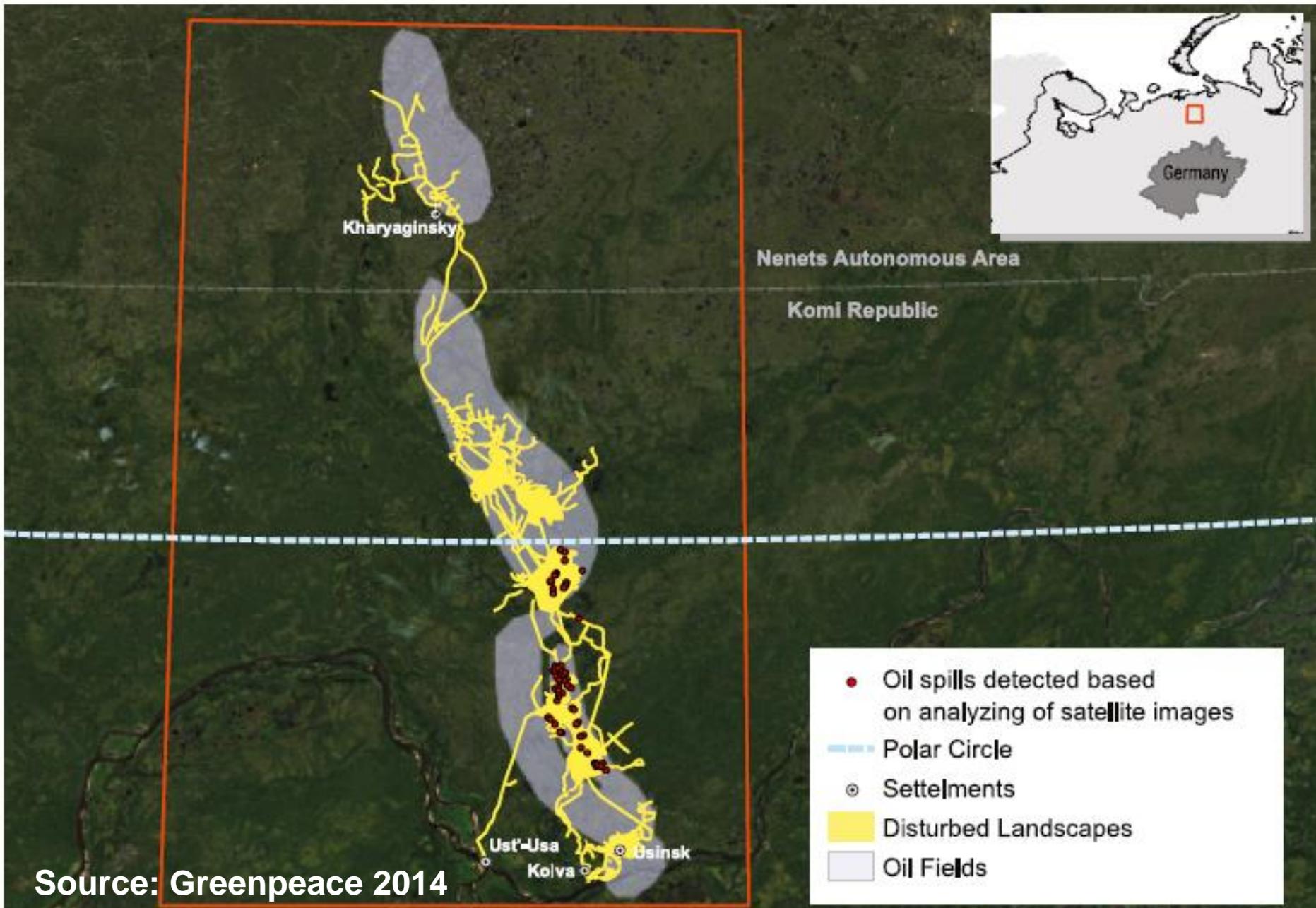
Usinsk: an oil town (pop. 40,850)



Kolva (pop.350) and Novik Bozh (pop.400)



Graphic 2. Landscape degradation in Usinsk, Vozey and Khariaginsky oil fields.⁴¹





The 2013 Kolva oil spill



What can we learn from the 2013 Kolva spill and how people talk about it?

- An oil spill of 20-200 tonnes in November 2012 was concealed until the spring thaw brought it down the Kolva River in May 2013. Slow emergency response efforts led to people cleaning up their own rivers with shovels and plastic bags. Rusvietpetro took responsibility but Lukoil was in the picture while people established who was responsible ...
- Importance of **collective responsibility** – reputations are collectively at risk from such incidents
- The incident illustrates the importance of **trust and good communication** in relations between government, industry and civil society
- **Local people:** ‘We are not against the oil industry, we just want them to do it properly – we know it can be done properly, why not here?’

Increasing activism: the Izhma Komi set Lukoil an ultimatum

- **February 2014:** Lukoil starts constructing four new oil wells 200m from Krasnobor without consulting local residents.
- **March 2014:** a 10-year old Lukoil pipeline suffers another leak; company tries to hide it and tried to clean up the spill by burning it ...
- **'In 16 years** Lukoil has earned billions while polluting our water and forests.' Concern about cancer (the week before, three men had died of cancer)
- **31st March 2014:** At a meeting with 150 people from 13 villages residents demand that all Lukoil-Komi's plans be discussed publicly in advance; that they sign an obligation to invest in social projects; and activities suspended until issues resolved.

Commentary (an Izhma Komi living in Moscow): '**The administration is being conservative in arguing for more money for social projects. They should demand 'no more spills' and proper consultation and respect for local communities.**'