

Dissertation

# Social License and Nonmarket Strategies Based on Social Contract Theory

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Social license (SL) refers to the approval by a corporation's stakeholder community. While corporate social responsibility (CSR) and SL are linked by a social contract between corporation and society, they are distinguished from one another. It is often assumed that CSR guarantees SL, but evidence shows that, when members possess unequal socio-political power within a community approving SL, CSR can be counterproductive to SL. In a deliberatively democratic society, corporate political activity (CPA), as a nonmarket strategy other than CSR, can also harm SL, as it manifests corporate power that contradicts political egalitarianism.

### BIG QUESTION

How do multinational corporations attain social license through nonmarket strategies, specifically corporate social responsibility, and corporate political activity?

### INTRODUCTION

Introduced in a roundtable organized by the World Bank in 1997, social license (SL) has grown to become the biggest business risk faced by global mining corporations since 2018 (Ernst & Young, 2018, 2019). Over the years, it has also transmitted from extractive and resource industries to the manufacturing and service sectors. Since 2020, it has begun to challenge big tech giants, such as Amazon, Google, Facebook, and Apple (Investopedia, 2020).

Not only is SL significant for business practice, but it is also crucial to global society, local communities, and nation states. At the global level, the United Nations' Guiding Principles on Business and Human Rights, 'Protect, Respect, and Remedy' Framework, and Global Compact serve as instruments for addressing SL. At the local level, the Community Benefit Agreement, which is also called the Impact (and) Benefit Agreement, is used as a tool for corporations to obtain SL, whereas in Indigenous communities, Free, Prior, and Informed Consent is recognized as a version of SL. State governments play an essential role. For example, the Prime Minister of Canada, Justin Trudeau, stated that "[w]e are working very hard right across the country [...] to ensure we are creating the social licence [...] with

communities to get our resources to market in a responsible way" (Ottawa Citizen, 2016: 1).

### SOCIAL LICENSE AND CORPORATE SOCIAL RESPONSIBILITY

Both human rights defenders and business practitioners have indicated the distinction between SL and corporate social responsibility (CSR). For instance, John Morrison, the Executive Director of the Institute for Human Rights and Business, asserted that "CSR is often too peripheral to the core business model, [... whereas] 'social licence' is a much more useful concept than CSR, as the social licence requires any business to ensure its activities respect the rights of all of those in any community" (The Guardian, 2014: 1). Paul Klein, a consultant for Fortune 500 corporations, added that "Twenty twelve was the year when CSR was found to be an inadequate way of aligning business results and social outcomes. Twenty thirteen will be the year of the social licence" (Forbes, 2012: 1).

These indications emphasize that SL and CSR are not synonyms but are fundamentally different. Specifically, SL is the "approval by local—if not indigenous—communities and stakeholders of a business enterprise's operations" (Demuijnck & Fasterling, 2016: 675), based upon subjective perceptions, but not necessarily empirical evidence, about the well-being of local stakeholder communities. SL is manifested in a continuum of emotions, where the emotion of trust represents approval by stakeholder communities, whereas anger, which is oftentimes displayed in stake-

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holder conflicts, represents disapproval (Ho, Oh, & Shapiro, 2022). However, stakeholder management, which makes business cases for CSR, often overlooks SL. A common reason for this neglect is that local communities approving or disapproving SL are considered secondary stakeholders for corporate financial performance. Yet, SL and CSR are not unrelated. On the contrary, CSR is “a [social] ‘contract’ between society and business wherein a community grants a firm a [social] license to operate and in return the matter meets certain obligations and behaves in an acceptable manner” (Dahlsrud, 2008: 10).

## SOCIAL CONTRACT AND SOCIO-POLITICAL (IN)EQUALITY

There are two approaches to the social contract between CSR and SL. The justice-based approach sets such universal principles as the United Nations Guiding Principles on Business and Human Rights that transcend different communities, whereas the consent-based approach allows moral free space for each community to create local ethical norms according to its own values. The justice-based and the consent-based approaches, therefore, correspond to CSR at the global and the local levels, respectively. In an ideal world, social contracts achieve social justice through an instrument called the “veil of ignorance”, behind which people can decide more fairly on the rules that societies should operate by being more ignorant of their personal circumstances. In this imperfect world, however, societies are distorted by unequal socio-political power, as people who know their own statuses or positions tend to support initiatives that will result in outcomes beneficial to themselves as opposed to the others (Ho et al., 2022). When SL is at the discretion of a socio-politically polarized community, given that members dominating the community likely demand benefits that are biased towards themselves as opposed to their minority or marginalized counterparts, the consent-based social contract between CSR and SL, which substitutes community consent with majority vote, becomes problematic.

This problem can be illustrated by Chevron’s Niger Delta Partnership Initiative (Hoben, Kovick, Plumb, & Wright, 2012), which had been designed as a part of Chevron’s CSR for the Niger Delta community, but which eventually burst out into an inter-ethnic crisis in 2003. Through this initiative, Chevron had made social investments into the Niger Delta community by providing funding for community members to conduct small-scale development projects and by developing large-scale infrastructure. Given ethnic diversity within the community, Chevron had negotiated agreements separately for different ethnic groups without being aware of the socio-political power traditionally held by the dominant vis-à-vis the minority groups. On one hand, Itsekiri, the ethnic group that holds dominant power for SL within the Niger Delta, had negotiated an agreement beneficial to itself. On the other hand, Ijaw, a minority group that is constantly envious of Itsekiri’s commercial prosperity, had benchmarked its benefits against the level of funding that Itsekiri had received. While Ijaw attempted

to bargain for more, Itsekiri criticized that Ijaw had gotten more than it economically deserved. The debate and competition between Itsekiri and Ijaw resulted in both heated arguments and an escalated level of social investments that Chevron had to satisfy for obtaining SL from the Niger Delta community. Given that Chevron was unable to manage the agreements with different ethnic groups by keeping unrealistic promises, it did not gain trust from the local community. In the end, tensions between ethnic groups broke out into anger. Violent and bloody clashes between Ijaw and Itsekiri not only destroyed the infrastructure and social projects contributed by Chevron but also forced Chevron to shut down its local operations until the situation in the local community was stabilized. The absence of trust and the presence of anger demonstrated the loss of Chevron’s SL.

Chevron’s case in the Niger Delta shows that a social contract between CSR and SL, based on consent of a local community, can be counterproductive for obtaining SL if the members in the community are unequal with respect to socio-political power. According to Chevron’s General Memoranda of Understanding, a way to mitigate this problem is to consolidate Community Benefit Agreements into a smaller number of relationships (Hoben et al., 2012). By making the Agreements more inclusive, and thus, more justice-based in this way, the rivalry between groups of stakeholders can be lessened, even if they are given moral free space to bargain for CSR. In contrast, such universal principles as the United Nations Guiding Principles on Business and Human Rights bring the social contract CSR and SL closer to justice, since they are non-negotiable terms that transcend all communities. Corporations can follow these principles as a language to negotiate CSR for SL generically within each community, especially within those that are socio-politically polarized.

## SOCIAL LICENSE AND CORPORATE POLITICAL ACTIVITY

Socio-political equality is, in addition to CSR, a boundary condition for attaining SL. A nonmarket strategy other than CSR is corporate political activity (CPA). There have been cases in countries with challenging institutions, such as China, where CPA has been found to be complementary with CSR. However, CPA is antithetical to the principle of political egalitarianism because it allows some members of society, namely the shareholders of corporations, to enjoy more political power than others (Néron, 2016). Therefore, as opposed to enhancing CSR, alleviating CPA is, to some degree, required for corporations to obtain SL. This is especially true in the context of deliberatively democracy, which justifies political egalitarianism by considering a decision legitimate if a concerning issue has thoroughly been discussed through a public discourse and if a reasonable consensus has been reached among various communities in society.

## SOCIAL CONTRACT AND DELIBERATIVE DEMOCRACY

Deliberative democracy has brought about a new version of the social contract in certain countries since the late 20<sup>th</sup> century. Compared to the social contract after World War II, the new version supports civil governance, under which the legitimacy of a given issue is decided through public discourse. The new version has thus reshaped the interplay among corporations, government, and communities. Local communities not only act as monitors for corporate responsible and irresponsible behaviors through the process of approval or disapproving SL, but they also decide the legitimacy of a state government through election. If corporations engage in CPA, such as lobbying, with the government, these activities can be viewed by communities as exploitations of corporate power to alter government policy in ways that undermine the interests and the power of the communities. Even if such CPA as deliberative lobbying can be aligned with CSR, the intentionality of the corporations engaging in such activities can be questioned by communities, because communities in deliberatively democratic societies are empowered to shape common good directly with the government through public discourses, without bypassing such intermediaries as corporations. As such, whether lobbying is instrumental or deliberative, CPA may engender trust issues that weaken SL. Indeed, in Australia, which is a deliberatively democratic country, “between 60 and 82 per cent of Australians were unhappy with what they perceived to be the excessive power of big business and vested interests in national affairs” (den Hond, Rehbein, de Bakker, & Lankveld, 2014). Empirical findings in the context of Australia reveal that the obtainment of SL by corporations necessitates decreasing CPA to a level that communities deem tolerable.

## OPERATIONALIZING SOCIAL LICENSE WITH BIG DATA

To keep track of SL as a collective emotion of trust as opposed to anger, corporations should collect and transcribe community voice on a regular basis. While SL accorded to any stakeholder community can be operationalized, provided that the voice of its members is captured through media, a way that is both efficient and effective is to use news articles as big data. The advantage of using big data is that both selection bias, such as the oversight of some communities by news articles, and description bias, such as the underrepresentation of some vested stakeholders within a news article focusing on a local community, can be mitigated, if the corpus of news articles is large enough to cancel out positive and negative biases. A reliable source of data is the Dow Jones’ Factiva digital archive of global news, in which news articles regarding the SL of a specific company and region can be looked up by using “social licen\*” as a search term. Through such natural language processing techniques as sentiment and emotion analysis, the degree to which community voice is associated with

trust versus anger in these articles can be quantified, where each article can represent a snapshot of SL at the time of publication. While there are multiple lexicons available on the market for sentiment analysis, the National Research Council (NRC) Canada’s Sentiment and Emotion Lexicon not only is available for free in R computing environment, but to our knowledge, it is also the only lexicon that covers the emotion of trust, which is fundamental to measuring SL. The operationalization with big data and lexicon-based sentiment analysis is, compared to surveys, may be more efficient in terms of spatial scope and timeliness, because of fewer physical constraints. As both Factiva and NRC lexicon support multiple languages, the operationalization of SL suggested above will be useful for multinational corporations.

## IDENTIFYING PREREQUISITES FOR SOCIAL LICENSE THROUGH NECESSARY CONDITION ANALYSIS

To determine suitable levels of such nonmarket strategies as CSR and CPA expected by communities for attaining SL, corporations can draw inferences by conducting Necessary Condition Analysis (NCA), which operates under a multiplicative logic that the absence (or presence) of a single variable rejects the possibility of achieving (or not achieving) an outcome. In NCA, the level of a variable that is necessary (but not sufficient) for certain level of an outcome is represented in a scatter plot that characterizes the effect size of the necessity. NCA also includes a statistical significance test, which evaluates the evidence of the necessity effect against randomness. Corporations can first identify the set of corporations co-locating within a community or a country and then plot their SL, which is measured as the community’s or the country’s trust minus anger, against their levels of CSR or CPA. Once the corporations set a target level of SL, the analysis helps determine the corresponding levels of CSR or CPA that the community or the country perceives as necessary.

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## ABOUT THE AUTHOR

Dr. Shuna Shu Ham Ho focuses on such nonmarket strategies as corporate social responsibility and corporate political activity, sustainable development, and digitalization at the intersection of international business and global society. She currently uses social contract theory and big data method to examine the social licenses of multinational corporations under different social, political, and technological settings. Her research has been published in *Strategic Management Journal* and *Journal of Management Studies*.

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