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What is the social licence to operate? Local perceptions of oil and gas projects in Russia's Komi Republic and Sakhalin Island

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ABSTRACT

Oil and gas companies are increasingly aware of the need to earn the trust of local communities and secure a 'social licence to operate' in addition to formal legal licenses and permits. By comparing two case studies from the Russian North and Far East, the aim of this paper is to explore local perspectives on what constitutes a social licence and to better understand how a social licence is established in a particular local context. The paper concludes that the success of efforts to establish a social licence that benefits all parties depends on local expectations and historical experience in particular socio-cultural and political contexts. It depends on the willingness of all parties, including government, to engage in constructive dialogue; the ability of industry proponents to understand local needs and culture; and the ability of local stakeholders to actively shape relations and outcomes to reflect their own values and expectations. The case studies also demonstrate that a social licence may be in place where trust relations do not exist between industry, government and society, suggesting that the term 'social licence' may be only partially useful as an analytical concept for understanding and defining the responsibilities of business towards society.

1. Introduction

Extractive industries can contribute significantly to the socio-economic development of indigenous and local communities. At the same time, misuse of revenues, abuse of power or environmental neglect may result in a failure to deliver on local expectations. Resource conflicts can destabilise and weaken communities; they can result in violence and loss of life (Bebbington, 2012; Behrends et al., 2011). Negative community impacts can damage a company's reputation, or result in loss of operational time and profits, and they can put future investment opportunities at risk (Davis and Franks, 2014; Sohn, 2007). Major oil and gas extraction companies and their investors increasingly recognise that securing a 'social licence to operate', by building trust and responding to local concerns and expectations, is a critical precondition for mitigating such risks (Morrison, 2014; Moffat et al., 2014; IPIECA and AOGP, 2012). The success of efforts to build constructive relations and trust between communities, industry and government depends to a great extent on localised individual and collective action; the nature of historical expectations and particular socio-cultural and political contexts; and levels of international scrutiny (Stammler and Wilson, 2006). This paper explores how relations between industry, government and society have played out in two contrasting Russian oil-producing regions with local indigenous communities – Sakhalin Island in the Russian Far East and the Komi Republic in the Russian North (west of the Ural Mountains). By exploring and comparing the two case studies, the aim is to understand local perspectives on what constitutes a social licence to operate and how local stakeholders can influence the way that a social licence is established. Because a social licence is so context-dependent, it is valuable to explore case studies such as these, and Russia itself is an under-analysed region in social licence literature. Of particular interest in Russia is the role of civil society which is often perceived as weak, but which, as the case studies demonstrate, has the potential for influence, especially where it is strongly networked internationally.

The Sakhalin case study focuses on the Sakhalin-2 project and its operator, Sakhalin Energy (a consortium involving Shell and Gazprom). The Sakhalin-2 project has been analysed extensively (Novikova and Wilson, 2015, 2013; Zandvliet, 2011; Bradshaw, 2010; Wilson, 2012, 2003), yet it is atypical for Russia in the levels of international scrutiny and pressure to implement good practice standards, from international financial institutions, environmental organisations and indigenous groups (Graybill, 2009; Stammler and Wilson, 2006). As such it can be seen as a benchmark or a foil

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for the second case study. The Komi Republic case study illustrates the experiences of a particular region (Usinsk District) struggling to overcome the entrenched practices and pollution legacy of the Soviet-era oil industry. Usinsk attracted considerable international attention in 1994 when it experienced one of the world's largest oil spills, but global interest has since declined, despite ongoing spills and leakage from the ageing pipeline infrastructure. In Usinsk District the industry's social licence was established in the 1960s and 1970s, building on Soviet-era relationships and expectations, which was also the case in Western Siberia (Stammler, 2011). By contrast, while oil and gas extraction has been taking place onshore in northern Sakhalin since the 1920s, the offshore projects, which started up in the 1990s with multinational involvement, represented a new industry largely unencumbered by Soviet-era cultures of practice.

In Section 2 the literature on the social licence to operate is explored, along with other related concepts such as corporate social responsibility and meaningful consultation. This section explores some of the standards and practices that frame a social licence for local people in Russia, and discusses experience of the oil and gas industry and local communities in other regions of Russia as a way to situate the contrasting Sakhalin and Komi experience. Section 3 details the methodology followed for the analysis of the two case studies. Section 4 explores the two case studies in more detail, while Section 5 reflects on local perceptions and expectations of the social licence in the two regions, leading to a short, concluding Section 6 that reflects on some of the learnings for social licence theory.

2. What is the 'social licence'?

The term 'social licence to operate' has emerged in recent years largely in the context of extractive industries development and for use by business.[1] It emerged from ongoing debate around the relationship between business and society, and has strong links to 'corporate social responsibility' or CSR (Blowfield and Murray, 2011; Frynas, 2009). Morrison (2014) relates the concept of the 'social licence' to that of the 'social contract'—the notion that people acknowledge the legitimacy and authority of the ruling powers in exchange for being properly taken care of and having democratic rights and freedoms protected (Rousseau, 1762). 'Social licence' is a metaphorical term used to conceptualise the notion that, alongside legal permits and licences, there is the often less tangible 'social acceptance' without which a company may face 'non-technical' risks such as community conflict and workforce protests (Moffat et al., 2014; Syn, 2014; Black 2013).[2] A social licence may exist in different forms, from informal relations to more formal, negotiated 'impact-benefit agreements' (Black, 2013). The term 'social licence' can also be applied to government roles in industrial development (Syn, 2014; Moffat et al., 2014). Morrison (2014) suggests that the term 'social licence' is more effective than CSR at framing power dynamics between business and communities and what makes business activity legitimate. CSR analysis can still help in understanding the social licence, in particular where the analysis outlines the broad responsibilities of business towards society (Bowen, 1953); where it emphasises the balance between rights and responsibilities (Visser, 2011); where it expands on stakeholder theory (Hasnas, 2013; Freeman, 1984); and where it frames 'corporate responsibility' as something that is negotiated and can only fully be understood within the context of the values of a particular local society (Blowfield and Murray, 2011; Frynas, 2009).

The 'social licence' concept has been criticised for being focused more on business risk than business-society collaboration, for lack of definition (especially from a legal perspective), and – as with the term 'consent' (see below) – for lack of clarity in relation to community rights to approve or not approve a project (Morrison, 2014; Black, 2013). Nonetheless, the notion of a 'social licence' has been useful in enhancing understanding of the relations between an industrial entity (a project, company, or facility) and the local community, while also offering space to consider the role of government within that configuration. Thompson and Boutillier (2014) define three key elements of the social licence: (1) social legitimacy (honest, open engagement, respecting local social norms; providing full information to the community and answering all questions); (2) credibility (consistent sharing of reliable information; formal agreements to clarify expectations and commitments); and (3) trust, which is achieved over time, through shared experiences and collaboration. Black (2013) highlights the political nature of the social licence (benefit distribution) and the importance of power relations in determining how the social licence is established, formally or informally. Moffat et al. (2014) define three key elements that are important in building trust and acceptance among local communities: (1) procedural fairness (the extent to which the industry listens to and responds to community opinions); (2) distributive fairness (the extent to which economic benefits are distributed fairly); and (3) governance capacity (the extent to which citizens feel that the government and regulation can ensure mining companies do the right thing) (ibid: 14). Morrison (2014: 13) points out that while the full meaning of social licence 'has yet to emerge', there are clear cases, such as that of the Ogoni people of Nigeria's Niger Delta, where the social licence has been lost. Yet when a social licence is securely in place, 'it is often invisible' (ibid: 14). The social licence can however be withdrawn at any moment, and as such there are strong links with the notion of 'consent' (ibid). Syn (2014) argues that the social licence offers potential for communities to assert their power over extractive industry projects. Indeed Gunningham et al. (2004) demonstrate how pressures associated with maintaining a social licence induced pulp and paper companies to go beyond legal compliance in their environmental protection measures. This of course underscores the importance of local civil society being empowered enough to shape the social licence by making their own demands.

Much has been published on free, prior and informed consent (FPIC) and the extractive industries, and this literature can also enhance our understanding of the 'social licence' (Lehr and Smith, 2010; Colchester, 2010; Voss and Greenspan, 2012; Buxton and Wilson, 2013; Greenspan, 2014). The right of indigenous peoples to FPIC in relation to industrial activities on their lands is established in the 1989 ILO Convention 169 on Indigenous and Tribal Peoples and the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Primarily FPIC is framed as a government responsibility, but increasingly it is being incorporated into international standards applied to companies, for example by international financial institutions in the context of project finance (EBRD, 2014; IFC, 2012). Guidance also exists for companies operating in regions where governments have not met their obligations (IFC, 2007). Key challenges around FPIC include how to identify who gives consent (and how representative they are of 'the community'); what consent looks like in practice; which parts of an overall project consent is applied to (e.g. only resettlement?); and to what extent and in what circumstances 'consent' can equate to a veto on project activities (Buxton and Wilson, 2013). Consent processes are increasingly required not only for indigenous communities but for all significantly affected local communities (e.g. FSC, 2012). A related concept is 'meaningful consultation'. Principle 18 of the UN Guiding Principles on Business and Human Rights (UNGPs) calls for companies to engage in 'meaningful consultation with potentially

[1] Syn (2014) suggests that the term was first coined in 1997 by Jim Cooney, then Vice President of International Government Affairs of Canadian mining company Placer Dome (since bought up by Barrick Gold).