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Mr. James Maloney

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• (1530)

[English]

The Chair (Mr. James Maloney (Etobicoke—Lakeshore, Lib.)): Good afternoon, everybody. Thank you for joining us this afternoon.

We have two witnesses in our first hour. We're doing a study on international best practices and we have our first two international witnesses. Professor Turi is here with us today and Professor Hernes is joining us from Norway.

What's the time difference, Professor? It's quite late there, I believe, isn't it?

Professor Hans-Kristian Hernes (Professor, UiT The Arctic University of Norway, As an Individual): I'm six hours ahead of you, so it's 9:30.

The Chair: We're very grateful to you for taking the time, especially at that time of day.

The process for the meeting is that each of you will be given an opportunity to deliver opening remarks for up to 10 minutes and then, when both of you have concluded, we will open the floor to questions from around the table.

Professor Turi, since you're with us today, why don't we start with you?

Dr. Ellen Inga Turi (Associate Professor, Sámi University of Applied Sciences, As an Individual): Thank you very much, Mr. Chair.

Let me first say that it's an honour for me to appear before the committee this afternoon. I work as a researcher on indigenous knowledge and environmental governance in the Nordics. I'm also indigenous Sami and I grew up in a reindeer-herding family in northern Norway.

I'm looking at your mandate and I've been thinking a little bit about what it is that I can contribute to your work. I'm not sure whether it will be best practices that I'm able to present this afternoon, but rather I believe my presentation will focus on challenges including indigenous knowledge and environmental governance and planning in the Nordics.

My testimony this afternoon represents research and engagement conducted by my fellow scientists and myself, in partnership with both reindeer herders and indigenous leaders over the past decade. I particularly want to acknowledge the Sámi University of Applied

Sciences, the International Centre for Reindeer Husbandry and the Association of World Reindeer Herders as leading institutions in this work.

I will focus mainly on experiences from the Nordics and highlight challenges that we have identified for engaging indigenous peoples and indigenous knowledge in governance processes and then focusing on reindeer herding, in particular.

I'll give a very brief introduction to reindeer herding for those of you who are maybe not familiar with it. It's the primary livelihood for over 20 indigenous peoples throughout the circumpolar North. It involves more than 100,000 people and around 2.5 million semi-domesticated reindeer in nine nation states. Most of this is focused in Eurasia, but you do also have a small reindeer herd in Canada.

Reindeer herding is a nomadic livelihood, which is characterized by extensive, yet low-impact, use of land. In Norway, where I focus my research, we have some 250,000 reindeer on approximately 150,000 square kilometres, which is equivalent to 40% of all the land area of Norway, yet only about 3,000 people are involved.

Reindeer herding is a very land extensive livelihood, but doesn't involve a lot of people and is not a huge economy. It can be seen as a human-coupled ecosystem that has a high resilience to climate variability and change and it is an indigenous model for sustainable management of marginal areas in the Arctic. A key source of resilience for reindeer herding is indigenous knowledge that has been accumulated over generations.

In this context, what I mean by indigenous knowledge—and this is a definition that I'm borrowing from the work of the permanent participants at the Arctic Council—is:

...a systematic way of thinking and knowing that is elaborated and applied to phenomena across biological, physical, cultural and linguistic systems. [Indigenous] knowledge is owned by the holders of that knowledge, often collectively, and is uniquely expressed and transmitted through Indigenous languages. It is a body of knowledge generated through cultural practices, lived experiences including extensive and multi-generational observations, lessons and skills. It has been developed and verified over millennia and is still developing in a living process, including knowledge acquired today and in the future, and it is passed on from generation to generation.

Within reindeer herding, significant knowledge has been generated over time about both reindeer and the human relationships to them and relationships between animals and the environment. There's also accumulated knowledge of dramatic changes in the natural environment and about strategies of how to adapt to such challenges.

This kind of knowledge still forms the main basis for survival for reindeer-herding peoples. It has not been replaced or suspended by research-based knowledge. It's very much available and it's in use every day, but such knowledge has historically been neglected by research and policy. Based on our research, we argue that perhaps more than ever, indigenous knowledge is now crucial for the future survival of reindeer herding in the face of major change.

● (1535)

As you all know, Arctic areas are undergoing a number of changes, ranging from social to environmental, and these are capable of adversely affecting traditional livelihoods. The extensive and nature-based character of reindeer herding means that it is directly impacted by the so-called “megatrends”, and by that I mean trends such as climate change, loss of biodiversity and land-use change. The impacts of these megatrends are inseparable.

Allow me to elaborate.

Future climate scenarios indicate that mean winter temperatures may increase by as much as 7°C to 8 °C over the next 100 years in Sami reindeer-herding pasturelands, and that the snow season may be one to three months shorter. This represents a significant shift, and it is likely that rapid and variable fluctuations between freezing and thawing will increase. Why is this important? Reindeer herding is a livelihood that depends on snow conditions for reindeer to be able to get through to the forage underneath. Warm temperatures and melting snow have periodically created bad grazing years in Sami reindeer herding. Extremely bad grazing conditions, which we in the Sami language call “*goavvi*”, cause starvation and loss of reindeer and subsequently negatively impact reindeer herders' community and organization.

In the last 100 years, *goavvi* has occurred around 12 times in Guovdageaidnu, but we are seeing in climate projections that the frequency of this type of weather condition will likely increase in the future.

Yet, if you talk to Sami reindeer herders, they will often say they are much more alarmed by loss of grazing land than they are of climate change. Why? A reason for this is that mobility, moving your herd to a different area, is a key adaptive strategy for adverse snow conditions. Access to pasture resources will therefore be even more important under climate change. This has been recognized by the United Nations Intergovernmental Panel on Climate Change Fifth Assessment Report, which points out that protection of grazing land will be the most important adaptive strategy for reindeer herders under climate change.

Loss of pastures is a significant challenge for reindeer husbandry in all places where it's practised, but this has been particularly pronounced in the Nordic countries. Pastures are lost due to all sorts of developments: roads, infrastructure, military activities, power lines, pipelines, dams, leisure homes and related activities that all have contributed to decline in reindeer pastures.

Loss of pastures occurs principally in two ways: first, the physical destruction of pastures; and second, the effective though non-destructive removal of habitat or reduction of its value as a resource. By that I mean the gradual abandonment by reindeer of previously high-use areas due to avoidance of areas that are disturbed by human

activities. The numbers are alarming. Studies show that approximately 25% of grazing land in northern Norway is now strongly disturbed, including 35% of key coastal areas. This figure has been estimated to increase to as much as 78% by 2050 if no changes are made in national or regional policies. That means that up to 1% of summer grazing grounds used by Sami reindeer herders along the coast of Norway are lost every year.

● (1540)

A major challenge for reindeer herding is that the majority of the loss of grazing land occurs through piecemeal loss. For example, in spite of Norway having ratified ILO convention 169 on the rights of indigenous people and the UN Declaration on the Rights of Indigenous Peoples, Sami reindeer herders have so far had very little influence on land rights and piecemeal development. Despite the fact that reindeer-herding groups and individuals are heard in decision-making processes—for example, through participatory processes—reindeer herders' indigenous knowledge is not included as part of the decision-making foundation.

Our research shows that the challenge of making use of indigenous knowledge in governance relates to more than just a conflict of what is known—i.e. an epistemological conflict—but also to a conflict in the logic of what constitutes appropriate functional and geographical scales of governance and, not least, what constitutes appropriate land use. Sectorial fragmentation in governmental administration leads to a situation in which assessments of the cumulative effects of all projects combined are not part of decision-making. In other words, one ministry is in charge of infrastructure, another is in charge of hydro power development, a third forestry, etc., while reindeer herding, on the other hand, due to its extensive nature and dependence on different types of pastures, constantly monitors and records any changes in land uses.

I argue that failure to integrate these perspectives into governance systems can be seen as a lost opportunity to account for cumulative long-term effects of land use changes in decision-making.

Our research suggests that the process of making use of indigenous knowledge in governance needs to start already at the policy formation stage; that is, when indigenous knowledge is not part of the policy formation process. Waiting until policy implementation to include it will be more challenging, if not downright impossible—

● (1545)

The Chair: Professor, I'm going to have to ask you to wrap up very quickly, if you can.

Dr. Ellen Inga Turi: Yes.

I will end my testimony by giving you a very practical example in the words of reindeer herder Aslak Ante Sara, who has his reindeer in Hammerfest, the northern Norwegian city where Statoil has its LNG plant. He explains his experience with the planning process in Snøhvit as follows:

We were sort of forgotten in the whole process and our perspectives were not focused on. Because the LNG-plant itself was not placed directly on reindeer pastures, we were not fully included in the total process of regulation. And with this start that we got, [when] we were not focussed on, we were continuously lagging behind in the process, not able to follow this up properly.... Due to the development we have seen an unexpected explosion in human activities. We have much more competition for our pastures now.... When you have this kind of major industrial development in Hammerfest, it makes the area around Hammerfest very attractive for other types of development. Also the society of Hammerfest is rapidly expanding because of the development.

Now there is talk about several possible projects, and planning has begun. This includes petroleum development, new power lines, windmills, infrastructure development and roads. These are heavy investments driven by independent and influential economic sources, also in part independent of Statoil. We also see increasing human activities in our pasture areas in terms of outdoor leisure activities.

Thank you very much.

The Chair: Thank you.

Professor Hernes.

Prof. Hans-Kristian Hernes: Thank you very much for the invitation to take part in this meeting. I'm very honoured by it.

What I'm going to talk about is based on research projects here at UiT, The Arctic University of Norway. They are carried out through the co-operation of researchers in Norway, Sweden, Canada and Australia.

I must also say that I've thought a little bit about what Canada can learn from Norway. That was my first silly thought. But I've also been teaching in a joint master's program with a Canadian university and in my own, and I can see that we can learn from very different examples. What I'm going to talk about then is the situation in Norway. I have Norwegian examples, and maybe we can discuss how they can be used in the Canadian context.

Norway is a country very rich in resources, as you may know. I'm not going to go into the petroleum sector, but Norway has been a country rich in energy since about 100 years ago when Norway started to develop hydro power using waterfalls, building dams and using rivers to produce electricity. It was important for the development of Norway as an independent nation. After World War II, it was very important for having an income and developing the welfare state. Today we have a situation in which 95% of the electricity in Norway comes from hydro power.

It is a publicly owned resource, with 50% of the electricity production owned by the state, 40% owned by municipalities and counties, and only 10% owned privately. Today, if you are applying for a licence to build a new power plant, you need two-thirds public ownership and funding of that plant. In Norway there has for a long time been a political struggle for public ownership of electricity and electricity production and for national ownership of the perpetual resource that these rivers and dams represent.

Electricity has been important for infrastructure, for welfare in Norway, for the building industry, for employment, for export revenues and as a source of extra income for municipalities. Currently Norwegian municipalities receive about one billion Norwegian kroner each year in income from concession conditions on this electricity.

Electricity in Norway for many years was managed by the government. It still is. But between the two world wars and also after World War II, the state was the main actor. The state was controlling and the state was trying to control the system.

We got a new energy law in 1991, which changed the system radically, in the sense that the electricity system became market-based. Norway is connected to the Nordic electricity market and later also became connected to the European electricity market. The different producers compete in this market, whereas there is a monopoly on the grids, on the transmission lines, in Norway.

Today's debate is not so much about large hydro power projects. That era seems to be over. What we are debating today is wind and sun, and it's about the development of new renewable energy. Particularly wind farms are under debate as are, to some extent, solar plants. Wind farms are popping up in a lot of places in Norway. The production from wind is increasing. Figures from today, from Statistics Norway, show a 36% increase in 2018, but wind is still only 2.5% of the electricity production in Norway.

• (1550)

Another debate or issue concerns grids or power transmission lines. The goal is to strengthen the power grid in Norway to connect the country. As the first speaker said, that puts pressure on the use of land in different parts of Norway, but particularly in northern Norway with the grazing land for reindeer herders.

In terms of energy and the role of indigenous peoples, there is a history of conflict. In Norway this is mostly illustrated by the conflict between the state and the Sami people over the Alta River in the early 1980s. The state wanted to build a big dam and the Sami said they were not included in the process. The Sami and those who were against this, including those in the environmental movement, lost this battle, but it was the beginning of developing the main Sami institutions in Norway.

I'm going to talk a little bit about the three relationship models when it comes to indigenous people and energy. The first one is this Alta River conflict, with a rejection of the energy projects by indigenous peoples. We have conflict, very little or no participation, and continuous struggles between the state or government and the indigenous peoples. In the second model, we have participation, involvement in the decision-making processes, and formal requirements for participation. The third model is the one where I would say indigenous peoples or local communities take ownership of energy production and use it for local development and possibly income.

In my opinion, this third model is not present in Norway for either wind or solar. As far as I know, it is developing a little bit in Canada, but not in the Nordic countries. I can give several explanations for that, but I won't do that here. We do not have impact and benefit agreements, but municipalities that host large hydro power stations are compensated. That's been the model for about 100 years.

If we are looking for a Norwegian model, my suggestion would be the second one, which is participation. I will give a brief presentation on that. For Norway, indigenous rights and indigenous politics have been very much based on, and have had major input from, international law. UNDRIP is an example, but ILO C169 has been the most central. ILO C169 became important for the development of consultations as a tool in the contact and co-operation between the Norwegian state and the Sami Parliament from 2005. The consultation agreement that's currently in use says that the state has to inform the Sami Parliament or other Sami actors about the upcoming cases. The Sami Parliament can then demand consultation, and then they should ideally exchange opinions. The goal is to reach an agreement or consent between the actors.

Where are we today? We have formal processes that are used. The Sami Parliament and reindeer herders are invited in. They do participate. Another observation is that the Sami representatives and the Norwegian state disagree, and they do not achieve the agreement or consent that is the goal of the consultation procedures. If we look at consultations in general, one of the observations that is made is that the Norwegian Water Resources and Energy Directorate is a challenging case for the Sami Parliament. They emphasize an energy economy and obligations for more renewable energy before they eventually turn to the question of Sami rights and the reindeer herders' situation.

There are large windmill or wind farm projects, either planned or under construction. The conflicts over them may well end up in the courts. This intensifies the conflict over areas in cases where the local ownership is rather low.

• (1555)

So, if I return to the three models, we may argue that we are currently at the borderline between rejection and participation. Still, the track in Norway is still co-operation inspired by consultations. The government has said that it wants to change how the system of objections by the Sami Parliament can be managed. The question is, however, about making the system more efficient, not necessarily about finding solutions to the conflict. The trouble is to handle both the demand and the pressure for more renewable energy in Europe, and on the other hand to comply with indigenous rights at the international level. At the same time, there are very few benefits for local communities and also for Sami communities, because their energy prices are rather low, so there are very low taxes on the production of energy from wind parks.

Thank you.

The Chair: Thank you both.

Mr. Whalen, you're going to start us off.

Mr. Nick Whalen (St. John's East, Lib.): Thank you very much, Mr. Chair.

It is interesting for us to see an international perspective on how governments either appropriately engage or don't appropriately engage their indigenous peoples on resource development.

We are looking at some of the issues, Ellen, that you touched on earlier. In addition to trying to balance the larger majority state's view of how to develop prosperity in the country with the property rights or the lack of property rights for indigenous peoples, and

cultural rights that aren't easily compensated for with money, there are things such as loss of territory for herding caribou, which is very land-intensive, or loss of respect between the cultures.

With this issue of ongoing usage expansion, what would you consider to be the best practice? When should indigenous people be engaged in megaprojects so that we get a better understanding of how to protect these cultural rights and these lesser economic rights that aren't easily accommodated for when people don't take a full view of what the project is going to entail and the other development that's going to come ancillary to the project?

Dr. Ellen Inga Turi: As I said at the beginning of my presentation, reindeer herding is a minor livelihood, involving very few people, and it's perhaps understandable that we cannot win every single land-use case. But my research partners also tell me that if they had been included at a much earlier stage, even before you started drawing anything on a map, you could have, through very small adjustments, taken away the worst of the impacts. In other words, for example, if you're planning to build a new underwater tunnel.... This is a practical example from northern Tromsø. The reindeer-herding family there said that if they had been part of the process at an early enough stage to be able to influence the placement of that tunnel by a difference of only one kilometre, they would have avoided the major impacts. As the plan stands now, they are at risk of losing some very key areas, calving ground areas.

The earlier you engage, the better chance you have to make little adjustments like that.

• (1600)

Mr. Nick Whalen: You talked a bit about a definition of indigenous knowledge. In Canada we're struggling with this as well, and trying to make sure that we engage indigenous people on their traditional practice and obtain the oral knowledge from them. How do the Sami people collect, codify and use indigenous knowledge in a longitudinal way and apply a scientific method to their traditional knowledge?

Dr. Ellen Inga Turi: Unfortunately, there hasn't been widespread systematic collection of traditional indigenous knowledge in Norway. However, there have been some good examples of how to do this. The Sami Parliament has initiated some minor work to document indigenous knowledge relating to particular topics, but also our experience is that when it comes to planning, for example, resource development projects in a certain area, you have to go to those certain people who are using the land there. Perhaps the best examples we have today are of either reindeer-herding communities themselves or research developers who have chosen to make special impact assessments that document traditional knowledge.

Mr. Nick Whalen: Once that knowledge is collected or used for a particular project, can it then be leveraged for future projects as a starting point? Would it be appropriate, then, to go back to indigenous people to get updated information that's more specific to how a secondary project may have changed versus the first one? Have you had any experience with secondary consultations for indigenous knowledge in the same area, but with different types of economic development?

Dr. Ellen Inga Turi: I haven't had any experience with secondary assessments, unfortunately. The type of indigenous knowledge I've seen well documented that has perhaps been useful in these types of processes has been about historical land use and possible future land use for reindeer herding so that you get an understanding of how that area is actually used. That type of knowledge is, of course, useful for the future, as well, because it doesn't only concern the possible project that is coming.

Mr. Nick Whalen: Mr. Hernes, maybe you can help me understand a little bit about the history of why Scandinavian countries don't use impact and benefit agreements. Those are things that, in our earlier testimony this week, we heard are great to have in place. The major problems in Canada are when they're not followed. However, they are a cornerstone of any development that impacts traditional rights in Canada.

I'm wondering if you can describe why the legal regime in the Sami-Norway relationship doesn't include revenue sharing on megaprojects that occur on Sami land.

Prof. Hans-Kristian Hernes: The main difference with Canada is that the Sami people don't own their land in Sami. We don't have the types of agreements you have. That's one reason.

When it comes to energy, energy has been seen as a national resource, and the income and so on have been given or transferred to the state. The state has then brought some of this money back. The Sami people, for example, are not involved in direct exchanges with companies or those that are building these new wind parks, for example. The Sami people are involved with the state. It's the state that regulates and takes care of the formalities.

• (1605)

Mr. Nick Whalen: To help me understand the testimony that comes in the rest of this session, maybe you could explain further. I tried to understand section 1-4, "The financial liability of the State", in the Sámi Act. Could you describe how the state, which I'm presuming is Norway, funnels money back to the Sameting for use in local Sami municipal affairs? If Ellen has a comment on that as well, I think it will really guide our understanding of the rest of your testimony.

The Chair: If you could both try to answer that very briefly, we'd be grateful.

Prof. Hans-Kristian Hernes: The state, or the Norwegian national parliament, decides the budget for the Sami Parliament each year. It does not give but transfers money to the Sami Parliament as part of the state's budget. That's how it's done. It's part of its large budget. There is some sort of consultation on the budget, but it's mainly decided by the Norwegian national parliament.

The Chair: Okay, great, thank you.

Mr. Schmale.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Thank you, Chair.

Continuing with what Mr. Whalen started with, the budget is set at the state level, but does the Sami Parliament have the ability to veto...? I can open this up to either of you. I know you mentioned something, Professor Hernes, in your testimony. It's my understanding that it does not have the power to veto a project. Is that correct?

Prof. Hans-Kristian Hernes: The Sami Parliament does not have the power to veto projects.

Mr. Jamie Schmale: You mentioned that the Sami Parliament, if I heard you correctly, had objections to certain projects, for a variety of reasons, and that it pushed its concerns on to the government, and for whatever reason, the process went forward.

Where do you see the shortcomings in this process and the fact that an elected body was there, and its feedback wasn't taken into account, I guess, for lack of a better word. I guess it was; it was debated, but it went in a different direction.

Prof. Hans-Kristian Hernes: In some cases, the state and the Sami Parliament don't agree after this exchange of opinions, and what's been troubling for the Sami Parliament is the processes, during which they feel that their arguments haven't been heard and which they feel the state has done simply because there's a formal requirement to do consultations. I think that has also been one of the challenges, then, related to energy issues.

Mr. Jamie Schmale: When you talk about transfers from Norway to the Parliament, is the formula based on economic development, or is it just a set transfer regardless of how well a particular region is doing with energy infrastructure or whatever?

Prof. Hans-Kristian Hernes: It's mainly decided on as a transfer to the Sami Parliament, and it's related to the different tasks they have. They may get new tasks and then they get more money. For example, if they are working on language issues, they probably get more money to deal with those, and to deal with the Sami or to take care of the Sami language. It's the same with museums and so on. All of this is decided on through a long process by the Norwegian Parliament and then based on the advice of the cabinet or government.

Mr. Jamie Schmale: Okay.

Just out of curiosity, on the energy projects—you mentioned a couple in your testimony—do you know off the top of your head, by any chance, the period of time it took from the application being submitted by the proponent of that project to a decision being made to begin construction?

Prof. Hans-Kristian Hernes: I would say it took at least five years for some of these wind projects, based on the information that we have, but the government has also tried to set more limits on these processes, because some of these permits have been given, and then construction hasn't started, and then the permit has been withdrawn. They need to do it within a set number of years.

• (1610)

Mr. Jamie Schmale: Okay.

Prof. Hans-Kristian Hernes: My guess would be five years, and some of them have been going on for much longer, because it's a challenge to get funding for them. It might start out as a local project. We have a big wind park outside Tromsø that is now under construction. It's about three billion Norwegian kroner, which is about \$500 million Canadian. That was started as a local project, but it's now owned by a German pension fund for doctors. They have come in and taken over, and that gave speed to the process, because the locals couldn't raise all that money.

Mr. Jamie Schmale: Would you say the vast majority of these infrastructure projects were privately started or publicly started?

Prof. Hans-Kristian Hernes: There have been some that have been started by some of these power companies owned by municipalities. The state is also involved in some large projects via their own Statkraft. This one outside Tromsø is an example of private ownership. There's a mixture, when it comes to wind parks, more than there is for hydro power in Norway, which is publicly owned.

Mr. Jamie Schmale: We have wind farms in my area, so I'm just curious as to whether you know this. You said some of the projects were approved, and there was a delay in starting construction for whatever reasons. Do you know, by any chance, what those reasons were? Were they economic? Were there other factors, like protests from the public or that type of thing?

Prof. Hans-Kristian Hernes: The reason has been, to some extent, public protests, but it's mostly financial, I think, and also that they've found that the area isn't that good for production. There are also delays related to the new technology we can produce. We can have bigger windmills and we may then change the project, and then we have to go to a new round with the government on it. That might also cause a delay.

Mr. Jamie Schmale: Thank you.

The Chair: Mr. Cannings.

Mr. Richard Cannings (South Okanagan—West Kootenay, NDP): Thanks to both of you for appearing before us. It is very interesting to get this international perspective, and I'm sure we're all learning a great deal about the Sami people and how they are dealing with these interactions with the state.

This study is about how to engage with indigenous people to the best effect for all concerned. I'll start by asking Professor Turi this question. The Sami are found not only in Norway, but in Sweden, Finland and Russia. Are there situations in those countries that are better in terms of the engagement of Sami peoples and their knowledge before resource projects are started?

Dr. Ellen Inga Turi: I'm not sure that I'm able to put any of the countries above one another.

Mr. Richard Cannings: I wasn't saying to put them above one another, but are there differences in how they're dealt with?

Dr. Ellen Inga Turi: I guess many Sami people consider Norway to be perhaps the country that has come the furthest in developing approaches to engage indigenous peoples, but there are still plenty of hurdles to go.

Mr. Richard Cannings: Right.

Professor Hernes, do you have any comments on that?

Prof. Hans-Kristian Hernes: I think I would agree. The Sami Parliament in Norway is stronger. It has more resources than they do in Sweden and Finland. Norway is also the only one of those that has signed ILO C169 and developed tools such as consultation. There are some processes and landmarks in Norway that are important. Maybe that's related to the conflict that was there when the Sami Parliament was established and they got their amendment to the constitution and also Sami law.

My experience, or what people tell me, is that it's easier to go from the Norwegian Sami Parliament to decision-makers in Oslo, the Norwegian capital, than it is for the Swedish Sami Parliament and their politicians to go to the politicians in Stockholm, the capital of Sweden. I think Norway is a little bit ahead of the others.

• (1615)

Mr. Richard Cannings: I also wanted to follow up on ILO C169, which you mentioned. It's not an agreement that we hear much about here because Canada and much of the world didn't ratify it. Most of Latin America ratified it, as did Norway, Iceland, Spain, I think, and Bhutan. Is it considered to be a forerunner of UNDRIP? What are the differences? Maybe you could also expand on your comments about how Norway perhaps hasn't done a good job of living up to its commitments under ILO C169.

Prof. Hans-Kristian Hernes: Norway was the first country to ratify ILO C169. It really became important for decisions or the process related to ownership or use of land and water in the northern parts of Norway. It became very important for development of the Finnmark Act, which was decided by the Parliament in 2005. In that sense, it has been important.

It has also been important in developing these consultations. Norway has a consultation agreement from 2005, and that's based on article 6 in ILO C169, so in that sense it's been important for Norway. The ILO has done quite a lot in developing or setting standards for consultations and also for the processes related to ownership, to land and water. I think that's the main impact as far as I know. My experience is perhaps that Norway doesn't speak as much about UNDRIP as you do in Canada, for example.

Mr. Richard Cannings: Thank you.

I'll go back to you, Professor Turi, and follow up on something that Mr. Whalen was talking about. It was with regard to indigenous knowledge. I used to work as an ecologist. I headed up a team on ecosystem recovery with a mandate to involve indigenous knowledge in British Columbia. This was 20 years ago, and it was very difficult; fraught with difficulty.

You mentioned the issues around ownership of the knowledge. In my area, each type of knowledge is kind of proprietary to certain families. Then you have the inevitable conflict sometimes when indigenous knowledge says one thing and western scientific knowledge says the other. Could you perhaps expand on how the Sami process has gotten around some of these things? It might be a little more straightforward there when it's just covering reindeer herding. As well, what kind of knowledge are we talking about here? Is it just reindeer herding or is it also climate changes and things like that?

Dr. Ellen Inga Turi: To start, it's my impression that you have gotten quite a bit further in Canada than we have in Norway when it comes to dealing with indigenous knowledge. In Norway, even among academics, it's a relatively recent concept that hasn't had as much focus as you've had in Canada. Hence, as researchers, we are very inspired by Canadian researchers.

When it comes to including indigenous knowledge in policy-making, we haven't gotten that far there either. Perhaps the most successful best practice examples I have that include reindeer herding and indigenous knowledge—in something that is at least formative for policy—are the descriptions of Norway in Arctic Council documents. Perhaps it's because the Arctic Council is more used to working with indigenous knowledge than the Norwegian governments are. There are some processes, though, particularly initiated by the Sami Parliament, to make ground documents where you lay the foundation for what indigenous knowledge is, how you can work with it, and what type of benefits there can be. That involves knowledge concerning processes that might be beneficial to society at large—with regard to climate change, for example—and knowledge that's very specific to a single reindeer-herding area.

More generally, though, from my experience working with indigenous reindeer-herding knowledge, yes, you are right that sometimes there might be conflicts between what a scientist says and what an indigenous reindeer herder says, but if you spend enough time elaborating on what you're talking about, there's a tendency to get closer.

• (1620)

Mr. Richard Cannings: Thank you.

The Chair: Mr. Harvey, you're last up.

Mr. T.J. Harvey (Tobique—Mactaquac, Lib.): Thank you, Chair.

I'll start with you, Professor Hernes. Mr. Cannings made reference earlier to the ILO agreement. He compared it briefly with UNDRIP and maybe its possible deficiencies as compared with UNDRIP. I don't want to ask you about the comparative nature of the two but about your opinion on this. Number one, do you feel it has been successful in its mandate? And number two, even if you do feel it hasn't been successful in its mandate to achieve everything it set out to do, do you feel that the benefits of the agreement have still been for the greater good?

Prof. Hans-Kristian Hernes: Thank you. What big questions those are.

I think the ILO has been successful, or has been a tool, then, for the Sami Parliament in establishing consultations, both on this Finnmark Act process in the Norwegian Parliament [*Technical*

difficulty—Editor] 2003 [*Technical difficulty—Editor*] and before the law was passed in the parliament.

Consultation has been very important for the Sami Parliament in terms of getting in touch, co-operating and being involved in decision-making processes. It's related not only to land and water but also to education, language issues, the environment and so on. The Sami Parliament has really become a player or an actor in several processes in Norwegian politics and working with the Norwegian government. In that sense, it's been a success, I think we could say.

I'm sorry, I forgot your second question.

Mr. T.J. Harvey: The second part of that question was about whether or not you feel, regardless of whether or not the agreement has met all of the objectives it set out to meet, it has been beneficial as a whole to the relationship between the Sami people and Norway as a whole.

Prof. Hans-Kristian Hernes: I think it has been beneficial for the Sami Parliament, and the Sami Parliament wants to continue this co-operation. There is now a proposal in the Norwegian Parliament for a law on consultation or on including consultations in the Sami law. The Sami Parliament wants to continue this. They see this as a possible way to be involved at an early stage in the processes and to then have direct contact with government. The agreement also includes the President of the Norwegian Sami Parliament meeting the responsible minister for regional affairs in Norway twice a year. It's been institutionalized as a way that the Sami Parliament can work with the Norwegian government.

• (1625)

Mr. T.J. Harvey: Ms. Turi, based on your experience, do you feel that the relationship between the Sami people and the Government of Norway has benefited from this agreement? And if it hasn't been 100% successful in everything it had set out to do, do the Sami people as a whole feel that they're progressively making up ground as they go along?

Dr. Ellen Inga Turi: I believe this agreement has been of benefit to the relationship between the Sami Parliament and the Norwegian government. Of course, the Sami people are diverse. They're involved in different livelihoods, all of which are not able to be...or are not as strongly represented by the Sami Parliament. The Sami Parliament is a relatively new and young organization that is developing, and the place it has among the Sami people is developing. I feel it has made quite major leaps, particularly over the past few years, but there have been times when, for example, Sami reindeer herders questioned whether or not Sami Parliament was the right institution to represent them on issues concerning land use negotiations.

That is why I say that I do feel that this agreement has very much been of benefit to the relationship between the Sami Parliament and the Norwegian government. To some extent, yes, the Sami Parliament does represent Sami people, but there are areas where that is also questioned.

Mr. T.J. Harvey: Okay.

What are the top three things that the Government of Norway, in combination with the Sami Parliament, could do to address the concerns of those marginalized groups within the Sami population and to address some of the issues that they feel are not being considered?

Dr. Ellen Inga Turi: You're putting me a little bit on the spot with "top three".

Mr. T.J. Harvey: Top two, then.

Dr. Ellen Inga Turi: I think I can come up with maybe one or two.

The current way we decide on infrastructure projects in Norway is through environmental impact assessments. If the Sami Parliament and the Government of Norway decided to put some serious effort into developing the environmental impact assessment regime further, that could really help.

Among other things, indigenous knowledge is always rooted in indigenous languages. Putting more focus on also making impact assessments in indigenous languages, by indigenous researchers, could be a step on the way.

Mr. T.J. Harvey: Thank you.

The Chair: That's all the time we have, unfortunately. Thanks to both of you for joining us today by teleconference. It was very helpful to our study and very much appreciated.

We will suspend and get set up for the next two witnesses.

• (1625) _____ (Pause) _____

• (1630)

The Chair: Welcome back, everybody. We have two more witnesses joining us for the second hour. With us we have Professor Greg Poelzer from the University of Saskatchewan.

Thank you for joining us. Based on the weather reports, I'm guessing you're glad you're here and not at home.

Professor Greg Poelzer (Professor, University of Saskatchewan, As an Individual): Yes, exactly, though I could canoe here.

The Chair: By video conference, we have Dr. Dalee Sambo Dorough, who is joining us from Hawaii although she is a professor at the University of Alaska. I understand that "Congratulations and happy anniversary" might be in order. I was told not to say that, but I'm saying it anyway. We really appreciate you taking the time out, especially when you're in Hawaii.

Were you able to hear us?

Dr. Dalee Sambo Dorough (Senior Scholar, University of Alaska Anchorage, As an Individual): Yes, I'm able to hear you fine, and I was just going to thank the technicians who did the test run yesterday. I think we're all in good order.

The Chair: We're going to jump right into things here. Each of you will have up to 10 minutes to deliver remarks, and then we'll go around the table with some questions.

Professor you're here, why don't you start us off?

Prof. Greg Poelzer: Thank you very kindly for having us in on this obviously very important topic to our country, but also to our neighbouring countries in the circumpolar north.

And a hello to my colleague from Alaska, where I did my Fulbright. Folks in Alaska really treated me well, so I have a very fond affection for Alaska.

One of the things I know a lot of folks are thinking about when we're thinking about large energy projects is oil. It's a hot topic, as you might expect, in my home province, Saskatchewan. But I want to focus a little bit on what will be, in the long term, the bigger infrastructure energy projects that are coming down the line, which will be in electrical energy. I'm happy to talk about anything, but I want to focus on this one, especially as it relates to indigenous peoples in Canada.

When we think about this global energy transition, in my view it offers us the most important opportunity in the 21st century to renew indigenous relations through renewable energy. This will happen only if it's done right. If done badly, the transition to greener energy would be just another area of unnecessary, preventable conflict and lost opportunity for sustainable wealth generation in indigenous communities. It would truncate progress, in my view, with regard to the largest single environmental challenge of our times, which of course is climate change.

If we think about the national railway of the 19th century as the key infrastructure project that helped to build Canada from sea to sea, I would suggest that the global energy transition offers Canada the same opportunity in the 21st century, which can bind Canada together from sea to sea to sea.

I think nation building through energy could address two important dimensions, and I say this is with my prairie-Saskatchewan hat on. I think it provides us a once-in-a-generation opportunity to do better on our promise to one another that we are all treaty peoples. The energy transition can be a nation-building project that includes all founding peoples and contributes to our journey of reconciliation, through steel in the ground.

Being independent power producers, for first nations and Métis communities, offers real opportunities for indigenous equity ownership positions, in whole or in part. They provide sustainable revenue streams, employment and new business ventures.

Second, I think energy transition provides critical foundations for completing nation building, especially as it relates to the territorial and the provincial north. Energy access and energy security are everyday issues in almost all remote and rural communities in the territorial and provincial north. The high cost of energy often contributes to grinding poverty and the "heat or eat" dilemma in many communities. The lack of stable power is a deterrent to business development and business investment.

These are issues the vast majority of Canadians don't ever think about. They aren't on our horizon. But if we're truly going to complete nation building in this country, I think the energy sector is one thing, in terms of infrastructure, through which we can build Canada east, west and north. And it will enhance equality of opportunity, especially for first nations, Métis and Inuit Canadians, because their lack of equality of opportunity is largely grounded with energy. The energy transition we have in front of us provides that large-scale nation-building project.

• (1635)

There are four lessons.

As for my own background, I've done a lot of work in Siberia over the last 30 years. I've done 30 field trips. I read, write and speak Russian. I've done a lot of work more recently in Scandinavia, particularly in Norway and Sweden, and more recently now in Alaska. I could give you about 20 or 40 lessons, but I'll stick with four.

One is to pay attention to social impact, not just physical and environmental impacts, in doing assessments. I think that's deadly important. A place that you wouldn't expect Canada could learn some lessons from is the Sakha Republic—Yakutia—in eastern Siberia. They had a delegation—some of them are our colleagues, in fact—looking at environmental assessment processes in Canada, which have tended historically to focus on the physical and environmental impacts. To their neglect, we don't have a robust process around social, cultural and economic impacts for indigenous communities.

They thought our process had something wanting. When they went back, they actually built in—yes, they have the standard physical and environmental ones in their EIA processes—and created a process to look at social and cultural impacts, and they have deployed it. They have deployed it on two railway projects in southwestern Yakutia and on a hydroelectric development project. The reports back are that it was largely successful. Yes, remuneration or compensation is not anything like we would expect in Canada, but the point is, there's a lesson that these things can be done.

The other lesson I want to draw on—I'm glad our Norwegian colleagues set the stage—is about the decentralization of electrical power. It's coming and it's going more global, but it also provides opportunities for democratization in decision-making at the local level. I think what's going on in Norway is instructive, especially in Finnmark county, the largest county in northern Norway. It has the largest indigenous population. At one point, 90% of the land was actually owned by the state, the national state, which was not typical for every other county in Norway. There was the Finnmark Estate, which allowed co-governance, or co-management, as it were—we might use that lingo in Canada—in which there were equal appointments by the county and the Sami Parliament.

That context is I think really important when you look at that kind of decentralization of electrical power. By Canadian standards, it's a small region. By Norwegian standards, it's large. By Canadian standards, there's a fairly good population, and by Norwegian standards it's quite sparse. There are seven or eight local utilities, including everything from private to municipal to co-operative, and they've all worked together under a single one, Finnmark Kraft. One

of the interesting things is that there was supposed to be some national large-scale wind development. These things are still under debate, but the fact that the Finnmark Estate is there and the fact that Finnmark Kraft is operating has actually slowed this down to where there now is an opportunity to offer local decision-making about wind power development in a way that wouldn't have been possible otherwise. That's another lesson that I think Canada can take away to think about in our context.

The third lesson is that indigenous peoples can own and operate energy utilities. I'll tell you this. In terms of the other hat I wear, I'm a negotiator for SaskPower, so I'm on the industry side of the table and have been setting out in the last eight years the negotiating of a global settlement on a hydro facility in northern Saskatchewan. When you work across the electrical utilities, I think one of the mythologies in Canada is that indigenous peoples don't have the capability or capacity to own and operate electrical utilities, but you can look at the State of Alaska and at things like the Alaska Village Electric Cooperative, AVEC, which was founded in 1967. We're only 50 years behind Alaska, but we will catch up one day. It started with a handful of communities and now has 57 native Alaskan communities owning and operating it and making investments. It is the largest electricity co-operative in the world by territory. There are lessons for Canada. We can do that.

• (1640)

One thing I'm working on and negotiating with SaskPower is to found the first generation and distribution utility that would be owned by first nations in Canada. There are nearly 200 projects of electrical ownership, but not in terms of utilities. That's not uncommon in the United States.

The last point I want to mention is the power of international co-operation in indigenous-led energy development. Again, I hearken back to the state of Alaska, our neighbour. The Alaska Centre for Energy and Power at UAF, with our friends in Iceland and funded as well by the Canadian government and the United States government, put together the Arctic Remote Energy Network Academy. It brought together energy champions from indigenous communities, from everywhere from Greenland to Canada to Alaska, to work on energy projects and build capacity together.

We worked in Saskatchewan with AVEC and Peter Ballantyne Cree Nation on the design of a locally owned utility and an assessment of what kind of renewable energy system could work and how it could be operated in a fiscally sustainable manner. We've taken those things, including from the Fulbright arctic initiative, and built a UArctic thematic network to sustain this kind of initiative into the future.

Here's one last thought I want to leave with you about the opportunity. I think it is profound. Sometimes Canada, and I have to say this about our country, I love this country, and no offence to my Alaskan colleague, but I think we live in the best country in the world—

• (1645)

The Chair: I'm going to have to ask you to wrap up very soon.

Prof. Greg Poelzer: Okay. Last point.

What can we do? There are about two billion people on this planet who...around 1.3 billion who don't have electricity, and another billion or so we've tied to grids or are islanded. Imagine economies of scope: Alaska, Canada, Norway, Sweden and Greenland working together building an export market, building off economies of scope, that's indigenous-led. That's a future that's ahead of us.

Thank you.

The Chair: Thank you.

Doctor, the floor is yours.

Dr. Dalee Sambo Dorough: Thank you so much.

I just want to acknowledge some of the comments that Professor Poelzer has made. In fact, my father used to work for Alaska Village Electric Cooperative. I also want to add that I'm an entrepreneur myself, in addition to having a political career as well as the academic career.

I've provided a number of different documents as well as my presentation to you in writing. I am going to go full steam ahead. I hope everybody can stay with me on this.

I am happy to be invited to appear and would like to commend the committee for their interest in the views of indigenous peoples in relation to natural resource development and major energy projects. Though I'm the international chair of the Inuit Circumpolar Council, ICC, I expect that I've been asked to participate due to my background in international human rights and in particular in the drafting of the UN Declaration on the Rights of Indigenous Peoples. I've chosen to testify as an individual and to share my views about incorporating the UN declaration into your study and your overall work.

The UN declaration and the rights affirmed therein are based on good-faith negotiations and dialogue between indigenous peoples and UN member states. Canada played a significant role in influencing these comprehensive normative standards while led by both Liberals and Conservatives over the 25 years of the declaration's negotiation.

As preambular paragraph 7 underscores, the rights affirmed are inherent or pre-existing. The UN declaration has achieved a universal consensus and has been unanimously reaffirmed in a wide range of UN General Assembly resolutions since its adoption in 2007. Furthermore, the rights affirmed in the UN declaration are minimum standards.

Legal scholars and courts have acknowledged that though the whole of the UN declaration is not legally binding, many of its key provisions constitute both general and customary international law and thereby create legally binding obligations in favour of indigenous peoples. The International Law Association has concluded that the UN declaration articles affirming the right to self-determination; the right to culture; land rights; and the right to redress, reparations and recourse are of a customary international law nature. Also, the rights elaborated on in the UN declaration are interrelated, indivisible and interdependent, and the change of one of its elements affects the whole.

I draw your attention also to ILO convention 169 and the OAS American Declaration on the Rights of Indigenous Peoples respectively because of the compatible and mutually reinforcing nature and the explicit reference to the UN declaration as well as their status as international human rights instruments specific to indigenous peoples.

Indeed, the Inter-American Court of Human Rights has held, through opinions that are binding upon the vast majority of states in the Americas that have acceded to its jurisdiction, that the rights of indigenous peoples to lands, territories and resources mean that both states and companies—third parties operating in those states—must respect the rights of indigenous peoples.

The international covenants affirm the right to self-determination, which is regarded as a prerequisite or a pre-condition to the exercise and enjoyment of all other human rights. This same right is affirmed in article 3 of the UN declaration. Legal scholars have characterized the right to self-determination as the free choice of peoples. That being the case, the right to free, prior and informed consent is an integral element of the right to self-determination.

Natural resource development and energy-related projects are often linked to indigenous peoples' lands, territories and resources. The UN declaration not only affirms rights to lands, territories and resources but also identifies the profound relationship that indigenous peoples have with their environment. These customary and historical connections also relate to indigenous systems of decision-making, as articulated in article 18 of the UN declaration with regard to the right to "maintain and develop their own indigenous decision-making institutions", hence the importance of the rights of indigenous peoples to free, prior and informed consent, FPIC.

In addition to the explicit reference to FPIC in the UN declaration, there is a clear consensus in international human rights law about the state duty to consult with a goal of reaching consent, especially in the area of development projects and extractive industry activities, which more often than not require the consent of the indigenous peoples concerned.

• (1650)

Therefore, states must dialogue and negotiate in good faith in order to achieve consent.

There are a number of other UN declaration provisions that require states to undertake actions in conjunction with, or in consultation and co-operation with, indigenous peoples. In addition, the language of article 26, paragraph 2, affirms that "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use".

Here, the term “control”, in its plain meaning, suggests having power over: to influence, manage, restrain, limit or prevent something from taking place. This is no way translates to a purported right of indigenous peoples to a veto, which the former Government of Canada erroneously characterized FPIC as. There's a major distinction between the procedural and substantive aspects of FPIC and the notion of the power to veto an action. The latter is often outlined and reserved to a legislative or constitutional authority and vested in a political leader such as a president or a governor of a state.

In contrast, FPIC entails negotiation, dialogue, partnership, consultation and co-operation between the parties concerned, in good faith, and again with the objective of achieving consent. Even then, the peoples concerned may choose to assert the right to give or withhold consent regarding what may or may not take place within their territory.

The procedural implementation of the right to FPIC must be sorted out by those who are the “self” in “self-determination” and addressed on a case-by-case basis according to conditions and the “situation” of the indigenous peoples concerned. States must recognize that human rights are not absolute, and that there's a constant tension between the rights and interests of indigenous peoples and all others. In some cases, this constant tension is manifested amongst and between the indigenous peoples concerned.

The Government of Canada, under this Prime Minister, has concerned itself with upholding the rights of indigenous peoples. This can and does include the right to determine our own priorities for development. In addition to the right of self-determination, article 32 of the UN declaration affirms that:

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

The former special rapporteur on the rights of indigenous peoples, James Anaya, in the context of extractive industries and FPIC, referred to indigenous-driven development of their lands and resources as the “preferred model”. The outcomes of indigenous-initiated and indigenous-controlled development are bound to be far more responsive to the priorities, interests, concerns, cultural values and rights of indigenous peoples. He further suggested that states may initiate programs for assistance to those indigenous peoples who choose to pursue development enterprises.

However, much of his report is devoted to the standard scenario of imposed development that many indigenous peoples have experienced and the obligations of states and third parties to mitigate impacts; monitoring third party extraterritorial activities; due diligence; and, equitable agreements.

Sustainable and equitable development are important dimensions of indigenous human rights, and natural resources as well. The preamble of the UN declaration explicitly refers to the fact that “indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment”.

Indeed, “The future we want”, the 2012 General Assembly resolution, specifically states in paragraph 49:

We stress the importance of the participation of indigenous peoples in the achievement of sustainable development. We also recognize the importance of the United Nations Declaration...in the context of global, regional, national and subnational implementation of sustainable development strategies.

● (1655)

A recent development of significance for the Government of Canada, this committee and indigenous people is the 2030 Agenda for Sustainable Development. One of its central objectives is, between now and 2030, to end poverty and hunger everywhere, to protect human rights and to ensure the lasting protection of the planet and its natural resources.

It is important to reference the body of work being conducted by the UN working group on business and human rights, and the important guidelines it has developed. I also urge you to review A Circumpolar Inuit Declaration on Resource Development Principles in Inuit Nunaat, from 2011.

Finally, due to recent dialogue in Canada and the fact that 2019 has been declared the International Year of Indigenous Languages by the UN, I want to underscore the importance of indigenous languages in any engagement process and also the reality of poor telecommunications infrastructure. I listened to Duane Smith and his testimony on Monday. I believe his words were to the effect that we are energy resource rich but infrastructure poor.

More important, all must acknowledge the solemn obligations undertaken by Canada in relation to developing, in collaboration with the indigenous peoples concerned, a national action plan to implement the UN declaration. This voluntarily made commitment could dramatically enhance and ensure the sustainable and equitable development of the natural resources of indigenous peoples, if they so choose, to the benefit of Canada and all Canadians.

I think the issues related to indigenous languages, which I know have been discussed in Canada, as well as infrastructure, which was highlighted by Professor Poelzer, are both matters that are worth following up on in the forthcoming dialogue.

Thank you.

The Chair: Thank you very much.

Mr. Tan.

Mr. Geng Tan (Don Valley North, Lib.): Thank you, Chair.

Thank you to the witnesses for being with us today, either physically or by video conference.

Since you are both scholars, and there might be some overlap of some of your research topics, my question can be answered by either or both of you.

The first question is on indigenous settlements and indigenous advice. You both talked about those in your presentations and shared your fears and insights with us. What might we learn, specifically, if we were to compare settlements, say the Alaska native settlement, the James Bay Indian and Inuit settlement, and the western Canadian Inuit settlement? What is our experience, and what can we improve in the future?

•(1700)

Prof. Greg Poelzer: That's a very good question. I'll defer to Alaska first.

Dr. Dalee Sambo Dorough: I believe it's important to recognize that it would be very useful, to some extent maybe through this standing committee, to do a bit of a comparative analysis of the land claims agreements and the Alaska Native Claims Settlement Act of 1971. For the purposes of energy projects and the focus of the Standing Committee on Natural Resources, I think it would be very useful to explore even further the real potential for indigenous-driven activities in relation to energy resources, as was discussed by Professor Poelzer, and to do so in a comparative analysis.

The opportunities for the Alaska native corporations created by the Alaska Native Claims Settlement Act as well as for the economic development corporations created by the comprehensive land claims agreements across the Canadian Arctic offer some real potential, because, as I noted in my presentation, in the circumpolar declaration on resource development, from the indigenous perspective, and specifically from the Inuit perspective, there is a very real attempt to balance the kind of development that can proceed under indigenous development and in terms of energy resources, both renewable and, significantly, non-renewable.

This is an area that would afford some constructive and comparative analysis, to the benefit of Inuit and other indigenous peoples.

Mr. Geng Tan: You mentioned that circumpolar settlement. The Inuit Circumpolar Council in Canada is a non-profit organization, led by directors, comprising elected leaders of four land claim settlement regimes. After 40 years, it has grown into a major international NGO, representing about 160,000 Inuit in Alaska, Canada, Greenland and Russia.

What can this model offer other countries, including Canada, that are seeking a pathway forward to successful engagement of indigenous communities?

Dr. Dalee Sambo Dorough: To be clear and accurate, the Inuit Circumpolar Council is an international non-governmental organization, as you have stated, consisting of approximately 160,000 Inuit throughout our four member countries. I believe that the declarations we've adopted, including the one I've referenced already, the resource development declaration, and the declaration we have adopted on Arctic sovereignty and our particular interest throughout the Arctic region, can be very instructive in terms of our interest in becoming more self-sufficient. When these are combined with the comprehensive land claims agreements and the Alaska Native Claims Settlement Act, not only do we have clear rights and title to lands, territories and resources but we also have responsibilities. Some of those responsibilities have already been highlighted by this committee in terms of ensuring that the quality of life of our individual members as well as our communities can in fact be enhanced and improved.

The Inuit Circumpolar Council is not a rights-holding institution, but the objectives that we have attempted to move forward, including these declarations but also the 2017 Circumpolar Inuit Economic Summit, pointed to the need to look at the opportunities for sustainable and equitable development that is Inuit-driven so that we

can achieve self-sufficiency. Some of these may in fact include natural energy resource development; again it really depends on the people concerned.

•(1705)

Mr. Geng Tan: I have 30 seconds to ask Professor Poelzer a quick question, because he hasn't answered any questions for me.

It's a domestic question. You talked about the best practices in other countries and you also gave us some recommendations but what about the made-in-Canada? Do we have any best practices? Is there anything we do very well on which we can actually share our best practices with other countries?

Prof. Greg Poelzer: Sure. Sometimes we are first to look at what we don't do well, but I think we do a number of things well.

In terms of land rights, it's hard to find another country in which you have stronger land rights than you do in Canada.

To go back to your earlier question on the evolution of the different land claims agreements and settlements, you start from the Alaska model, which was also kind of instructive for James Bay to a certain degree, and the lessons from there. Then you go all the way to things like Nisga'a in British Columbia, with regard to which, arguably, some people could make a case for a third order of government. There is also the experiment with co-management, particularly in the Northwest Territories. I've seen that in action in the Mackenzie Delta. It can work. I think some of those things are noteworthy.

But I also think about even earlier experiments that we're doing now. Take First Nations Power Authority in Saskatchewan, which was constructed with premier Brad Wall at the time.

The Chair: Professor, I'm going to have to ask you to wrap up very quickly if you can.

Prof. Greg Poelzer: Okay.

The Chair: Ted, you have the floor, I think.

Mr. Ted Falk (Provencher, CPC): Thank you, Mr. Chairman.

You'll probably get a chance to continue.

Professor Poelzer, I'll speak to you first. I was very impressed with your optimism regarding the opportunities we as a country have to really embark on nation-building projects.

You likened it to the development of the railroads. I appreciate that. I like that kind of enthusiasm and positiveness. I think you're on the right track.

In fact, this committee some time ago studied electrical interties and whether we had the capacity to move electricity around in an efficient manner within our country. I think you were just starting to allude to that a little bit. If you could finish that up in 30 seconds, I'd invite you to do that. Then I'll move on.

Prof. Greg Poelzer: To take the electricity one, here's a slam dunk that we should be looking at as a country. Look at the Northwest Territories and the intertie to Saskatchewan into northern Manitoba. In terms of a nation-building project to move electrons around, that's something we ought to do that would benefit northern communities.

I want to pick up on another one, and that's private-public partnerships and things we can do very quickly. Take your own home province of Manitoba. The North West Company has phenomenal logistics support. They could partner, as they did recently in Inuvik, with first nations, buy renewable energy in bulk, and have the support there. Indigenous communities across their network could buy power from them...or North West Company could buy power from them on capital investment that could be sold cheaper than any indigenous community could buy on its own.

For these kinds of public-private partnerships, we have the infrastructure right now.

Mr. Ted Falk: Right. Good. Thank you.

Some time ago, the Saskatoon StarPhoenix published an article with respect to the uranium development—again, a partnership. When you were interviewed, you said at that time that it would be a mistake to see the duty to consult as either an aboriginal veto on resource development or a “perfunctory set of hoops you need to jump through in order to proceed”. You said, “It's really about setting up a relationship.”

Prof. Greg Poelzer: A hundred per cent.

Mr. Ted Falk: Could you elaborate on that a little bit more? We're in a situation now where we have a project we want to embark on, the government has actually committed our tax dollars to it, and 117 first nations communities will be affected. Six are not in agreement, and it's—

Prof. Greg Poelzer: No, I know. Again, with the duty to consult, there's a misconception that it gives an automatic veto. It doesn't. Of course, there are thresholds in proximity communities. Impacts and all those things get taken into account. But I will tell you this: If we're going to do this successfully, there are two things here. First, don't be afraid of indigenous land ownership. I think Trans Mountain has demonstrated that there is strong indigenous interest in equity ownership in energy projects, whether that be in the fossil fuel industry or in renewables.

Then you have to do meaningful.... You can't just show up. You have to do the hard work. That cuts across governments of all stripes, provincial and federal. We have to do this and we have to take seriously that we are all treaty peoples. We have to build those relationships.

At some point, of course, you're not always going to get everyone to agree. One of the interesting things is that somebody will ask, “Why can't indigenous peoples all agree on something?”, and I will tell them that this would be like asking Prime Minister Trudeau, or someone previous, to make sure that every MP in the House agrees with everything.

That's just not realistic. That's not how human beings are. To the point you raised about relationship-building, that's where it is.

• (1710)

Mr. Ted Falk: That's the key.

Prof. Greg Poelzer: A hundred per cent.

Mr. Ted Falk: You touched on that in the very first point of the four you wanted to make when you talked about doing environmental impact assessments. You said we shouldn't lose focus on, or

neglect giving attention to, the social and cultural impacts for all involved.

Prof. Greg Poelzer: A hundred per cent, and I'll give you an anecdote. When I started negotiating with SaskPower with my negotiation hat on, I and my colleague at the time—Tom Molloy, who abandoned me when he picked up another day job, as Lieutenant Governor of Saskatchewan—sat down with them, and we originally couldn't get a contract on vegetation management on an expansion of a transmission facility. There are some history or legacy pieces around that, because there was obviously no consultation back in the 1920s when the dam was originally commissioned. Something we had to explain to people—and there's been an evolution at SaskPower, a very positive one—was this: “You might think that was 1920s and 1930s, but I can assure you that when you walk into those communities, it's as if that dam was built yesterday.”

Those kinds of socio-cultural impacts are legacy intergenerational impacts, something that a lot of mainstream society doesn't fundamentally appreciate. That's why I think that dimension is so important.

Mr. Ted Falk: I know that in Manitoba we had to go back to some first nations communities long after the fact and do some land settlement issues and compensation for the flooded properties and lands—

Prof. Greg Poelzer: Sure.

Mr. Ted Falk: —created as a result of our dams.

Do I have a minute or something like that left?

The Chair: You have a minute and a half.

Mr. Ted Falk: You also made just a fleeting comment, which was that when we talk about our environmental impact assessments there's an expectation for compensation.

Prof. Greg Poelzer: Here's one of the things historically around EIA processes. Often when there is any opportunity at consultation, even though traditionally EIA tends to focus on the physical/environmental perspective, on the community perspective they typically see this broadly. This is one of the big challenges we've had historically with EIA processes. That has caused a lot of consternation, because there's a misunderstanding and then there hasn't been a gateway to address those other issues.

Mr. Ted Falk: Do you have suggestions?

Prof. Greg Poelzer: Well, I'm sure the committee is aware.... I don't know if you guys have ever heard of Bill C-69?

Voices: Oh, oh!

Prof. Greg Poelzer: You know what—

Mr. Ted Falk: Scrap it, right?

Prof. Greg Poelzer: Well, it's a work-in-progress, okay? I'll call it

Mr. Ted Falk: That was very polite.

Prof. Greg Poelzer: No, it's a work-in-progress. There are some critical goals in there. The pieces around what you could call the social and cultural pieces need to be embedded. A lot of it is pretty loosely defined. We don't know where that's going to end up. That's our challenge. If we stay only on the physical and environmental pieces and we don't have a mechanism for that, we're going to be banging our heads into the wall. We have to find a constructive way to get there that's reasonable.

Mr. Ted Falk: Thank you.

I think I'm out of time.

The Chair: You are. Thank you very much.

Mr. Cannings.

Mr. Richard Cannings: Thanks to both of you for being with us today.

I'm going to start again with Professor Poelzer. I was so intrigued by the last statement in your presentation about what's possible globally or in nation building. Could you just expand on that and how it links to indigenous communities and what this government should be doing?

• (1715)

Prof. Greg Poelzer: Absolutely. I'll go back to one thing.

One of the biggest indicators of entrepreneurship is business start-ups. First nations peoples' business start-ups are 500% greater than the mainstream ones. TD Waterhouse did a study not too long ago in terms of economic development in first nations communities. Notwithstanding the stereotype of over 8% growth in China, India and so on, first nations businesses have been growing over the last decade at 8.2%. Their growth is outstripping what OECD countries are doing.

My argument is that if you want to invest in the most entrepreneurial class in Canada, invest in first nations. If you look at where the growth future is, you look at green energy and renewable energy, which is doing a global transition. There's a massive market. Does somebody in Nepal or Samoa want to talk to somebody in New York? No. They want to talk to somebody in Alaska or northern Canada, and Alaskans are doing that now. If we were to do some investments in helping to facilitate and nurture that opportunity, working with Alaska across Canada.... We've already demonstrated—like the ICC—that we can work together. I think that's the enormous opportunity, in my view: to market that know-how around the world and build that electrical future that's indigenous and northern led.

Mr. Richard Cannings: It's more a case of linking minds rather than electricity.

Prof. Greg Poelzer: Exactly, yes.

Mr. Richard Cannings: Okay. That's sort of what I was trying to get at, in terms of whether you had some vision of big polar power lines or something.

Prof. Greg Poelzer: No, no.

Mr. Richard Cannings: Okay.

I'll turn to you again, Professor Dorough. You ran through that coverage of UNDRIP and FPIC pretty quickly. I just wondered if

you could comment on how in Canada the government has expressed a desire to include UNDRIP in its laws and the way it operates.

My colleague Romeo Saganash had his private member's bill, Bill C-262, passed in the House of Commons. It asked the government to include those provisions in the laws of this land. I'm just wondering if you could comment on that process, on where we are and maybe on where other countries might be that have also signed on to UNDRIP and what we could learn from that.

Dr. Dalee Sambo Dorough: I think the efforts in Canada and this political enterprise to integrate the UN declaration standards into national law, legislation and policy are, to a large extent, the answer to some of the questions that have been posed to Professor Poelzer, in terms of natural resource use. The bottom line is that it is a matter of respecting indigenous peoples, recognizing their rights and moving forward in a fashion that takes all of them into account.

As an outside observer to the political arena in Canada and this objective of implementing the UN declaration, I think it would be extremely beneficial to not only the government but also all other interests in Canada to put the standards in place in a fashion that allows for the dialogue to move forward, whether it's in relation to health care or natural resources and major energy projects, and whether it relates to housing or education, so that the standards affirmed in the UN declaration can be instructive and useful guidelines in every matter of concern to Canadians, and more importantly to the indigenous peoples across Canada—first nations, Métis and Inuit.

I think that for many of the questions your colleague posed about energy and alternatives, there are real opportunities to perform outreach with the use of the UN Declaration on the Rights of Indigenous Peoples as a framework for dialogue. It could be significant.

In contrast to other regions across the globe...unfortunately we have certainly not seen this kind of political commitment made and the efforts to push it home, and I'm hoping that between now and June, or now and November, something concrete is resolved in this regard. Unfortunately we've seen by other governments in other parts of the world more rights ritualism than concrete action to respect and recognize the rights affirmed in the UN declaration. When I say rights ritualism, I mean governments and UN member states taking action and making glowing reports about their wonderful human rights record in relation to indigenous peoples but not doing anything concrete in follow-up.

Thank you.

• (1720)

The Chair: You have 30 seconds.

Mr. Richard Cannings: Quickly, just to come down to a very specific example, the Alaska Village Electric Cooperative has been mentioned.

I'm just wondering if there are any lessons that Canada could learn from that.

Dr. Dalee Sambo Dorough: When Professor Poelzer was speaking, I was thinking of Buckminster Fuller and his redesign of a global energy grid, when in fact I think for AVEC and its early initiatives, we were really talking about small energy grids within communities.

With technology today, I think there's an opportunity to revisit what's going on in our small rural remote Arctic communities, which are scattered across the whole of the circumpolar Arctic, and look at the alternatives to enhance these small energy grids that were originally put in place by institutions like AVEC.

I think there's extraordinary opportunity, and the public-private partnership that Professor Poelzer also spoke of is one of the essential keys. When we say public-private partnership, it also means the indigenous peoples, not solely as groups or communities but as rights holders who have the right to self-determination.

The Chair: Thank you.

Mr. Graham.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): Our last witnesses were from Norway, which is a really interesting country.

As you're no doubt aware, Norway has a heritage fund of about two and a half times their GDP, of about \$1 trillion.

Have we ever done anything like that in Canada? Have we ever put the revenue from our resources aside to build something like the energy infrastructure you're talking about as the next railway?

Prof. Greg Poelzer: Well, there's the Alberta Heritage Savings Trust Fund, which started well under then premier Lougheed, of course, and then was basically pillaged after.

In Saskatchewan, the Blakeney government started one, but it was really a run-through account. Currently there is one in the Northwest Territories.

I've actually written a paper on this particular topic. It's one we ought to be doing, frankly, in every province that's producing resources. We're selling the house furniture and not reinvesting. We're selling assets. This makes absolutely no sense to me.

The argument against doing the fund is, "We need to invest in other things right now." Trust the people. It was the same in Norway. Politicians were afraid of that then, but people are supportive.

The example I use is the Heritage Savings Trust Fund. A sovereign wealth fund is like your RRSP. Then you have a mortgage, which is like the debt. People say that you have to pay off the debt first, before you can start. Well, does anyone say, "I'm going pay off my mortgage, and 25 years from now, I'll start saving for my pension"? No, you do both. People do that all the time. We can, and we ought to.

Mr. David de Burgh Graham: Do other countries do it in an effective way that we know about?

Prof. Greg Poelzer: Well, Norway does, and Alaska's not that bad, actually.

Mr. David de Burgh Graham: I think she wants to talk about it.

Prof. Greg Poelzer: It is the Alaska Permanent Fund.

Dr. Dalee Sambo Dorough: Exactly, the permanent fund is, in essence, a sovereign wealth fund. However, in terms of the question of infrastructure, it hasn't been a focus of the permanent fund or the pool of funds generated by oil development in Alaska to deal with the issue of infrastructure or energy-related issues.

I wanted to make one other comment. It seems to me that the Arctic Council is in a perfect place to look at the issue of infrastructure throughout the entire circumpolar Arctic, at least for the like-minded states: the Nordic states, including Greenland and the Danish realm; Canada; Alaska and the United States. They could assess infrastructure needs and co-operate and collaborate in a way that helps us erase these borders that stifle the innovative and creative opportunities to achieve some of the objectives that each of the Arctic rim nation-states have committed themselves to and obligated themselves to, such as the sustainable development goals. I think there is extraordinary potential there. The Arctic Council should really look at the leadership role it can play and, state by state, make the important commitment to a pool of funds that can resolve some of these issues.

• (1725)

Mr. David de Burgh Graham: We have had some really good philosophical testimony here, and I appreciate what you're saying, but we are trying to get to a lot of the practical stuff, the best practices that are in place. I'm going to go back to Alaska. How does the Alaska state government interact with indigenous peoples on these things? How about the federal government in the United States? What are the differences between the two? Do they get along in any useful way?

Dr. Dalee Sambo Dorough: At the federal level, the national level, we recently had an Inuk woman from the North Slope of Alaska appointed assistant secretary for Indian Affairs, so it'll be interesting to see how that plays out, not only with the Inuit in the Arctic and the issues they're facing but also with indigenous people across the whole of the United States.

With regard to Alaska, some advances have been made. With our former administration, governor Bill Walker, there was quite a lot of dynamic dialogue and discussion about priorities. With this new administration, Governor Dunleavy, it remains to be seen what direction it will go, but I'm hopeful about sustaining the dialogue, especially in our rural communities. Unfortunately, we've had a bit of an urban-rural divide. It may be similar to a north-south divide in Canada. I don't know if that's accurate. Hopefully we can overcome some of those difficulties and do something much more responsive to all Alaskans, including Alaskan native people, as indigenous people.

Prof. Greg Poelzer: If I may, I'd like to add one thing especially for our Canadian colleagues in terms of the State of Alaska and federal relations. Most of the land in Alaska is owned by the federal government. There are some western states that have very high federal government ownership of land, which is very different from the Midwest and going out to eastern parts of the United States, where there is very little federal land ownership.

You can imagine what kinds of conflicts that brings in between the state, the federal government and the native corporations on decisions about what kinds of resource development.... Whether it's a natural resource such as fossil fuels or even management of marine mammals and so on, it makes it a much more difficult situation than you would see in a province in Canada.

Mr. David de Burgh Graham: I'm from Quebec. I can't imagine any conflict between federal and provincial governments.

Voices: Oh, oh!

Mr. David de Burgh Graham: You talked in your opening comments, Professor Poelzer, about the social impacts, not just the environmental impacts. You cited the case of Yakutia. Could you expand a bit on the social impacts and how to quantify them and how to approach them?

Prof. Greg Poelzer: Sure. Quantifying is not easy. Some might pretend it is.

If we were to separate it out, it's people focused. It's community focused. If you're looking at the impact of a pipeline coming through, the first thing in our traditional EIA process is to look at it and say, okay, let's look at what it's going to do to the natural environment, to the land and the water, and potentially the air. Often, though, what is not built into it in any kind of robust way is to ask,

“What's going to be the impact on the local communities and their livelihoods, whether that's hunting or fishing—if they're involved in traditional economic activities, as it were—and on their culture?” Some places have a lot of spiritual value as well to those communities.

It's those kinds of things that need to be brought in and assessed. Some things you could measure. You could measure what the impact is on herds of cariboo or moose populations or fish. Some things you could probably quantify as they relate to those economies and what that means in terms of incomes for communities. For other things, simply not....

Mr. David de Burgh Graham: Thank you very much. I think our time is up.

● (1730)

The Chair: Yes, it is.

Thanks very much to both of you for joining us today. It's very helpful to our study. We appreciate you taking the time to join us. Sadly, we're out of time, so we're going to have to end there.

Mr. David de Burgh Graham: Time is a limited natural resource.

The Chair: Yes, time is a very limited natural resource. Exactly.

We're adjourned.

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