



Squeezing Psychological Freedom in Corporate–Community Engagement

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Abstract

This article analyses the ethics of how community engagement and dialogue as applied by a mining corporation in Chile led to erosion of the community's psychological freedom despite being aligned with best practice. This article details how a mining company squeezed the psychological freedom of the community in order to obtain an agreement between the period of 2000 and 2016. The findings focus particularly on a 9-month period between 2015 and 2016 when the company undertook intense community engagement. The article identifies six corporate action phases undertaken which curtailed the community's psychological freedom as paying off local leaders; challenging via courts of law; co-opting community lawyers; prohibiting a key debate during dialogue; and remaining silent after failing to honour its own self-imposed rule. The findings label the company's community engagement as contradictory; while it conducted transitional and transformational engagement (in line with best practice) in formal spaces, it also engaged in unethical strategies in the informal spaces of community engagement. The result was overall community consent and an even more fragmented community. This article finds that when it limits the psychological freedom of participants, who are already divided as a group, corporate–community engagement (CCE) can be viewed as ethically problematic. Based on analysis of the literature and an empirical case analysis, this article contributes a test for assessing the ethics of CCE.

Keywords Community conflict-engagement · Co-optation · Ethical dialogue

Introduction

This article focuses on the ethical limitations of community engagement and agreement making in the context of a case study: a mining company engaging with a Chilean village. It considers how community engagement can reduce the psychological freedom of participants in contexts where key legal representatives and community leaders have been co-opted by firms. Corporate–community engagement (CCE) is considered foundational to advance a broader understanding of stakeholder engagement and relations. Stakeholder engagement, in its ideal form, is defined as the moral and positive practices undertaken by an organization to involve stakeholders (Greenwood 2007). The objective of this study

is to provide the perspective of affected community stakeholders during CCE, a perspective that has received little attention in the past (Bowen et al. 2010; Passetti et al. 2017).

The siting of large development projects that impact natural ecosystems is often contested by local communities (Jenkins 2004; Calvano 2008; Kemp et al. 2011). This conflict is generally based on widespread fears pertaining to ecological, economic and cultural consequences (Escobar 2006). According to the Environmental Justice Atlas (EJAtlas 2016), there are currently 720 instances of mining company–community conflicts around the world, with 30 of these located in Chile. More specifically, with regard to the community actor and corporate engagement, the *Journal of Business Ethics* has aided our understanding via significant contributions on the subject.

These publications have furthered our understanding regarding current types of CCE (Bowen et al. 2010) and the internal organizational challenges facing mining companies, such as a lack of awareness of community culture and values (Kapelus 2002; Calvano 2008; Kemp et al. 2011; Murphy and Vives 2013). O'Faircheallaigh (2015)

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has argued that communities bestow their consent to mining companies after arriving at agreements via dialogue around the benefits and management of impacts, a process called Community Development Agreement (CDA).

A number of authors writing from a communications perspective have stressed the ethical limitations of dialogue when the intent of one actor is to persuade, influence and dominate another actor (Buber 1965; Keller and Brown 1968; Johannesen 1971; Stückelberger 2009). This work has highlighted that upholding and respecting the psychological freedom of choice of all listeners is a crucial aspect of ethical dialogue.

The case juxtaposes the corporate accounts of CCE with those from communities in resistance, as advocated by Banerjee (2017). The focus is on the commencement of official dialogue for building consensus between company and community. It seeks to answer the question of how a company was able to persuade a community that formerly demonstrated resistance—having won its case in a Chilean court of law months prior—to enter into constructive dialogue and consensus building around the existence of a nearby tailings dam.

Drawing from research on ethical dialogue (Buber 1965; Keller and Brown 1968; Johannesen 1971; Stückelberger 2009), this article argues that there were unethical elements to how Pelambres mining company instructed important actors (community lawyers and local leaders) to squeeze the psychological freedom of a vulnerable rural community of Caimanes. Members of the community eventually engaged with, and ultimately accepted, an offered agreement. Although the engagement and agreement process contained progressive or transformative (Bowen et al. 2010) facets such as open village hall-style discussions and plans to create joint company–community committees to implement the agreement (O’Faircheallaigh 2015), it still included unethical elements.

This article highlights the importance of cognitive freedom when examining CCE. By taking a critical case study approach, specifically one that has strategic importance to the research topic (Flyvbjerg 2006), the article contributes a test for ethical CCE based on a series of questions. The pertinent literature on CCE is explored broadly, in line with the CCE framework offered by Bowen et al. (2010), and within the context of extractives sector conflicts and the ethics of dialogue. By synthesizing the literature, this article provides a brief summary of the characteristics of effective and ethical CCE and provides a contextual background of the conflict at Caimanes. This work seeks to enhance our understanding of the unethical actions and practices carried out before and during the official CCE between 2015 and 2016.

Community Engagement Conceptualized

The global extractive industry (mining, oil and gas extraction) is one of the largest in the world, with annual revenues of \$5.4 trillion (PWC 2013). Extracting minerals requires vast swathes of land and fresh water; as such, “all too often, these resources have become a source of conflict rather than opportunity” (World Bank 2016). Conflicts between mining projects and fenceline communities are well documented in the literature (Banerjee 2000; Kapelus 2002; Szablowski 2002; Jenkins 2004; Kapelus 2002; Jenkins and Yakovleva 2006; Bebbington et al. 2008; Zandavillet and; Anderson 2009; Kemp et al. 2011; Newenham-Kahindi 2011; O’Faircheallaigh 2013; Li 2016).

To avoid potentially costly conflict and negative reputational impacts, natural resources extraction companies must gain an informal social licence to operate (SLO) within the communities in which they operate, in addition to the legal environmental and mining/water licences (Boutilier and Thomson 2011; Prno and Slocombe 2012; Franks et al. 2014). An SLO exists when a large project is seen to have overarching and continual acceptance by local communities (Boutilier and Thomson 2011; Prno and Slocombe 2012), and is imperative for firms to grow and open new operations with the consent of government and local communities (Kapelus 2002). Participants at the annual Chilean Consejo Minero (Mining Council) conference voted obtaining an SLO the most critical issue facing the sector in January 2018 (Consejo Minero 2018).

Franks et al. (2014) have calculated that a world-class mining project with capital expenditure of between US\$3–5bn would lose around US\$20m per week in net present value (NPV) terms due to delayed production. Such delays can result from conflicts with the local community in the form of road blockades and protests.

Stakeholder engagement and community participation are largely seen as the appropriate approach to resolving such conflicts (Zandavillet and Anderson 2009; Newenham-Kahindi 2011; ICMM 2015; Fujimoto et al. 2016; IDB 2017). Numerous manuals, toolkits and guidance documents are produced by organizations such as the International Council on Mining and Metals (ICMM 2015), the Inter-American Development Bank (IDB 2017), the World Bank’s International Finance Corporation (IFC 2007), Herbertson et al. (2009) and Business for Social Responsibility (BSR). These resources are intended to guide extractives companies on the best practices to achieve strong community engagement. Within this context, Greenwood (2007) proposes a model of stakeholder engagement that describes the optimum level for corporate responsibility, stating that it lies where stakeholder engagement is high and “the company balances the interest of legitimate

Table 1 Classification of ethical corporate–community engagement types. Adapted from Bowen et al. (2010)

	Transactional	Transitional	Transformational
Corporate stance	Community investment “Giving back”	Community involvement “Building bridges”	Community integration “Changing society”
Exemplary tactics	Charitable donations Building local infrastructure Information sessions	Stakeholder dialogues Formal committees (Murphree et al. 1996; Reed 2002; Horowitz 2015; Li 2016) Public consultations Town hall meetings Sharing a coffee and informal conversation (Zandvliet and Anderson, 2009)	Joint project management Joint decision-making (ICMM 2015; Fujimoto et al. 2016) Co-ownership Transparency Funding via a memorandum of understanding (O’Faircheallaigh 2015)
Communication	One-way: firm-to-community	Two-way: more firm to: Community than community-to-firm Humility shown by company (Wheeler et al. 2002)	Equal two-way Humility shown by company (Wheeler et al. 2002) Political chain of equivalence (Passetti et al. 2017)
Control over process	Firm	Firm	Shared
Foundational pillar: respect of community participants’ psychological freedom (Keller and Brown 1968)			

stakeholders in a manner in keeping with justifiable moral principles” (p. 322).

Detailed critiques of stakeholder theory for its absence of acknowledgment of power asymmetries between stakeholders and organizations can be found throughout the business ethics literature (Van Buren 2001; Greenwood and Van Buren 2010; Ehrnström-Fuentes 2016; Banerjee 2017). This suggests that, from a Rawlsian justice perspective, companies must gain the consent of their weaker, less powerful stakeholders during participation. Yet, in cases where (illegitimate) stakeholders display resistance, wielding too much power, Greenwood (2007) suggests this is inappropriate, categorizing such resistance as “anticapitalist”, as it goes against the purpose of business. Banerjee (2017) argues that within contexts of mining company–community engagement “the preoccupation to reach consensus through deliberation obscures processes of domination and disallows spaces of difference and coexistence” (p. 20).

Bowen et al. (2010) define community engagement as “the pattern of activities implemented by firms to work collaboratively with and through groups of people to address issues affecting the social well-being of those people” (p. 297). They conducted a systematic review on the subject of CCE, with the aim of developing a typology of CCE. It classified CCE strategies in three different categories: First, they found that most of the literature they reviewed could be classified as transactional engagement. Such a relationship is typically a one-way, “arm’s length” one that usually involves the company making a financial transaction towards the community. The second most-cited classification presented is transitional engagement, which refers mainly to instances of stakeholder dialogue, partnerships and collaboration, whereas the third and least-cited form of CCE

is classified as transformational engagement. In this latter form of engagement, the key word would appear to be “joint”, with regard to the collaboration, decision making, benefits and even learning. In Table 1, I review how more recent literature integrates with an adapted version of Bowen et al.’s (2010) table of three types of CCE. Table 1 also adds the principle of psychological freedom (Keller and Brown 1968) as a necessary foundational basis for conducting ethical CCE.

Recent research has highlighted the importance of humility and trust within an organization for achieving CCE of high quality (Wheeler et al. 2002; Collins 2009), and demonstrated the importance of community engagement to reduce conflicts with mining activities (Imbun 2007; Newenham-Kahindi 2011; Mena et al. 2010). One approach to constructive engagement is further democratizing the interaction by increasing community participation in decision-making and implementation processes (Reed 2002; Wheeler et al. 2002; Calvano 2008; Bowen et al. 2010; Kemp et al. 2011; O’Faircheallaigh 2015; Passetti et al. 2017; Martens et al. 2017).

Other fields of literature, such as organizational studies, sociology, geography and anthropology, have attempted to question CCE in the context of extractives projects (Murphree et al. 1996; Bebbington et al. 2008; Urkidi and Walter 2011; Kraemer et al. 2013; Coleman 2013; Horowitz 2015; Li 2016; Ehrnström-Fuentes 2016). Papers by Bebbington et al. (2008), Urkidi and Walter (2011), and Kraemer et al. (2013) mention ways in which corporate social responsibility (CSR)-related initiatives have led to community division and conflicts with the mining sector. Murphree et al. (1996) and Horowitz (2015) focus specifically on instances of stakeholder dialogue via the creation of formal committees

between company and community to demonstrate how this resulted in the co-optation of community opposition to development.

Murphree et al. (1996) discuss the channelling and co-optation of community resisting the siting of a toxic waste facility in Houston, Texas, USA by a private corporation. This corporation channelled initial community resistance and opposition by proposing a local review committee comprising community activist leaders and company executives. The community at large placed faith in the joint committee, as they were confident in the strength of their activist leaders, who they did not imagine could be co-opted. However, over time the community (activist) leaders became friendlier in their relations and more loyal to the official engagement instance; the formalization of negotiations through the committee served to occupy and distract the local resistance leaders, and more importantly, to “neutralize or disarm the community as they relaxed their adversarial stance” (Murphree et al. 1996, p. 454).

Horowitz (2015) shows CCE can be used in a different manner to quell local resistance. It offers an account of how a Brazilian mining giant, Vale, strategically invited the elders of the community in the Pacific Island of New Caledonia to the dialogue with young local activists resisting the mine. The elders on the island were more conservative than the highly aggrieved youth, and Vale’s management was aware that the youth would have to abide by cultural norms and respect their elders when engaging together. The result was a more passive community stance throughout the dialogue, neutralizing the dissent shown by younger male community members (Horowitz 2015). Li (2016) reached similar conclusions in her analysis of joint mining company–community water monitoring in Peru. According to Li (2016), the joint company–community committee and other agreements only exacerbated internal community conflicts and divisions. In short, the joint mining company–community initiatives described by Horowitz and Li underscore how companies gained better control over local mobilizations and conflicts by promoting best practice community engagement practices, causing community resistance to become more fragmented.

Zandvliet and Anderson (2009) conclude that most mining sector companies treat community engagement as a business transaction and focus on always getting the best deal, while for communities the most important output of dialogue is a long-term relationship and the process of engagement itself. Therefore, when companies relate to local communities only after negative episodes, it becomes almost impossible for both parties to engage in a more amicable way; it becomes harder for them to get to know each other personally or to focus on shared objectives. Zandvliet and Anderson (2009) argue that in order to build solid relations with local communities mining companies need to listen more

and offer increased instances of informal interaction, such as taking a stroll around local neighbourhoods or sharing a coffee and conversation with residents, as opposed to only engaging in formal and structured dialogue that includes company lawyers and is aimed at producing a legally binding agreement.

O’Faircheallaigh (2015) and Passeti et al. (2017) acknowledge that power asymmetries can limit the fairness and ethics of CCE. Inspired by the practices of Rio Tinto mining corporation, O’Faircheallaigh (2015) proposes that companies provide funds to communities via a memorandum of understanding (MoU) that can be used to benefit the communities’ bargaining power. O’Faircheallaigh argues that such an approach can act as a firewall between company and community, readdressing power imbalances and producing win–win outcomes. Finally, Passeti et al. (2017) urge that priority be given to the idea of creating a political chain of equivalence that could address unequal power relations between stakeholder groups.

These more modern empirical studies on CCE are implicitly rooted in earlier dialogue theory via their explicit references to dialogue. However, unlike earlier theoretical work, the empirical studies and good practice guides reviewed in this section fail to mention the ethics of dialogue. Johannesen (1971) asked the fundamental question of whether it is unethical to persuade someone else to accept one’s own perspective. Although many might agree with this notion, Buber (1965) instead argues that it is morally acceptable to seek to influence over another under the condition it is done in a non-coercive, non-manipulative manner that respects the free choice of the listener. Keller and Brown (1968) discussed the question of what constitutes ethical dialogue. The authors ask several questions around how the sender responds to the receiver’s reaction during dialogue encounters; for example, whether the sender is able to accept an outright rejection of his/her argument without demonstrating rancour. In essence, the authors question the extent to which the sender is intent on persuading the receiver. Stückelberger (2009) develops an ethical criteria and conditions for successful dialogue focusing especially on the ethical judgement of compromises. Stückelberger (2009) argues that dialogue can only be ethical if based on the values of freedom, equality and participation and proposes nine types of dialogue, those being explorative, learning, testimonial, revealing, dialectic, action-oriented, public relations, confrontational and negotiating. The final two of these dialogue types are of most relevance for the research question examined in this article. A major difference between both types of dialogue is that in negotiating ones both parties accept the other as legitimate negotiating partners (such as a business and trade union), whereas in confrontational dialogues one party will end the dialogue after both groups have sharpened their positions according to Stückelberger (2009). Dialogues

also imply the need for compromise between participant actors according to Stückelberger (2009), who goes on to state that “A compromise is good if it helps settle conflicts. It should not be made when it covers up conflicts... The rejection of a compromise is ethically imperative if a compromise destroys life and human dignity” (pp. 336–337). Stückelberger (2009) finalizes by positing that ethical dialogue should also clarify the objectives and character of the dialogue at the beginning, however, failing to mention who should make this clarification, for example, whether it be the sender, receiver or both.

This paper focuses on the question of the extent of the sender’s ethics during engagement in order to examine how a community’s psychological freedom was squeezed and consequently eroded by a company. Specifically, it reports on empirical research in the context of dialogue between a mining corporation and rural Chilean community. In addition, the data analysis hopes to contribute with knowledge of how companies typically convince local communities to join in dialogue and arrive at a consensus. Finally, it examines the extent to which these dialogues involve ethical engagement.

The following section offers a contextual background of the case study in the period from 2012 leading up to March 2015. It also provides the first three critical phases of CCE and its unethical impacts, as stated in the sub-headings that relate to Pelambres’ different community engagement strategies. “Findings” section continues to analyse the remaining four critical phases of CCE by the company. All six phases are summarized in relation to the corporate and community strategies in Table 3.

Contextual Background of Community and Conflict

Los Caimanes (population 1500) is a small rural community located in a remote and isolated part of Chile, 250 km north of the capital, Santiago. Traditionally, most of the community worked the fertile soils to grow crops such as avocado, courgettes and watermelons, but some now work in the mining sector. Caimanes does not have public services such as basic sanitation and drainage systems, a police presence or a hospital.

In 2000, Pelambres mining company planned to build the largest tailings dam in Chile—and one of the largest in Latin America—just 9 km from Caimanes (Biblioteca Nacional Congreso de Chile 2010). This planned development, known as ‘El Mauro’, was immediately a source of conflict between the company and local community. A tailings dam is a large dam where mines store the uneconomic and toxic waste from the rock and chemicals produced during mining. Construction of El Mauro began in 2008 it stands 240 m high, 1.4 km long (Biblioteca Nacional Congreso de Chile 2010) and processes 175,000 tons of water and mining waste per day (Antofagasta Minerals website, 2016).

The main community concerns regarding the El Mauro dam relate to water. A number of scientific studies reported that the dam could deplete and pollute the source of drinking and irrigation water supplies. The basis for these concerns was confirmed in 2012, when independent tests by the College of Physicians proved the water was not fit for human consumption. El Mauro dam has also diverted water flows leading to an estimated 80% loss of water in the valley (Colegio de Médicos 2012).

Pelambres mining company is owned by Antofagasta Minerals (60% stake) and a consortium of Japanese companies composed of Nippon LP Investment (25%) and Marubeni & Mitsubishi LP Holding BV (15%). Antofagasta Minerals is owned by Antofagasta Minerals PLC, a United Kingdom-listed corporation traded on the London Stock Exchange (FTSE 100). The wealthiest family in Chile, the Luksics, own 65% of the company (The Guardian 2005); the family are also major shareholders of Chile’s largest bank, Banco de Chile, and one of its largest national television stations, Canal 13, amongst other businesses. Antofagasta PLC had revenues of US\$4.85bn in 2017 (Pelambres 2018).

Funding of New Neighbourhood Associations by Pelambres

The first protests in Caimanes against the planned construction of El Mauro dam took place in late 2000. The community held an informal referendum in November 2000, in which 97% of the voters rejected the idea of El Mauro being sited 8 km away (Interview with local shopkeeper; Olca 2004). The response by Pelambres in 2003 was to discuss with local authorities the funding of more neighbourhood associations in Caimanes, with whom they could work with for their CSR-related investments and create agreements (Interview with local shopkeeper; Olca 2004). A number of community participation meetings were also held (2001–2004) between the company, public authorities, community residents receiving CSR investments from Pelambres and community members protesting the dam (Interview with local resident and shopkeeper; Olca 2004). After several community protests Pelambres hired Casa de la Paz, a well-known Chilean NGO that works with business and communities to resolve conflicts. The community in Caimanes, however, rejected the presence of the organization.

Payoff by Pelambres

Beginning in 2004, discussions between Caimanes and Pelambres primarily occurred in the legal courts. The first judicial claim was initiated by the wealthiest landowner near the proposed site for El Mauro dam, who managed to suspend the construction of the dam in 2006 by mobilizing street protests and hiring effective lawyers. A year later,

however, Los Pelambres agreed to an out-of-court settlement payment of US\$23m, promising US\$5m of this to the community group that supported the landowner. This decision created outrage amongst other residents opposed to the siting of the dam. Ultimately, the El Mauro dam was built in 2008.

A new Caimanes Defence Committee (CDC) was established in 2006, and took a much more confrontational stance, led by trade union leaders. This new committee rejected attempts to dialogue with Pelambres, instead requesting the demolition of the dam or a payment sufficient for the entire Caimanes community to resettle. This CDC mobilized locally by placing black flags outside the homes of all sympathizers in the community as a symbol of their struggle. They also painted street art and anti-Pelambres slogans to demonstrate their opposition to the company and dam. The CDC was also behind frequent roadblocks near the dam especially when they were without clean and drinking water supplies.

In September 2010, 11 CDC members barricaded themselves into a local school and went on hunger strike for 81 days. Despite mediation attempts by a bishop from the local church, no agreement between company and community was possible. By this point, the community's resistance had received international attention, multiple video documentaries had been made about them, and they had received an award for bravery from the French state. It was after the hunger strike that the CDC started to work with lawyers from Ossa and Company on a no-win–no-fee basis.

During this time, the Pelambres' CSR strategy was to remain low key. Their CSR programmes included a fund for local entrepreneurship that helped establish a local restaurant to serve lunch to their workers and contractors, sponsored a children's football tournament, and offered free wifi to residents of Caimanes. In 2012, Pelambres also financed the building of a sewage system for Caimanes at a cost of several million dollars (which still has not been built in 2018), and a football pitch with training facilities.

In 2012, the CDC received the assistance of Dr. Tchernitchin, then the head of the College of Physicians in Chile. He conducted water tests in Caimanes and concluded it was not safe for human or animal consumption due to high levels of toxins originating from the tailings dam. The CDC presented this study in a court of law, who ultimately dismissed the validity of the results because of inappropriate laboratory tests. Pelambres' response was to work with the Chilean Ministry of Health, who sent a representative to Caimanes to drink the local water live on air to prove it was safe for human consumption (Colegio de Médicos 2012).

Legal Challenges by Pelambres

In 2012, Pelambres decided to sue the leader of the CDC, Cristián Flores, and his lawyers, for “[c]rimes of

prevarication, unlawful association, public disorder and misleading subscription of documents”. In December 2012, the Tribunal Court of Ovalle found the defendants not guilty, which resulted in celebration and unity amongst the community and lawyers. The following year saw the community and lawyers achieve another victory against Pelambres, convincing an environmental court to fine the company US\$3m for not complying with environmental regulations at the El Mauro dam.

By October 2014, the community and lawyers received news for which they had been waiting for over a decade. The Tribunal of Los Vilos decided to order Pelambres to demolish El Mauro dam as it represented a danger to the lives of the community. The reaction of the community and lawyers was euphoric. The tribunal provided 30 days for Pelambres to present a plan for how it would mitigate the impacts from El Mauro. However, because the enforcement of this court verdict was lacking, just 2 months later (December 2014) a group of CDC members blocked the access road to the dam and set up a campsite. This campsite and blockade, where residents took shifts in sleeping and cooking, created a strong sense of solidarity that persisted for 76 days, until early February 2015. The protest was primarily led by Mr. Flores and Mr. Moth (fictitious name, as he has chosen not to be a public figure unlike Mr. Flores). At the same time, a group within the community (mostly children) occupied Pelambres' local office in Caimanes. These acts led to the frequent involvement of riot police in an attempt to keep order. The community leaders lamented the fact that the police were seemingly protecting the company. However, by day 76 of the roadblock riot police arrived with an order and demolished the campsite.

The CDC received more positive news just days after ending their lengthy road blockade; in March 2015, the Tribunal of Los Vilos insisted the dam be demolished. The immediate communication from Pelambres was that demolishing the dam would be technically impossible and would create more environmental and social impacts in the process. The company argued that therefore it was better to let El Mauro remain; this is the opinion that the company maintains today. The ensuing weeks after this court sentence resulted in no action by Pelambres, leading to heightened disillusionment in the CDC.

The “[Findings](#)” section will examine on how Pelambres was able to engage the majority of the community to have constructive dialogue and to vote in favour of an agreement mere months after the Supreme Court ordered the company to dismantle its disputed El Mauro dam. The following section outlines the methodology for this article.

Table 2 Breakdown of Field Research

Interview period	Interviews	Duration and context
October 2012	44 community residents 1 woman lawyer 1 activist	3 days Joined two CDC leaders who were collecting signatures from local residents to present a case to the courts going from door-to-door. Allowed me to have brief semi-structured interviews. Also spoke to other key actors in the community; spending time at the main bar where the owner Mr. Olive introduced me to relevant locals to conduct informal conversations Also interviewed the woman partner from Ossa and Company (and a long standing activist) days before trip to Caimanes in Santiago
March 2016	6 community residents	3 days Visited with group of European academic scholars. Welcomed by 20 members of the CDC who spent the evening telling us their stories. The next day they took us on local visits around Caimanes. There were opportunities to conduct interviews and record our group meetings
December 2016	8 community residents	2 days Met and interviewed eight members from the community, six from the CDC and two actively participating in the dialogue process with Pelambres including Mr. Olive
September 2017	3 Pelambres management officials 1 Director of NGO 1 Psychology professor/facilitator 2 Consultancy management officials 10 Community residents	2 h on two occasions with Pelambres officials 90 min each with NGO director and Psychologist (via skype) who participated in CCE during 2015 1 h with consultancy firm that worked for Pelambres 2 days in Caimanes. Met and interviewed ten members from the community, three from the CDC and three actively participating in the dialogue process with Pelambres including Mr. Olive
October 2012–March 2018	3 local residents and 1 activist	Had 17 different instances of communication in total with these members to discuss the conflict and attempt to confirm or disconfirm my interpretation and understanding of the events

Methodology

I use a critical case study, selecting a “most likely” or strategic case to test the concept (Flyvbjerg 2006) of CCE from the perspective of ethics, to address the research question of how Pelambres was able to convince the Caimanes community to enter into an agreement.

The case study in this article combines a longitudinal and cross-sectional (snapshot) approach, as I first visited the community in October 2012 and returned on two more occasions during 2016. Moreover, the plethora of available secondary sources (mostly video documentaries and press reports; see Appendix 1 for a list) made it possible to gain valuable longitudinal insight, which was combined with confirming or disconfirming certain previous events directly with community members.

This article also adds a cross-sectional perspective by focusing specifically on events relating to CCE that unfolded in 2015. The empirical research was approached in an inductive manner with an exploratory nature at the outset, starting with the first field visit in 2012 (Ely et al. 1997; Bryman 2015). Consequently, the author visited the community with broad questions regarding community resistance and corporate attempts to quell resistance.

However, with each visit and enquiry, questions for research became more specific, as outlined in the following section.

Data Collection and Analysis

The empirical fieldwork involved four visits to Caimanes between October 2012 and September 2017, with continued email conversations with key community members through March 2018. Table 2 provides an overview of the interviews conducted by date and actor. In total, the author spoke with 61 people (the majority of community residents), seven of whom I met and interviewed on all four visits to Caimanes. The visit in 2012 was for contextual background purposes, whereas the 2016 and 2017 visits are central to answering the research question of this paper.

In September 2017, I was able to interview management officials from Pelambres, who were involved in the Caimanes case, a representative from NGO partner of the company Chile Transparente, and the psychology professor who facilitated the dialogue sessions with the community. As previously mentioned, the conflict has been well documented and enjoyed significant media coverage; multiple video documentaries and press reports from both community and corporate perspectives could be accessed.

Appendix 1 provides an overview of the videos and press reports consulted for the purposes of this article. These secondary empirical data sources provide important insight for analysing post-field visit data; certain interpretations were later confirmed with three of the community residents via electronic communications.

Most of the interviews were audio recorded and later transcribed in Spanish; in some cases, detailed notes were taken throughout the conversation instead. The interviewee names have all been anonymized for confidentiality purposes. I typed up the transcripts within 24 h of the interview. Interviews conducted in 2016 and 2017 generated transcriptions and field notes of over 145,000 words. Each line was coded manually by asking “what is happening here?” (Strauss and Corbin 1998). The transcripts and notes were then further coded to a more theoretical level by considering the concepts discussed in the literature review of CCE, ethical dialogue and co-optation (in business–community contexts). The main guiding research questions for the field research in 2016 and 2017 focused on the following:

- The status of the community resistance to the mining company.
- The strategies used by the mining company to end community conflict and resistance.
- Perceptions of engagement with the company and community.
- The impact of corporate strategies on the community resistance and conflict with the company.
- The impact of corporate strategies and CCE on the social cohesion of Caimanes.
- Understanding why previous and current attempts to resolve the conflict were not working.

This article focuses on critical events that occurred in 2015 in order to examine the ethics of how Pelambres was able to engage the community at the zenith of the CDC’s resistance to their presence. “Findings” section is therefore organized around contrasting corporate and community voices that explain the narrative of how the year commenced with strong community resistance and ended in consensus making with the mining company. The analysis includes real-time interactions between community representatives, lawyers and Pelambres management recorded on video at the first company–community assembly in Caimanes (September 2015). This analysis also helped understand how the company was able to attain consensus with the majority of a community with which it had been in conflict for 15 years. The importance of agency and power from corporate, legal and community actors is also highlighted for its influence on the evolving narrative.

Findings

Table 3 provides a chronological overview of the six critical phases related to the community resistance, CCE and the unethical impact of CCE on the social fabric of Caimanes. The six phases are used as sub-headings to narrate the case context (earlier) and present the findings in the following section. “Findings” section continues the story outlined in the context section, starting around March 2015, after the 76-day roadblock campsite by the CDC had been forcefully dismantled by armed police forces.

Co-optating Phase: CDC Lawyers and Pelambres—From Foes to Friends

A key aspect to this story is the changing positions of the CDC lawyers and former CDC leaders, from adversaries to allies with Pelambres, commencing around May 2015. From conversations with Pelambres management officials and their external collaborators both sides, community and company were exhausted by the many years of living in a state of conflict, and thus it was in everyone’s interest to come to an amicable agreement. According to a senior management official of Pelambres:

The ruling by the Court of Los Vilos to demolish the dam was the landmark moment for us entering into dialogue. When that happened, the board of directors wondered if we were to win all our legal battles, do we solve the problem we have with Caimanes? The answer was “No”...rather than a judicial problem it would be a social one that was being expressed in the courts... and I think...we were all very tired of the conflict... the community, including a large part of the Caimanes Defense Committee...were also tired of the conflict for years, and they saw that there was no clear way out and we also saw the same thing, and found in that very critical group, a willingness to sit down at a table to talk, and what we proposed to them was to initiate a process of dialogue, precisely to reach a legitimate agreement to comply with the court sentences. (Pelambres senior management official).

A local management official also commented about the conflict:

Our most profound reflection was: how did we get to such a level of conflict with this community? With such a lengthy trial, at the Supreme Court, it sounds super normal, but it is not normal, and there was a realization within the company that we had to do different things, there was a lot of wear and tear on both sides (company and community), a lot time spent on

Table 3 Timeline of critical community - corporate actions and ethical implications

Year	Caimanes community actions	Pelambres community engagement	Ethical consequences on community's coexistence
2000–2004	Informal referendum, in which 97% of the voters rejected the idea of El Mauro	<i>Funding new neighbourhood</i> associations with whom they could collaborate with on CSR	Creation of internal community conflicts that pitted residents who are pro-CSR against those opposing the dam
2004–2010	Wealthy landowner, Victor Ugarte led resistance to siting of dam. Mobilized street protests and the via the courts managed to suspend the construction of the dam in 2006	<i>Paying off</i> In 2007, the company achieved an out-of-court settlement payment of US\$23m promising US\$5m to Ugarte's community supporters Pelambres' CSR strategy was to remain low key. The company targeted CSR strategically at key local actors and influencers such as restaurant owners and towards infrastructure projects El Mauro dam constructed in 2008	Further internal community conflict. The out-of-court settlement payment created outrage amongst other residents opposed to the siting of the dam. The CDC and Ossa lawyers legally prevented the compensation payment to Ugarte's supporters, which intensified internal fractions in Caimanes
2011–2015	Street mobilization, street art, social media campaigns and legal challenges Won Supreme court order sentencing Pelambres to demolish its El Mauro dam	<i>Legal challenges</i> Unsuccessfully sued CDC leader Flores and Ossa Lawyers in 2012. Defeated by Supreme court who ordered dismantling of El Mauro in October 2014 and March 2015	Created unity, collective strength and belief in large community faction opposed to El Mauro dam, though community divisions remained
April–June 2015	Community deflated after Supreme court order not enforced and road blockade campsite dismantled by police	<i>Co-opting of CDC lawyers</i> Allegedly gathered intelligence on community Invited CDC lawyers for meetings to discuss ideas around an agreement via dialogue with Caimanes. Agreement would include financial payment to Caimanes residents and legal fees of US\$4.6 million to Ossa lawyers. The lawyers invite former CDC leader Mr. Moth to be their main ally in convincing the locals of agreeing to a deal	The already deflated community resistance was shattered by the news the lawyers together with one of their trusted leaders would now advocate for an agreement and financial compensation instead of enforcing the Supreme court order
August–November 2015	All community members participated in inaugural public forum in August, with CDC members boycotting subsequent CCE meetings	<i>Prohibiting discussion of dismantling dam during formal dialogue process</i> Commenced CCE with public forum together with Ossa lawyers, transparency NGO and academic facilitator. Company apologized for past actions. Lawyers affirmed dismantling of El Mauro dam was not for discussion, that court would repeal the order in favour of company. Heated discussions between lawyers and CDC members at public forum. Remaining 11 dialogue instances around technical issues such as water and emergency exit routes	Created further disbelief, apathy and fatigue amongst residents opposed to the dam. Many residents now accepting the dialogue with Pelambres and the dam's existence despite the supreme court ruling

Table 3 (continued)

Year	Caimanes community actions	Pelambres community engagement	Ethical consequences on community's coexistence
December 2015–March 2016	Community officially split into two after referendum result of 58% in favour of agreement with Pelambres Ossa Lawyers and allies (Mr. Moth and others) actively solicit signatures from local residents by knocking on door-to-door allegedly making promises of 'big pay days tomorrow', CDC members were further abused and marginalized by community residents	<i>Remaining silent after failure to honour promise</i> Pelambres failed to reach its self-imposed quorum of 70% in favour of the deal. Should have abandoned the CCE process The company officially stayed silent while the Ossa lawyers worked to persuade the locals to give their consent to the deal via the signing of a petition	Community now divided into two almost equal halves with further conflict. Windows of pro-agreement leaders broken and CDC members abused and marginalized The new minority group of the CDC was paying a high emotional price for its resistance and opposition to the dam. One CDC member and her children were immediately evicted from their rental property

litigating, on conflicts, all very exhausting! (Pelambres local management official, Los Vilos).

However, CDC members did not share the same opinion that they were willing to begin conversations with the company. One CDC member stated that the leader, Mr. Flores, did meet with Pelambres together with the CDC lawyers, around May 2015 in Santiago (as confirmed by a Pelambres official). However, Mr. Flores protested and left the meeting upon discovering that the agreement did not involve complying with the court order to demolish the dam. Later, Mr. Flores went to Caimanes where he told the rest of the community about this idea:

They invited Cristián to their office in Santiago to talk about their idea for dialogue with Pelambres and compensation payments for each family member to end the conflict, and of course he said no and left the lawyers. When he got back to Caimanes he told us about the plans and exactly what was going to happen later to try and stop us from fighting...this really annoyed the lawyers. (Resident, Caimanes)

It is important to emphasize clause 11.5 in the final agreement between Pelambres and the Caimanes community. It states that the company would pay the professional fees of the former CDC lawyers, a sum of US\$4.6m. This payment clearly motivated the Ossa lawyers to find an agreement between the community and company; the shift of the former CDC lawyers from an adversarial to a collaborative position impacted the struggle of the CDC:

We believed in the lawyers, we believed in them 100%. Just imagine, the psychological disappointment we felt, when I remember how they were with us, how they protested with us, how much the lady lawyer wept with tears and often cried telling how she thought about us during her New Year's dinner in Santiago whilst we were at the roadblock campsite....when they (the community) saw that Mr. Ossa had changed sides, and since he has that power of convincing, people believed and followed him a lot, then they surely said "Now Cristián is going to be left with nothing and if we are going to negotiate, what can Cristián now do?", so they went where there was money, however, in our group there was no money, but we have values and other things (Resident, Caimanes).

CDC members also suspect that Pelambres had instructed their lawyers to leverage their knowledge of the community in order to convince them of proposed the agreement and to enter into dialogue. This is logical, given that Pelambres had offered to pay the lawyers' fees. The lawyers, according to interviewees, then further

outsourced the work by identifying a few local residents (including former CDC leaders) who could act to persuade people within the community:

Up to a certain point we were all ok as a group together with the lawyers, I think Pelambres after the blockade ended spent time analysing the situation and spying. Pelambres started with the lawyers and from there, the lawyers started to tell Pelambres that money is the weak point with the community...and from there the lawyers started to pick out local leaders to help make the agreement, including Mr. Moth, who was with us before in protest camp a few months earlier! This was all planned by Pelambres, so of course they knew this would create a huge fracture in the community and weaken us (Resident, Caimanes).

Prohibiting Phase: Community Engagement—Just Don't Mention the Dam!

Pelambres officials repeatedly stated—in interviews and at the initial opening community assembly in September 2015—that in the past the company had made mistakes with regard to the Caimanes community. These errors involved the lack of engagement with the whole community early in the process and continuing to fight the CDC in the courts. This was a situation they wanted to reverse, especially after the court ruling requiring the demolition of El Mauro dam. At the opening community assembly, the team of Ossa lawyers and Pelambres officials stated that demolishing the tailings dam was not open for discussion, despite the court order. The stated reason was the assumption that Pelambres would successfully appeal that decision at another court, and that the company wanted a new style of relationship with the community, outside of the courts of law and inside Caimanes. When probing a Pelambres management official further about giving permission to the community to vote on the issue of demolishing the dam, as ordered by the Court, the same company representative replied that they could not offer such freedom on the agenda for dialogue:

Of course, the possibility of demolishing the dam was not in the conversation with the community...our initial position was “We want to continue doing mining” and without the dam we cannot continue, therefore establishing a dialogue process where we put on the table the possibility of demolishing the dam would be the same as saying that we were leaving the valley, so it did not make sense. (Pelambres local management official, Los Vilos).

According to a CDC member, from the very beginning (mid-2015) the lawyers dismissed any possibility of the

court order remaining intact, and therefore appealed for everyone to come to an agreement:

But the lawyers started off by saying its impossible to demolish the tailings dam, that there was no point to continue resisting, the future plans for the dam were already decided, that the government was never going to help, etc. So then, it was a case of “we present you this proposal take it or leave it” something like that as there was no alternative. So, lots of people believed in them, they listened to them and thought “well let’s just take what we can get as there’s no alternative now (Resident, Caimanes).

For the purposes of this article, it is worth providing direct commentary from the first open assembly in Caimanes (10 September 2015), when the ideas of dialogue and potential agreement were introduced by Pelambres, with the Ossa lawyers, and facilitated by a psychologist. In a 102-min video of the meeting, there are multiple interactions between community residents, the lawyers and Pelambres officials that are of relevance to the issue of ethical dialogue. Mr. Flores, who sat at the back of the meeting hall, intervened, reminding everyone about the supreme court ruling:

I want this dialogue to succeed to end the conflict, but on the condition that the company has good intentions, but I don’t see that here...We all know that in order to comply with sentence of restoring the water to its natural flow it requires demolishing the tailings dam (Mr. Flores, CDC Leader).

The male partner from Ossa lawyers responded immediately with a loud and irate tone that the sentence was currently being assessed at the La Serena court. He continued to question why Mr. Flores was repeating information from the court sentence when everyone already knew this, stating that he should not offer his opinions. Mr. Ossa emphasized that they were trying to do something different and better than the court order. At this point, he raised his voice further and yelled at Mr. Flores:

You’re just here to try and humiliate me! You want to derail this meeting, whilst you don’t even want to participate! I’m going to tell you once only that here you cannot speak about judicial strategies, because that offends Caimanes and instead of being sat there at the back you should be sat here at the front with us!! (Mr. Ossa, lawyer for Caimanes community).

Mr. Flores instantly replied that he would never sit down with Pelambres. Mr. Ossa questioned Mr. Flores as to whether he ever wanted an agreement with Pelambres in the 8 years they worked together, to which, Mr. Flores replied that no, he only wanted to win legal battles in the courts. At this point, the psychologist facilitator asked the

participants to raise their hands if they want to continue with this dialogue process. Approximately half of the community members present raised their hands. After this moment, one elderly woman seated at the front insulted a woman at the back; seated with the CDC members, the elder woman stated she could not publicly say what she really thought of her. After some heated shouting between community members, Mr. Ossa took to the stage once more to argue with a woman about whether or not he had recently visited her home in order to convince her about the agreement. The lawyer ended his argument by accusing her of wanting to derail the dialogue process. Mr. Ossa then followed on to legitimize his and his wife's role as lawyers in the process, as well as to explain details about potential payments to them and the community:

When you say the lawyers will make lots of money, we for the past eight years haven't received a penny, Cristián sat next to you, can tell you too! He knows we have used our own money on this case, so if tomorrow we were to be paid, it would be the honest and well deserved money made....You can't negotiate directly with Pelambres as we are lawyers for the whole community....If you receive payment then I will too, if you don't get payment then I don't get any payment either! This is how it has been for the past eight years!!! (Mr. Ossa, lawyer for Caimanes community).

The assembly ended when Mr. Ossa and Pelambres introduced the idea of a referendum, voting for or against an agreement, openly setting a 70% quorum for any agreement to be legitimate. Additional meetings were also held to discuss specific issues such as water and safety, in which most CDC members did not participate.

Remaining Silent After Failing to Honour Phase

After 12 formal instances of CCE in Caimanes (Pelambres 2017), 58% of local residents voted in favour at the company-run referendum on 8 December 2015. This vote was to accept an agreement that offered around US\$42,000 to each family and contributions of US\$60m to a community development fund over the following 10 years. According to the corporate website, a mere 63% of the community voted; the vast majority of those that voted did so in favour of the proposed agreement. Pelambres made no major public statements after the referendum result. The agreement was formalized in May 2016, despite the fact that the 58% in favour vote did not meet the 70% yes vote Pelambres had stated it would consider a mandate. The agreement was then used by the company to successfully appeal against a court order for the dismantling of its tailings dam.

The fact the quorum had not been reached in the referendum represented a significant challenge to Pelambres

and to all those hoping to receive payment, especially the Ossa lawyers. Two management officials from Pelambres admitted that the company had not met its self-imposed 70% threshold vote. However, the company remained quiet while the lawyers, together with those in favour of the agreement, immediately held their own private meetings, with hired security guards posted to stop CDC members from entering. Soon after, Mr. Moth and another associate continued to solicit from door-to-door, as they had done throughout the dialogue process, to convince local residents to sign a petition letter to Pelambres requesting that the agreement stands despite the self-imposed 70% threshold vote. By explaining to the low-income and low-educated residents that providing their signature meant their entire family would immediately receive around US\$42,000, and that it would be impossible to demolish El Mauro dam, they were able to convince many more to sign:

They kept searching for an agreement even after the referendum result, Mr. Moth and Mr. Fletcher (*fictitious name*) started to go to the houses of the people with a list saying, "You have to sign because there is no choice so take advantage now because you'll receive that money and all the projects that come"... every adult in the house had to sign so they would receive one payment. But, Mr. Fletcher, Mr. Moth, Mary and Mrs Monica (fictional names) all received individual payments for everyone in their family. (Resident, Caimanes)

In the days after the referendum, when the lawyers and their team of community residents were collecting signatures, one CDC recalls the abuse she experienced:

The abuse was so much, disrespecting everything we had done before in the past. As soon as I stepped foot outside onto the street I would hear "sign the agreement, don't be stupid!" I live in a very small humble house, so they would yell at me "you could have your own house, think of yourself, stupid!" (Resident, Caimanes)

A Pelambres senior management official explained that when the company received a letter with over 600 signatures from local residents, which represented over 80% of the adult population they had no alternative but to accept the yes vote as legitimate (Pelambres senior management official). By May 2016, 83% of Caimanes households had signed the petition letter in support of the agreement (Pelambres Website 2017). The company soon submitted the evidence to the supreme court of La Serena, who in August 2016 overturned the earlier sentence from the court of Los Vilos that ordered the demolition of El Mauro. Since August 2016, the community has been led by Mr. Moth, with a committee in charge of implementing

the agreement. This involved periodic meetings with the involvement of NGO Chile Transparente and the psychology professor acting as a facilitator.

Unethical Consequences of Persuasion Strategies

According to interviews with CCE thought leaders and Pelambres' Chairwoman of Sustainability and Stakeholder Management Committee, Vivianne Blanlot (former Chilean Minister of Defence), the community engagement process at Caimanes was considered to be unlike anything seen previously in Chile:

I cannot think of any other comparable project in Chile with these levels of engagement and dialogue for addressing such a serious problem as the one at Caimanes, which brings together so many productive, environmental, social, and cultural variables. The focus and methodology were key. We also benefited from a highly qualified and dedicated team that is convinced that this is the right and fair way to deal with the community (Pelambres Sustainability Report 2016, p. 2).

The process of signing in favour of the agreement also created negative impacts to the social fabric, despite the contrary viewpoint of Pelambres. For example, one CDC member tearfully explained that one of her adult children had signed the agreement, leading to silence between them for several months. Perhaps the most striking example of psychological pressuring involved a woman who spoke tearfully about her landlord requesting she and her children leave their rented house because she had not signed the agreement. The landlord viewed the woman as a traitor, and allegedly cut off the electricity and water supply to the rented house. After 2 weeks, the woman moved into an 18-m² wooden windowless hut with her children. The same woman also explained that after this incident, many people who used to greet her in the streets no longer do so, and that such shunning has also happened to other CDC members. According to Pelambres management officials, less than 20% of the population of Caimanes are current CDC members.

As a field researcher, I can testify that Caimanes residents were much less receptive and unwilling to speak to me in 2016 and 2017 compared to 2012, when I was invited into the homes of many and spoke with local business owners. Since 2016, many more residents have refused to comment, as can be seen by the numbers of those interviewed over the years in “[Methodology](#)” section.

One woman resident from the CDC reflected back on the whole dialogue and agreement making process by highlighting the significance of the psychological pressure placed by Pelambres and switching of sides of their former lawyers:

Well did they come to an agreement, yes for sure, but under pressure, psychologically, because they brought in a psychologist to work the people. Apart from that, they talked with Ossa and he wanted money, he was one of us, it's like Judas, it's just like that, then he knew it had been so many years of struggle and maybe he wanted to just get paid, besides Pelambres offered him the big payload, and then on the other hand you have the CDC, and so he went for the pile of money, and there he did not give a damn about the people, our group, he didn't care about the community. (Resident, Caimanes).

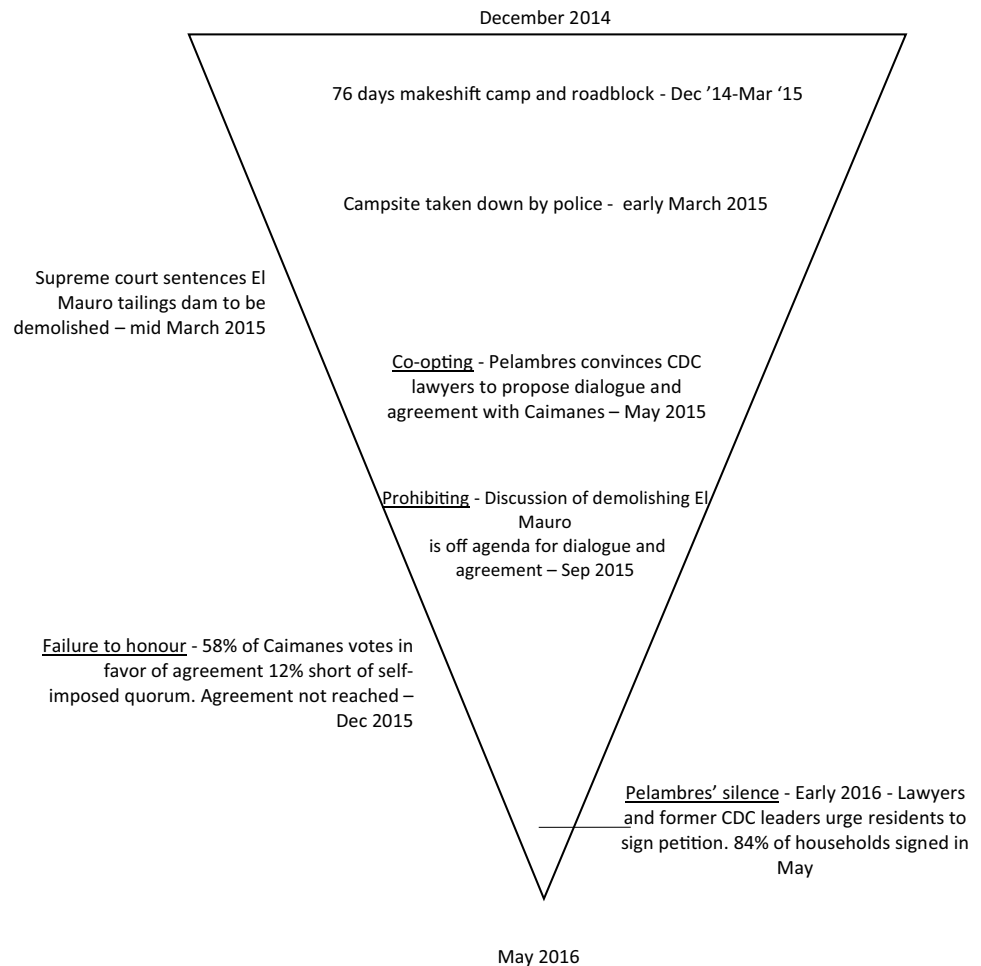
The latest counter resistance by the CDC is a criminal lawsuit they filed against their former lawyers, Ossa and Company, in February 2017 for prevarication, deliberately misleading them with regard to the agreement. These findings will be further discussed in relation to the literature and key concepts of CCE, unethical corporate practices and psychological freedom in the following section.

Discussion

The current study revealed how a community, a large portion of which was displaying resistance to a mining company, was convinced to lay down its arms and enter into an agreement, culminating in formal consensus and paving the road for establishing a CDA. In short, the article details, with direct quotes by key actors from the community, its lawyers and the company, how consent was manufactured (Herman and Chomsky 2010). Although the vast majority of Caimanes was not opposed to Pelambres' dam in late 2014, the opposition led by the CDC had legitimately won the legal right for the dam to be demolished.

Taking into consideration the testimonies provided above, it is abundantly clear the innovative CCE operationalized by Pelambres took place within a setting of increasing internal community turmoil. This turmoil was in large part created by unethical practices of the company. Firstly, there was co-optation of the CDC lawyers by Pelambres to advocate for dialogue and agreement within the community. Co-optation of the Ossa lawyers enabled the mining company to adopt a more relaxed public role. The incentive for gaining consensus was instead with the lawyers, whose payment was now dependent on agreement between the company and community. Barring discussion of demolishing the tailings dam during dialogue between Pelambres and community also dealt a huge blow to the CDC's aims in enforcing the court order. Thirdly, the silence and inaction from Pelambres after the referendum that fell 12% short of the company's own quorum permitted the lawyers and their local allies to push for consent. The pro-dam faction took to knocking

Fig. 1 Narrowing of community's psychological freedom



door-to-door in the village, promising immediate payment of the US\$42,000. With all factors taken together, the options available for the community to refute the agreement and strive for the enforcement of the Supreme Court's order were substantially reduced and narrowed by Pelambres and the community's lawyers over a 17-month period. By April 2018, the remaining CDC were still trying to resist Pelambres via legal means with their new lawyer. The community is now focusing on the psychological damage caused by many interventions by Pelambres' in Caimanes, namely that of the participation process in 2015–2016.

Figure 1 depicts the ways in which Pelambres was able to restrict the psychological freedom of choice available to the community in terms of opposing El Mauro dam. It includes references to the four critical phases of unethical CCE between 2014 and 2016. The inverted triangle model illustrates how the community's psychological freedom was reduced over time. The triangle holds six key events; two of them are placed outside the border to represent moments that offered the community freedom of choice beyond capitulation to the company. The triangle terminates at its tip in May 2016, when Pelambres received the petition for an

agreement containing signatures from 83% of the community's households.

The main implications from this case study for the literature on CCE, CDAs, and stakeholder engagement are centred around the importance of the freedom of choice that communities and other vulnerable actors have around more powerful actors. Specifically, the freedom to refuse to engage and to refuse potential agreements, if these actions compromise the legitimate rights of the community to oppose megaprojects on their territory. Referring back to Table 1, evidence can be seen that Pelambres' CCE with Caimanes contained elements from all three of Bowen et al.'s (2010) categories, including several best practice categories:

- Transactionary—holding information sessions and giving back via local infrastructure investments.
- Transitional—holding town hall meetings and demonstrating humility when acknowledging past errors with their CCE in Caimanes.
- Transformational—promoting transparency and joint decision-making/project management during the implementation phase of the agreement.

Table 4 Corporate influence psychological strategies translated to corporate–community engagement term

Psychological influence strategy	Corporate–community engagement term
Intelligence gathering on community	Knowledge of local context/Stakeholder identification and mapping
Co-opting community lawyers and leaders	Collaboration/partnering
Insist on no viable alternative to the acceptance of the dam and an agreement	
Door-to-door solicitation for signatures	Meaningful dialogue/Consensus building
Making financial offer	Remediation

The data analysis also shows how community engagement in line with “practices that the organization undertakes to involve stakeholders in a positive manner in organizational activities” (Greenwood 2007, pp. 317–318). However, the foundational basis of Table 1 is the psychological freedom given to community participants. More specifically, as shown in Fig. 1 and the data analysis, the psychological freedom of the community with regard to what they could really determine was eroded before commencing formal dialogue in September 2015 by the actions (or inaction) of Pelambres and the community lawyers, until consent was the only option available for most community residents. Table 4 shows how five of the corporate psychological influence strategies reported in the empirical analysis of this article correlate to mainstream CCE concepts. For Pelambres, the Ossa lawyers and their supporters, the process that took place in 2015 is best described by the terms in the right-hand column, whereas for the CDC members it is the left column that best describes the unethical, non-violent and manipulative strategies used to mould consensus.

At a more theoretical level and from a community perspective, the main conclusions from the case affirm the critique put forward by Greenwood and Van Buren (2010) and Banerjee (2017) of the risks of power asymmetries between corporate and community actors within stakeholder engagement. The findings from this study differ to those of Murphree et al. (1996), Kraemer et al. (2013) and Horowitz (2015) in that here we see how the CCE further fractured community divisions.

Additionally, this study emphasizes the importance of agency; in this case, the CDC lawyers used different psychological strategies within and outside of formal dialogue spaces to shape consent for an agreement after deciding to collaborate with the company. This is unlike the case of Murphree et al. (1996), where the community is reported as united in its acceptance to dialogue with the company at first, only later resisting the dialogue successfully so that the project would not be sited. In Caimanes, though, the remaining CDC members tried to resist until the end, and in fact had a technical victory when the referendum result outcome was under the company’s self-set 70% quorum. Nonetheless, the capability of the lawyers and their local allies to

convince another 25% of the locals to vote in favour of the company ultimately made the difference.

The divisions in the community since the construction of El Mauro tailings dam in 2008 are considered to play a significant role in the community dialogue and engagement, reflected by the first three out of six unethical practices, including funding new community associations, payoffs and legal challenges. Field research conducted between 2016 and 2017 indicated that the community’s social fabric remains fragmented, despite claims by company management in interviews that there is more unity now than in the past.

Consequently, an important contribution from this study is for the reflection on whether and to what extent instances of CCE are ethical, especially when considering all corporate actions taken towards the community outside of the formal engagement space led by businesses. Within the spaces of formal dialogue between Pelambres and Caimanes in the final 4 months of 2015, many of the principles of best practice were adhered to. However, the community engagement that took place outside, both prior and during, official dialogue is key to understanding how Pelambres was able to squeeze the communities’ cognitive freedom. It would seem that in contexts of conflict, contemporary CCE can serve as a Janus face, complying with elements of transactionary, transitional and transformative best practices (Bowen et al. 2010) in the formal arena of engagement, yet causing harm to communities outside of this official space.

The findings from this case also problematize Stückelberger (2009) as we saw with the dialogue between Caimanes and Pelambres that the community arrived to the formal dialogue space already divided. One side agreed with the company from the outset on holding a negotiating style dialogue, whereas the other aimed for a confrontational dialogue. The case also demonstrates that by clearly stating the objectives for dialogue as recommended by Stückelberger (2009), the psychological freedom of the community was decimated as it could not confront the company on enforcing the court order around dismantling the dam. Consequently, the psychological freedom of CDC group who sought confrontational dialogue was curtailed from the beginning of the formal dialogue sessions. Dialogue scholars should therefore also consider the ethical implications of larger actors

initiating dialogue with already fragmented (less powerful) parties such as communities. Secondly, dialogue scholars should examine who sets the objectives for dialogue in cases of debilitated counterparts, such as rural communities. Moreover, this case has demonstrated the significance for scholars researching stakeholder theory and CCE of analyzing the historical processes behind any company–community dialogue. To ignore past critical events in business–community relations would render analysis of stakeholder relations as a superficial exercise at best. In a similar vein to Keller and Brown’s (1968) ethic for communication test, this article, based on the empirical data analysis presented earlier, proposes the following ethical test for examining instances of CCE:

1. Is the case affected by recent conflict between the community and the more powerful actor (business or state)?
2. Does the majority of the community consist of residents with little or no formal education?
3. How has financial spending by the company/state actor affected the conflict?
 - a. Have key community actors and representatives resisting the project received benefits from the company/state actor?
 - b. Have these actors been co-opted or dropped their resistance as a result?
 - c. Has this spending significantly affected the social fabric and cohesion of the community? Has it led to more internal community conflict?
4. Has the more powerful actor employed psychological influence strategies for the purposes of shaping favourable consensus with the community before and during the CCE?

If most or all of the answers to the above questions are yes, then the instance of CCE has serious ethical limitations, despite potentially being classified as transitional or transformational engagement (Bowen et al. 2010). This would also indicate that psychological freedom, the basis of ethical CCE, was not authentically granted to community residents (see Table 1).

It should be clearly stated that the intention of this paper is not to dismiss stakeholder engagement-related concepts. Much work has been invested to improve theories allowing companies and communities to better engage together. It is worth remembering that within the contemporary formal spaces of dialogue with the Caimanes community as communicated by Pelambres and their partner NGO Chile Transparente the company appears to be complying with the central tenets of transitionary and transformative CCE via its participative and democratic approach. However, in contexts where communities are not initially against the existence of

the company on or near their territory, such frameworks hold much potential. In addition, in contexts where companies start and continue their engagement in a manner conducive to transitional or transformational CCE, fewer ethical or psychological boundaries are likely to be transgressed.

One important limitation of this paper is that the role of the state within such a conflict and CCE has not been extensively considered. It appears the courts of justice were pleased for Pelambres to obtain consensus to overturn the earlier ruling to demolish the tailings dam in whatever manner they could. As Mr. Moth explained, when asked about the function of the state in the conflict, “[it] was the damn capitalist state’s fault for putting that piece of filth (referring to the dam) up there, we’ve been left alone to fight the company, so we did the best we realistically could”. Further studies on the ethics of CCE should consider the roles of different state actors.

This article emphasized the need for both scholars and practitioners to take a broader perspective on contextual factors such as the history, micro-politics and dynamics that occur within business–community engagement in contexts of conflict. Here, “conflict” refers to community opposition and resistance to the extractive projects on their territory, not to be confused with other contexts of conflict, such as armed civil war. Stakeholder engagement theorists would be well advised to consider the limits of stakeholder engagement for resolving conflicts, improving relations and contributing to development, as proposed by business ethics authors (Calvano 2008; Stückelberger 2009; Newenham-Kahindi 2011; Muthuri et al. 2012; Fujimoto et al. 2016). External actors can deepen internal community divisions, which can be interpreted as a strategic advantage for the company in terms of ruling by division.

The ethical obligations of legal professionals are also highlighted by this article. Lawyers are protagonists in all socio-environmental conflicts and can have a massive effect on their shapes, courses and outcomes. The professional code of ethics for lawyers from the bar association of Chile contains generalized principles around conflict of interest situations for legal professionals, but it should examine how its code of ethics addresses the main issues outlined in this article.

In this particular instance, Pelambres could have closely listened to and addressed the concerns and requests of the longstanding CDC members. These relate to the demolition of the El Mauro dam or provision of much more generous compensation, at a level that would allow them to comfortably relocate. The company could have also been more active in respecting its failure in achieving the quorum it had established, and in addition used its leverage over the Ossa lawyers to instruct they behave responsibly after the referendum result. They could also have provided an MoU with funds to the community before entering into formal

consensus building, so the community could have organized into a collective bargaining position to confront Pelambres (as recommended by O’Faircheallaigh 2015). Following such advice would also have aligned the company closer to the United Nations Guiding Principles, which the company hopes to adhere to.¹

Instead, this case has provided us with an example of a mining company ignoring a court order and instead countering it with a combination of best practice and unethical community engagement strategies to ultimately exhaust and limit the community’s ability to decline. This was used as a strategy to successfully convince the court of appeals to rule in favour of the company.

Conclusion

This article has investigated a case study in which a multinational mining company was able to shape consensus with a community that had been in conflict with it for over 15 years. Although agreement was reached in the end, the manner in which this was achieved is considered unethical. The community engagement conducted by Pelambres was a sort of janus face, where the dialogue in formal spaces was overall in line with transitional/transformational good practices (Bowen et al. 2010), yet engagement outside of the formal spaces was unethical. Over the course of 2015, the community’s psychological freedom became increasingly limited, ultimately putting it in a position with little choice other than to arrive to an agreement with the company. This channelling of psychological freedom was conducted under the banner of best practice CCE terms such as stakeholder mapping, collaboration, meaningful dialogue and remediation. The article identified six corporate action phases undertaken which curtailed the community’s psychological freedom as paying off local leaders; challenging via courts of law; co-opting community lawyers; prohibiting key a debate during dialogue; and remaining silent after failing to honour its own self-imposed rule.

For a more ethical solution, the company could have abided by the rule of law that required the dismantling of the El Mauro tailings dam or provided funding via an MoU firewall to help the community organize into a stronger bargaining position for subsequent dialogue. At the time of writing in early 2018, the Caimanes and Pelambres are working jointly to implement the agreement. The latest corporate communications detail another referendum, where 300 residents voted on the social and environmental projects they prefer receive investment by the fund. As mentioned,

the CDC, with a new lawyer, presented a lawsuit against their former Ossa lawyers in February 2017 for deliberately misleading them.

Scholars offering frameworks on CCE and dialogue should consider the ethical implications of proposing dialogue with financial incentives to an already divided and low-income community. Current scholars seem to have overlooked this on the ground reality. This article also offers a test for assessing the ethics of an instance of CCE in the form of questions. For stakeholder engagement theorists and practitioners, this case study is a timely reminder of the limits of (unethical) dialogue for resolving all community conflicts, as engagement can deepen internal community divisions and conflicts while simultaneously marginalizing those community groups who see engagement as a vehicle for co-optation and silencing.

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Appendix

Video Documentaries

Asemblea inicial (2015). <https://www.youtube.com/watch?v=iHtC6n67yGY> (102 min).

Caimanes: Stolen Water (2015). https://www.youtube.com/watch?v=8-C0WoKV_pg (60 min).

Continentes-Caimanes, una condena a muerte (2017). <https://www.youtube.com/watch?v=b6mKot-zSGg> (25 min).

Chile se Moviliza-Caimanes (2013). <https://www.youtube.com/watch?v=O-3azQInkGg> (61 min).

La lucha de Caimanes La Izquierda Diario Chile (2015). <https://www.youtube.com/watch?v=kFN7KKt0MHc>.

CAIMANES, el pueblo que se enfrentó al poder de Luksic (2015). https://www.youtube.com/watch?v=y59o_PMIFOE&t=14s (13 min).

Environmental Hazards in Chile’s Mines (2016). <https://www.youtube.com/watch?v=xdOLzB7rouE> (9 min).

Minera de Luksic permea estado de derecho en Chile permea. <https://www.youtube.com/watch?v=NRnBoxt24tw&t=22s> (9 min).

La abogada Sandra Dagnino explica la realidad del pueblo de Caimanes (2015). <https://www.youtube.com/watch?v=yj8QMhpx90o&t=618s> (16 min).

Toma ruta El Mauro oma ruta. <https://www.youtube.com/watch?v=nMTKt0ohjma> (8 min).

¹ According to a senior management official during an interview with the author.

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