Moral Entanglement and the Consolidation of Risk: Pipeline Construction in Louisiana

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> Colonies are the location par excellence where the controls and guarantees of judicial order can be suspended—the zone where the violence of the state of exception is deemed to operate in the service of civilization.
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> -Achille Mbembe, Necropolitics

1. Introduction

After a century and a half of settlement (1604 – 1755), the Acadians (French: *Acadiens*) were exiled from modern day Nova Scotia during The Great Expulsion (French: *Le Grand Dérangement*). Although scattered throughout the American colonies and France, most Acadians made their way to the French settlement of New Orleans. The Spanish takeover of New Orleans (1762 – 1803) forced the Cajuns (French: *les Cadiens*) into the swamps and bayous of coastal Louisiana, populated for millennia by indigenous, Native American, communities.[1] Isolated by alligator, snake, and mosquito infested wetlands, the Cajuns retained their French language and culture and all but disappeared from the national landscape. A short boat ride north, New Orleans was an economic hub of the transatlantic slave trade until the abolishment of slavery in America (1863) and Louisiana (1864). Freed slaves remained in the area, integrated with the Cajuns, and built communities near old plantations along the Mississippi River.[2] In 1901, oil was discovered in the town of Jennings, Louisiana introducing this autonomous community to the Industrial Revolution, and turning this esoteric "portion of the planet's natural base" into a commodity almost overnight (Renner 2013, p. 9).

As is common with energy regimes (McNeill 2001), Louisiana's energy infrastructure consists of several stages including primary production, the supply network, energy conversion

[1] My history of the Cajuns comes from growing up Cajun in Louisiana. Interested readers can find a more complete history in Dean Jobb's excellent work, *The Cajuns: A People's Story of Exile and Triumph*.

[2] The history of slavery in Louisiana is beyond the scope of this essay. For a detailed history of freed slaves and Creole integration into the Cajun community, see S.K. Bernard, *The Cajuns: Americanization of a People* and C.A Brasseaux, *Acadian to Cajun: Transformation of a People, 1803-1877*.

and both the energy delivery and waste disposal networks (Bluemling, Mol, & Tu 2013). Oil and gas, produced in the Gulf of Mexico, Louisiana's intracoastal waterways, throughout America, and internationally, is shipped to a consolidation of 150 petroleum refineries in an 85-mile (136km) petrochemical corridor along the Mississippi River, known locally as "Cancer Alley" (French: *Allée du Cancer*). Refined materials are then shipped out to various industrial and transportation industries. This essay considers two primary stakeholders, Energy Transfer Partners (ETP) and the ecosystem of coastal Louisiana. With these stakeholders in mind, I focus on the supply network - oil and gas pipelines - specifically the Bayou Bridge Pipeline (BBP), a 162-mile (260km) conduit running from Lake Charles to St. James, Louisiana, currently transporting an estimated 460,000 barrels of oil per day (Davis & Martin 2017).

Issues involving energy infrastructure have been addressed through several theoretical applications. Ulrich Beck (2009) looks at catastrophes and delineates between risk and calculability and "manufactured risk" (p. 291); Brouard & Guinaudeau (2015) examine various mechanisms that constrain democratic responsiveness to nuclear energy projects in France; Gordon Walker (2010) promotes social impact assessments and a system of distributional justice and substantive outcomes; and Sovacool & Dworkin (2015) survey the moral implications of collective energy decisions and promote the use of energy justice as an analytical tool. This essay adds to current energy policy research by addressing entangled moral foundations rooted in ethics of autonomy, community, and divinity (Haidt & Graham 2007; Graham et. al. 2017) and argues for continued studies of the consolidation of risk using systems theoretical views on power (Luhmann 1990, 1993, 1995, 2017), bio-power (Foucault 2008, 2009a, 2009b), and necropolitics (Mbembe & Corcoran 2019).

2. Analysis

Laws are created by an elected body through consensus; policy is rooted in a debate on the legal interpretation of existing laws. Risk is a progenitor of law and policy. Ulrich Beck (2009) addresses the confounding inability to provide certainty through future knowledge absent knowledge of the future (p. 292). He also designates manufactured risks and uncertainties using three characteristics: de-localization, incalculableness, and non-compensability. While Beck's argument holds for hyperobjects such as climate change (Morton 2013), I depart from his thesis because pipeline construction is localized, in communities whose human and non-human inhabitants lack a voice in political discourse; calculable, in land using monetary and non-monetary terms; and compensable, to affected communities.

There is no federal statute requiring an environmental analysis of proposed oil and gas pipelines, and the United States Army Corps of Engineers has begun using a general permit called Nationwide Permit 12. This permit eliminates an individual review of new pipelines across regulated waters and streamlines pipeline construction (Arkfield, 2017). Nevertheless, an Environmental Impact Assessment (EIA) for the BBP was completed in October 2017 (Davis & Martin 2017). BBP construction began in January 2018 and it became operational in April 2019.

In their study of oil and gas blowouts, Hauge et. al. (2014) show that inadequate risk assessments restrict debate on uncertainties and tend to limit or omit the probability and impact of worst-case scenarios. While the risk of pipeline leaks is far less dramatic than a major blowout, they can be more difficult to detect, and can have a devastating long-term impact on nearby communities and the ecosystem. The EIA considers environmental consequences, and mitigation, but does not include methods of renumeration and passes responsibility for environmental cleanup and repair to "qualified contractors" for the maintenance of "emergency response equipment and personnel" (Davis & Martin 2017 p. 112). The EIA includes worst-case

scenario analyses for spills across individual waterways, but a worst-case scenario analysis for a simultaneous spill crossing all fourteen waterways, “700 acres of fragile wetlands, and watersheds that supply drinking water for up to 300,000 people” (Edelstein 2017), has not been made public (Oil and Water 2018, p. 13).

Studies show that significant portions of south Louisiana are eroding into the Gulf of Mexico (Williams, Stone, & Burruss, 1997; Pope 1997; O'Leary 2018; Haywood et. al. 2020; Olson & Suski 2021). Saltwater intrusion in wetlands damages soil and root systems, exacerbating the problem, leading to exponential erosion over time. The impact of land erosion and dangers from continued coastal erosion are not mentioned in the EIA. The lack of concern for this trend highlights the shortsighted approach ETP took when documenting the EIA.

An EIA is an assessment, not a formal commitment, and there is little the public can do to address issues related to environmental damages from construction and accidental spills during operation. Several Non-Governmental Agencies (NGOs) filed suit against the pipeline due to environmental and social concerns. In 2016, Bold Louisiana, was formed to oppose the BBP in defense of the Atchafalaya Basin and “sacrifice zone” communities that are continuously discriminated against by the state government (Carley, Engle, & Konisky 2021). A report published by Greenpeace and Waterkeeper Alliance (Oil and Water 2018), shows, from 2002 to 2017, ETP and their subsidiaries reported 527 hazardous pipeline incidents amounting to a release of 87,273 barrels of crude oil (p. 3). Their findings suggest that the BBP could expect at least eight significant spills in its fifty-year lifetime (p. 13). Despite opposition, ETP continued work on the BBP unobstructed.

Oil and gas are a major employer in Louisiana, with 6.7% of total state employment working in the traditional energy sector (U.S. Energy and Employment Report 2020). This

symbiotic relationship has established a dependance on the industry for jobs and other economic benefits to the state. In their research on French nuclear policy, Brouard & Guinaudeau (2015) examine various mechanisms that constrain democratic responsiveness to energy projects. Looking beyond technical and economic restrictions, interest groups and path dependence, and technical and economic restrictions, they provide insight into public opinion and political party coalitions (Brouard & Guinaudeau 2015, p. 2). It is difficult to apply their research to the Louisiana energy sector, because American political parties do not form French style coalitions and are dependent on corporate donations for political contributions. As a result, energy companies make up a powerful interest group that holds sway over Louisiana politics regardless of political party affiliation.

3. Discussion

Energy industry influence, coupled with large employment opportunities, keeps Louisiana economically restricted and locked into path dependence. Louisiana law allows oil and gas companies to declare eminent domain giving energy companies the right to take private property from landowners for the development of natural resources (Klass 2008). Local communities, whose property values have declined due to the infiltration of oil and gas pipelines, cannot afford to relocate and are unable to insure against disasters. Poor and confined, rural communities are powerless against the financial impact of energy companies.

Value of flora and fauna are rarely expressed in monetary terms and the ecosystem is incapable of collecting fines imposed on oil companies. We know the future of the Louisiana coastline; we also know the impact of pipeline construction on wetland areas and the harmful impact of pipeline failure. These are, in a sense, premeditated catastrophes, “risk-as anticipation” in Beck’s terminology. Yet, they have not produced a compulsion to act, nor have they become a

political force (Beck 2009, p. 293). To understand this phenomenon, we must turn from risk to justice.

When you create an institution, you abstract from the actions of the founder. While the BBP is in southern Louisiana, ETP is headquartered in Dallas, Texas. The distinction between the location of the BBP and ETP headquarters is both geographic and cultural. In their article on energy justice, Sovacool & Dworkin (2015) look at the moral implications of "collective energy decisions" and provide insight into the use of energy justice as an analytical tool (p. 436). Collective decisions regarding land use for oil pipelines best fall under the heading of procedural justice, which is concerned with the decision-making process in the pursuit of social goals. Procedural justice addresses issues such as access to information, participation in decision making, unbiased decision makers, and "access to legal processes for achieving redress" (Sovacool & Dworkin 2015, p. 437). Relating to procedural justice, Gordon Walker (2010) supports the inclusion of a social impact assessment (SIA) alongside an EIA in a system of distributional justice, which addresses issues regarding the "justice of substantive outcomes" (p. 312). There was no SIA performed for the BBP in Louisiana.

Moral foundations and ethics are not universally agreed upon concepts. Sovacool et. al. (2017) addresses the issue of applying limited social justice concepts to the global energy market (p. 677). They make an important point regarding the integration or dismissal of values into energy systems. Building upon Sovacool et. al. (2016), the 2017 article posits an introduction of non-western and non-human-centered theories to strengthen standard energy justice theories. While they introduce several important justice concepts including Ubuntu, Taoism, Hinduism, and Buddhism, because of the unique community that developed among Native Americans, Creoles, and Cajuns, their introduction of indigenous perspectives is most applicable to justice

concepts in Louisiana (Sovacool et. al. 2017, pp. 680, 681). Notions of interdependence and gratitude dominate indigenous ethics that reject notions of ownership and support a "sense of collective, duty of stewardship, spatiotemporal belonging and humility" (Sovacool et. al. 2017, p. 680). Additionally, an indigenous non-anthropocentric view sees nature as a harbinger of intrinsic value transcendent to human utility (Sovacool et. al. 2017, p. 681). Put simply, local communities that retain an ethics of community and divinity, and centuries of interconnected existence with nature, cannot comprehend the entitlement concepts established by an ethics of autonomy, which promotes the discretionary choice of individuals and views nature as a commodity (Haidt & Graham 2007, p 102).

Connecting energy justice concepts to rural communities in Louisiana, Moral Foundations Theory (MFT) (Haidt & Graham 2007; Graham et.al. 2013), conclude that fundamental morals - justice, care, loyalty, respect, and purity - based on ethics of community and divinity abound in non-western and rural western communities. MFT contrasts these with an ethics of autonomy that governs urban, western moral foundations. Western ethics of autonomy educates and trains out all but two moral foundations – justice and care – carving a moral divide between the two communities (Haidt & Graham 2007, p. 102). Although ethics of community and divinity are more commonly associated with non-western actors, they are also characteristic in rural communities in the west. MFT considers traditional western domains of justice and care to be limited in scope and argues for including the "statistically normal" society that includes loyalty, respect, and purity in their moral foundations.

4. Conclusion

Rural Louisiana and urban Dallas, Texas have a parallax view of nature rooted in their inability to comprehend the other side's moral foundations.[3] The EIA is evidence that ETP understands the need to protect Louisiana wetlands, but their shortsighted attempt indicates an urban inability to act for rural reasons. Global demand for fossil fuels, the consolidation of refineries in the petrochemical corridor, and economic incentives for national, state, and local government, combined with the effective transport of oil and gas through pipelines, means construction of supply networks across coastal Louisiana will not subside. I argue that it is necessary to dig deeper into the moral and ethical root of cultural disconnections regarding land use and energy policy to build realistic a justice concepts framework; include rural communities, listen to their ideas, and develop policy accordingly.

Future research in energy justice could benefit from a combination of Niklas Luhmann's systems theoretical views on power, specifically the influence of negative sanctions,[4] with Michel Foucault's ideas on bio-power and governmentality.[5] Research into the deracination of rural communities through localized energy infrastructure, such as pipeline construction and the petrochemical corridor in Louisiana, could profit from Achille Mbembe's theory of necropolitics, which considers Foucault's concept of bio-power insufficient for an explanation of contemporary forms of subjugation (Mbembe & Corcoran 2019). Combining previous research on energy and social justice with systems theory, bio-politics, and necropolitics, including ideas from MFT, will develop a better understanding of various educational, legal, and political

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[3] In *Sand and Foam*, Kahlil Gibran wrote, "We measure time according to the movement of countless suns; and they measure time by little machines in their little pockets. Now tell me, how could we ever meet at the same place and the same time?" This is a poetic expression of the conflict that persists due to opposing moral foundations.

[4] "The more that one becomes accustomed to advantages, the more that potential power grows as a result of possibilities that have accrued to negative sanctions: the potential power of withdrawal" (N. Luhmann 1990, p. 159).

[5] C. Borch successfully argues, Luhmann's functional differentiation provides a "sociological basis for Foucault's critique of the discourse of sovereignty and its negative-hierarchical notion of power" (Borch 2005, p. 164).

systems that have emerged in the wake of traditional energy regimes. This will enable researchers to guide law and policy makers in their application of justice concepts to existing energy infrastructure in rural western and non-western communities and into the global transition to renewable energy.

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