

Coal Seam Gas Mining, People Power And Environmental Justice

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Edward Elgar Publ., Cheltenham, UK (2008,2009)

Independent Book Reviews:-

<http://www.environment-adr.com/uploads/2.Book%20Reviews-Web.v4.pdf>

In order to achieve the Guiding Principle of “environmental justice”, the United States Environmental Protection Agency’s goal is:-

“to provide an environment where all people enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making process to maintain a healthy environment in which to live, learn, and work”.

<http://www.epa.gov/compliance/environmentaljustice/basics/index.html>

Tags: coal seam gas, environmental justice, power, conflict resolution, legal rights and duties, judicial review

People Power and Environmental Protest Campaigns

1. Australia

- Campaigns by the community to influence the outcome of public interest environmental disputes, have remained largely unchanged over the past three decades.
- Tactics focus mainly on non-violent, direct action environmental protest and blockading.
- The goal is to galvanize , then to ignite public opinion to a stage that stimulates some form of response from the government to engage the community to resolve the conflict.

People Power and Environmental Protest Campaigns

2. The United States

- The past tactics of public protest and confrontation have facilitated the introduction of a new *strategy* by the Federal Government: “environmental justice”.
- The United States Environmental Protection Agency has a long-standing commitment for achieving “environmental justice”. It is one of the Agency’s “Guiding Principles”.

Source: <http://www.epa.gov/compliance/environmentaljustice/basics/index.html>

- **Environmental justice, properly exercised, has significant advantages for people power to shape the outcome of an environmental conflict.**

The Elements of Environmental Justice

Achieving the United States Environmental Protection Agency's strategy, "environmental justice", requires *two elements* – that have been defined by the EPA - to be addressed :

- (i) "fair treatment"; and***
- (ii) "meaningful involvement",
of all people,***

with respect to: *the development, implementation, and enforcement of environmental laws, regulations, and policies.*

Environmental Justice in Australia

- The concept of “environmental justice” has not been defined and applied in Australia by Government, to support and to empower communities, to the same extent as it has been in the United States.
- Instead, the pathway taken by government in Australia towards resolving environmental disputes is through adherence to the processes of community consultation and engagement, public participation and governance.
- *There is a compelling need for any public participation process to be seen as fair. Where environmental legislation requires the government to consult the community, it may not impose a legal obligation on the government to agree with the results of the community consultation: the legislative obligation to consult the community may not necessarily be an obligation to agree.*

Environmental Justice in Australia (Cont.)

- The processes of community consultation and engagement, public participation and governance were created in an earlier era to address a very different set of environmental problems - where the natural and fiscal limits confronting the community, today, would not have been foreseen in the past.

See : Kitzhaber John, *Creating a society to match our scenery: resolving natural disputes in the 21st century* . (2004) 25 Public Lands & Resources Law Review 1.

Dr Kitzhaber spent 24 years in politics in the legislature of the State of Oregon in the United States, with the last 8 years as Governor of the State. He was re-elected as Governor in 2010.

- ***Also, sustainable development is now both a unifying scientific concept for environmental decision-making , and a legal obligation to be complied with in modern environmental legislation. Finding solutions for conflicts over sustainability requires the community to be “meaningful involved.”***

Consultation and “Meaningful Involvement” of the Community

- Following a community consultation/engagement or public participation process, trust in government and its relationship with the community may be maintained, enhanced or may deteriorate?
- The latter situation can arise if the community believed that they had little influence or power in the decision-making process.
- *Concerns over being “meaningfully involved” would arise if the community perceived their views on CSG issues were not properly taken into account by government in the ultimate decision.*

Consultation and “Fair Treatment” of the Community

- An aim of the “fair treatment” element of environmental justice is to ensure that no person or group should bear a greater share of negative environmental impacts that result from a development or activity.

<http://compliance.supportportal.com/link/portal/23002/23009/ArticleFolder/1625/Environmental-Justice>

- *If the community was vulnerable to the power of other stakeholder(s) holding competing land use interests for CSG developments, achieving the “fair treatment” element of environmental justice would be limited.*

CSG Developments in Queensland

Competing Interests and Existing Power Balance?

“I think the overriding theme that came out at the end of the day [of the Federal Government’s Senate Inquiry into coal seam gas] in Roma was balance.

Farmers feel that when it comes to them versus the coal seam gas companies the power resides with the gas companies.

The Councils feel that the gas companies have the power. And farmers feel that when you take the environment into account that the gas companies have the power there”.

Pip Courtney (2011)

Source: *Coal Seam Gas Companies under Fire at Senate Hearings across the State* (ABC Television, 7.30 Queensland, 25 July 2011).

- **The above statement highlights the significance of power. It is a key concept central for resolving conflict as well as for achieving environmental justice.**

Changing the Power Dynamics between the Community and CSG Companies

- Knowledge power of legal rights and duties in environmental legislation for licensing and approvals of CSG activities – as well as the judicial review process - is the foundation for people power to achieve environmental justice on CSG-related issues.
- *Knowledge power of legal rights and duties in environmental legislation for licensing and approval decisions for CSG activities is a pathway for the community to offset the existing power imbalance between the community, farmers and CSG companies.*

Conclusions:

- (i) Strategic use of **knowledge power**, to offset **power imbalance** between competing interests, does not necessarily mean more litigation over future land use. Rather, to act as a pathway to **resolve environmental conflict** and to achieve **environmental justice**.
- (ii) Knowledge power facilitates the community, farmers and CSG miners all being **“meaningfully involved”** in resolving conflict over CSG-related issues.
- (iii) Knowledge power also acts as a trigger for **“fair treatment”** i.e. by ensuring that environmental costs and economic benefits are not shared disproportionately between the community, industry (*farming and mining*) and Government (*Local and State*).
- (iv) Adopting the strategy of environmental justice would also ensure **co-existence** between competing land uses and **sustainability** are addressed as a common goal in regional areas.

Further reading:

- In November 2012, Dr Ted Christie published a detailed article – *with practical applications* - on this topic :

Article title: “Coal seam gas development, environmental legislation in Queensland and power: Towards a pathway for conflict resolution and environmental justice.”

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<http://sites.thomsonreuters.com.au/journals/2012/11/19/coal-seam-gas-and-land-use-conflicts-finding-a-sustainable-solution-for-co-existence/>

- “Resolving the CSG crisis through proper public participation” was posted on the website of *Independent Australia*, 29 May 2011.

<http://www.independentaustralia.net/2011/australian-identity/queensland/resolving-the-csg-crisis-through-proper-public-participation/>