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Social licence, corporate social responsibility and coal seam gas: framing the new political dynamics of contestation

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ABSTRACT

This paper explores the contestation dynamics between the unconventional gas mining sector and its challengers through the prism of the social licence to operate. Social licence is a dominant narrative in the mining sector today and as a signifier of the sector's CSR credentials, the term is an influential one. Its capacity to confer project legitimacy, and hence avoid the risks of community opposition, helps explain why most companies seek to gain one. Today both gas proponents and opponents talk the language of social licence: the former to defend their projects, the latter to challenge them. Yet, beyond rhetoric, the precise meaning of social licence remains elusive. This paper uses a case study of community opposition to primarily coal seam gas projects in an eastern Australian region to explore how the absence of a precise meaning for social licence has created a strategic opportunity space for the industry's opponents to invest social licence with a potent democracy frame. This democracy framing has proved particularly effective as a contestation tool and helps explain the outcomes in this case.

1. Introduction

Corporate Social Responsibility (CSR) is a prominent feature of today's corporate environment (Dunphy et al., 2014). The expectation that companies extend their responsibilities beyond shareholder value is now well embedded in the community at large. These social responsibilities are wide in scope, but responsibility for the impact that corporations have on communities and the environment are core features of the contemporary CSR landscape. In the increasingly transparent world that modern communication technologies enable, suspect corporate behaviour that was once well hidden from view is now more likely to be exposed, threatening a corporation's legitimacy and reputation, which can in turn impact profits. CSR, broadly understood, represents a way of managing the increasing accountability pressures on modern corporations, helping them to maintain their legitimacy in a highly competitive market place where brand and reputation can 'make or break' them. Most corporations today will hence go to considerable effort to market themselves as good corporate citizens (Reinhardt and Stavins, 2010; Forbes and Jermier, 2010). Through showcasing their 'social contract' credentials, CSR, particularly through the social licence frame, offers corporations a way forward in today's challenging operating environment.

Social licence is now a well-established narrative in the corporate world but its uptake has been particularly extensive in the mining sector. As a signifier of the sector's CSR credentials, especially in a sector long beset with controversy, the term is a powerful one. Its capacity to confer project legitimacy, and hence avoid the financial and reputational risks of community opposition, helps explain why most companies will seek to gain one. But today both proponents and opponents talk the language of social licence: the former to defend their projects, the latter to contest them. This is because a social licence is very different from a legal one, treating legal and regulatory approvals as a first step in the legitimation process, with consent and approval from community stakeholders sealing it. While this was not necessarily its corporate intent, social licence has today triggered a politically charged contestation dynamic that, under certain conditions, can derail a company's operational legitimacy and its development plans.

This paper examines these contemporary social licence dynamics, focusing on how social licence is increasingly used as the prism through which both the defence and contestation of mining projects occurs. In particular, it examines how external stakeholders such as impacted communities opposed to mining projects in their region, utilise social licence as a (counter)strategy to shape their contestation politics. Using a case study of sustained community contestation of unconventional gas developments in a regional area in eastern Australia to illustrate its argument, the paper recounts how civil society's strategic utilisation of a social licence discourse promoted by the mining sector itself, has provided a useful tactic in project contestation. It maintains that this

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tactic's effectiveness derives from the contestants' rendering of social licence as an essentially political concept by interpreting it through a potent democracy 'frame' that resonates deeply with affected communities (see Benford and Snow, 2000). Mining companies generally employ the notion of social licence as a process-driven measure that renders the community engagement required of it under its legal licence conditions as largely a communicative device for informing the affected communities of its plans. Its contestants deploy it more politically. They emphasise the notion's fundamentally political character by directly linking it to democratic norms that most of the community hold dear, and that directly implicate governments in the process. Understood this way, rather than becalming the industry's contestation, as is often the CSR intent of social licence, it can instead inflame it.

The paper begins with a quick overview of unconventional gas developments globally and in Australia before turning to a discussion of the social licence concept, particularly as it functions in the mining sector. It then presents the case study of proposed unconventional gas projects, particularly coal seam gas (CSG), in the Northern Rivers area of northern New South Wales, Australia, highlighting the contest between the industry and the community over what social licence means, how such a licence is won and the political implications of an absence of social licence. This analysis tells us a good deal about the social licence notion itself, the context of CSR in which it sits, and the overarching political and policy dynamics which it can generate. Overall, this paper seeks to contribute to a still relatively small but developing political analysis literature of CSR's notion of social licence. In addition, through its employment of a framing lens to help analyse the political dynamics in the case study, the paper seeks to demonstrate the continued utility of collective action frames in helping to explain successful mobilisations.

2. Unconventional gas

The gas industry is burgeoning, both in Australia and worldwide. Taking advantage of its – albeit contested – status as less emissions intensive than coal, today gas is quickly establishing itself as the transitional fuel of the future (see Hausfather, 2015). According to the International Energy Agency (IEA, 2012: 10) we are currently experiencing a 'golden age of gas', with the fuel's current 25 per cent contribution to the energy mix expected to eclipse coal production by 2035. Much of this industry has been concentrated in conventional gas production. However, over the last few years technological developments and exploration expansion has positioned unconventional gas as the stellar performer in the gas market worldwide.

2.1. Unconventional gas in the United States and Europe

The United States, considered 'the birthplace of the unconventional gas revolution' (IEA, 2012: 101), is undergoing a shale gas boom with gas providing the country with around half of it domestic gas supplies (IEA, 2015). While in operation for a number of decades, recent technological developments, particularly hydraulic fracking, have helped steer the United States gas industry to relative boom proportions. The country enjoys a plentiful supply of all three main unconventional gas sources – tight gas, coalbed methane and shale. Deposits are widely distributed geographically with states such as Texas and Pennsylvania enjoying ample reserves. According to the International Energy Agency, as of 2002, the country holds the capacity for a further 100 production years (2014: 2). Most of this increased production is projected to derive from the Marcellus and Haynesville formations – two of the United States' largest plays and among some of the largest gas fields in the world (IEA, 2014: 2).

While generally welcoming the economic and energy security benefits the industry provides, the unconventional gas industry has courted considerable controversy (see Spence, 2013; Davis, 2012). The growing opposition has tested the industry's overarching political support, prompting some state governments and political parties to revise some of their gas policies. These responses include bans or moratoriums on exploration and production in some states, the application of stricter regulations such as expanded buffer zones, and pauses in the issuing of new licences (see Hauter, 2013).

Much of the opposition to the shale gas boom in the United States has centred around a negative view of 'fracking'. Evensen et al. (2014) discuss the increasingly controversial and negative connotations that the word 'fracking' evokes. In particular, they chronicle the significant impact that the negative framing of the word has had on shaping the anti-shale gas opposition in the United States, especially in the Marcellus Shale region in the states of New York and Pennsylvania. They observe that the word's 'multiple meanings' creates linguistic confusion which in turn opens up an opportunity space for anti-fracking discourse. In the hands of the industry's opponents the word has thus been broadened beyond its technical scope and wielded as a 'weapon' in the unconventional gas 'culture wars' (2014: 130).

While some European countries may nurture an energy independence dream similar to the United States, Europe has undertaken limited unconventional gas exploration, even as the scoping for technologically feasible reserves is gradually increasing (Spencer et al., 2014, p. 28). Estimates vary but it is generally considered that Poland, Romania and France boast some of the largest reserves, with Denmark, the United Kingdom and Sweden hosting smaller ones (Spencer et al., 2014: 29; see also Johnson and Boersma, 2013). The uptake of European exploration has been slow, for a variety of reasons. Strong public opposition has seen France instigate outright bans, despite its considerable reserves (IEA, 2012, p. 125); bans they share with countries such as Bulgaria, the Czech Republic, the Netherlands and parts of Germany. The geological conditions for gas mining in Europe are also not always promising. As Spencer et al. (2014, pp. 29–30) points out, European shale tends to be deeper and smaller; there is more limited labour availability; it has a more densely populated continent and problematic property rights; and, generally, more stringent environmental regulations (see also Johnson and Boersma, 2013: 391; IEA, 2012: 122–3).

The industry's potential in Europe should not be dismissed altogether, however. Poland is keen to explore its gas mining's possibilities and reduce its reliance on Russian gas (IEA, 2012: 124). Despite this ambition, and a relative absence of community opposition, the reality of gas exploration and production remains a long way off (Johnson and Boersma, 2013, p. 397). The United Kingdom is also a keen supporter of the industry, with a parliamentary inquiry in 2011 concluding that a well regulated industry could benefit the country's economy considerably (IEA, 2012: 127–8). Not all Britons shared the then Cameron government's enthusiasm however. In their overview of shale gas discourse in Britain, Cotton et al. (2014) find that the government has disproportionately highlighted the economic and energy security benefits of the industry at the expense of environmental and community concerns. Despite this, Jaspal and Nerlich (2014) observe that the anti-gas opposition in the United Kingdom has launched a successful counter campaign based on competing 'social representations' of fracking. Mirroring the experience in the United States, they single out the potency of the 'threat, danger and risk' representations of fracking in swaying the public against unconventional gas as an acceptable energy source.

2.2. Unconventional gas in Australia

In Australia, while offshore gas remains the largest contributor, unconventional gas mining is increasing notably (Wood and Carter, 2013). As in the United States, this rise is largely attributable to the technological innovations that have significantly facilitated the extraction of the gas. Much of the Australian unconventional gas activity centres on CSG but shale and tight gas resources are gradually