CONFLICTS BETWEEN STATE AND CIVIL SOCIETY RELATED TO INFRASTRUCTURE PROJECTS

Kathryn Ann Hochstetler

Professor of International Development at the London School of Economics and Political Science.

Infrastructure projects are critical for long-term national development needs. Building and upgrading electricity generation plants, roads, ports, and many other similar projects facilitate expanded economic activities of many kinds. At the same time, each of those projects must be sited (*localizada*) in a particular place. In those locations, the project may bring significant impacts for the local community and/or for local ecosystems, many of them negative. In general, then, infrastructure projects often present this imbalance between projects that are simultaneously nationally beneficial *and* harmful to particular locations.

The institution most often used to handle this dilemma is environmental licensing. First proposed in the United States' National Environmental Policy Act of 1969, environmental licensing has become the most common environmental regulatory framework around the world, and is present in some form in more than 180 countries (Morgan, 2012: 6). The overall objective of the paper is to evaluate Brazilian environmental licensing as an institutional mechanism for resolving conflicts with civil society over infrastructure projects. One important section will assess how often and why such conflicts have actually occurred in recent electricity projects in Brazil. The paper will also present an analysis of the conflicts themselves, highlighting the grievances and influence strategies of civil society actors.

In addition to providing this overview of recent conflicts, the paper will also consider actual or potential proposals for alternative regulatory approaches. The paper will assess the likely effects that recent changes in environmental licensing – notably the 2014 CONAMA regulations for wind power projects and the proposed changes in PLS 654 – will have on conflicts with civil society over infrastructure projects. In addition, the paper will place the Brazilian institution and regulations in comparative context, with the aim of showing alternative policy frameworks for achieving similar aims.

I argue that the proponents of infrastructure projects frequently expect that if they follow environmental licensing processes that there will be no civil society opposition to their projects. Civil society opponents of infrastructure projects frequently expect that if they follow environmental licensing processes that the project will be stopped. Both sides are wrong. They also both misunderstand what environmental licensing processes are meant to do, which is to force a balance between avoidance, mitigation, and compensation for harms.

I also conclude that civil society opposition to infrastructure projects in Brazil and elsewhere (see, for example, McAdam and Boudet, 2012 on the United States) is less frequent than most people think. The common view of how contentious these projects are is shaped by the rather small number of them that generate strong opposition, like the Belo Monte hydroelectric plant in Brazil. If projects do not generate opposition, that is not covered in newspapers and Facebook posts in the same way. Hundreds of Brazilian electricity projects were built without substantial civil society opposition – but with routine environmental impact assessment, compensation, etc. – between 2002 and 2012.

When local civil society groups protested and delayed infrastructure projects in Brazil, their concerns were often socioeconomic rather than environmental. Since the environmental licensing process is the only one that systematically consults the local communities that host infrastructure projects, that is where these conflicts have appeared. If the environmental licensing process is altered so that adequate consultation does not happen in it (as PLS 624/2015 aims to do by strongly limiting the time available for consultation), those socioeconomic grievances will be expressed somewhere else, *but they will not go away*. In the Brazilian context, they are likely to appear as local protests and possibly sabotage of operations or to be

taken to the court system by the Ministério Público. In contrast, the 2014 Conama regulation which offers incentives through expedited licensing to place wind power plants in locations that are less likely to raise community opposition is actually likely to reduce conflict over the siting of wind power. About 15% of wind power plants faced community opposition between 2002-2012, but I expect this regulation to lower that number.

In general, I regard Brazilian environmental licensing as comparatively strong and transparent, especially in the context of regional achievements in this area. Judging by where and how civil society conflict has emerged, however, it has done least well in addressing the socioeconomic concerns of local communities. Adequately addressing these concerns may require introducing new institutions and processes that respond to them more directly.

EXECUTIVE SUMMARY