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Mediated Visibility and Public Environmental Litigation: The Interplay between Inside and Outside Court during Environmental Conflict in Australia

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Abstract: Conflicts over environmental sustainability are increasingly being fought in court, such as the use of Public Environmental Litigation (PEL) to challenge developments impacting the environment in Australia and elsewhere. News media coverage of PEL introduces legal actors to the dynamics of mediatized environmental conflict, which provides a platform for conflict actors to gain mediated visibility for their cause to influence public debate. When legal opportunities, such as PEL, are used as a campaign tactic, the dynamics of contest are exposed and, while courts have some power over legal actors, parties seek news media to favorably translate legal outcomes to the public. This article explores the nexus of PEL, news media, and communication strategies to find greater understanding of who gains from the mediated visibility that occurs when transnational environmental campaigns take their claims to court. Using content analysis and discourse analysis of news texts and semi-structured interviews relating to eight PEL cases instigated to stop the Adani Carmichael coal megamine in Australia, we seek better understanding of the mechanisms at play when PEL campaigns appear in news media, and find that the dominance of outside court sources in news coverage not only privilege the political aspects of PEL over the legal, but highlights how strategic litigation, such as PEL, can be used to influence public opinion and, therefore, a political response, regarding environmental conflict.

Keywords: public environmental litigation; mediatized environmental conflict; public relations

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1. Introduction

On 29 August 2016, journalists waited outside the Federal Court of Australia in the city of Brisbane. The Australian Conservation Foundation (ACF), a prominent Australian conservation group, had invited journalists to report on the outcome of their legal case aimed at stopping the construction of the proposed Adani Carmichael project (Meadows 2018). At the time of the action, the Indian company, Adani Mining, proposed to build the largest coal mine in Australia and transport the coal to India for combustion in Adani-owned coal-fired power stations (Adani Mining 2012). Environmental groups, concerned about the direct impact of the project on the environment and indigenous owners of the land, as well as the contribution of global greenhouse gas emissions, had initiated a multi-pronged campaign against the mine, including legal action (#StopAdani 2019). Australia has very large reserves of high-quality thermal coal, and the coal industry is a major employer in the minerals sector (Roarty 2010), making the coal industry not only a key government stakeholder (Hook et al. 2017), but central to Australia's climate wars (Tranter and Foxwell-Norton 2021) where Adani has become the shorthand for the question: 'Are you serious about climate change?' (Murphy 2017).

In the Federal Court, the ACF argued that the Federal Environment Minister, Gregory Hunt, when approving the mine, had failed to consider the impact of carbon emissions from coal transport, shipping, and combustion on the World Heritage Area listed Great Barrier Reef, which is the world's largest coral reef, and currently under threat from climate

change (Australian Conservation Foundation Incorporated v Minister for the Environment [2016] FCA 1042). According to the ACF, this case was the 'first of its kind to be heard in an Australian court' with sections of Australia's national environmental legislation tested in relation to climate change for the first time (ACF 2016). If the ACF won, the ruling would strengthen climate change considerations and World Heritage Area protection in Australian law and be a win for the growing movement for strategic climate litigation. Inside the court, the battle was lost: the judge found there was no failure of the Minister when approving the mine and asserted the legal responsibility for carbon emissions from coal combustion is in the jurisdiction within which they were emitted rather than the country where the coal is mined and exported. However, the contest was not yet over. The Queensland Resources Council, a mining lobby group, raced from the court to meet the journalists waiting outside. Queensland Resources Council CEO Michael Roche talked to the media first, leaving the ACF to counter pro-mining claims rather than communicate their own carefully crafted messages.

Conflicts over environmental sustainability are increasingly fought in Australian courts as individuals and groups exercise opportunities to test and enforce laws, stop and/or delay developments, and gain public support for their cause (Konkes 2018). Public interest environmental litigation (or PEL) describes 'proceedings in a court or tribunal undertaken by a private individual or community group where the dominant purpose is not to protect or vindicate a private right or interest but to protect the environment' (McGrath 2008, p. 327). When PEL is used as a campaign tactic, we can observe activists and others exploiting the opportunity for 'mediated visibility', which describes the explicit use of media, often news media, to bring public attention to individuals and their causes (Thompson 2005). In Australia, environmental groups filed eight PEL cases between 2014 and 2017 to stop the Adani mine, including the ACF case just described (full names and a description of all eight cases in References), which can be seen as part of a wider, global increase in PEL and other climate change litigation, which has seen, to date, more than 1300 cases occurring across 28 countries (Setzer and Byrnes 2019). In Canada, for instance, high profile environmental and indigenous campaigns, such as those against the Trans Mountain Pipeline, have entered the courts and delivered some short-term campaign victories (McCulloch 2020; Romo 2018).

To examine the mutually constitutive interactions between the courts and actors that occurred during the strategic climate litigation involving Adani, we draw on Hutchins and Lester's (2015) model of mediatized environmental conflict, which theorizes the interactions between activism, journalism, formal politics, and industry during environmental conflict. This model builds on Cottle's (2006) work on 'mediatized conflict', which describes the constitutive role of media in both the enactment of conflict and its political consequences. Distinguishing between the terms 'mediated' and 'mediatized' is helpful. The term 'mediated' has long differentiated the forms of communicative action that uses media from interpersonal, or face-to-face, communication (Krotz 2009; Thompson 2005). While interpersonal interactions occur in shared spatial–temporal frameworks, the use of media allows communication to extend across different spatial–temporal frameworks, resulting in interactions that are 'shaped by these distinctive spatial and temporal properties and by the distinctive characteristics of the medium employed' (Thompson 2005, p. 33). Krotz (2009, p. 23) notes that 'media' is used broadly to describe technology; societal institutions and organizational machines; content and a 'space of experience' for recipients. However, media not only extends human communication, but is also used to 'control communication, to construct social relations, to earn money, and so on' (Krotz 2009, p. 23). Here, the term 'mediatization' is used to examine the 'interrelation between changes in media and communications, on the one hand, and changes in culture and society, on the other' (Couldry and Hepp 2013, p. 197), and draws attention to media as an independent social institution with its own sets of rules (Hjarvard 2013), or 'media logic' (Altheide and Snow 1979), to which other social fields or systems adapt their practices. Further, the term captures the processes of media in the communicative construction of our cultural and

social reality (Couldry and Hepp 2013). As a broadly germane concept, mediatization has been honed into various models to address certain specificities, including Hutchins and Lester's (2015) mediatized environmental conflict, which we use here.

News media coverage of PEL as a campaign tactic explicitly extends the concept of mediatized environmental conflict to include the legal sphere (both legal actors and legal system) because legal discourses and decisions can be used as discursive instruments to challenge prevailing power relationships. Activists have long exploited the 'media logic' of news production practices, or 'media logic' to gain media attention, such as provocative visuals, staging image events, and deploying celebrity voices and social media (Anderson 2014; Bennett and Segerberg 2012; Cox and Schwarze 2015; Lester 2010; Powers 2015). Activists use media to 'temporarily *destabilize* or, optimally *disrupt* the smooth functioning of capital and government' resulting in a shift in power between conflict actors (Hutchins and Lester 2011, p. 161; emphasis in original). In turn, industry is increasingly sophisticated in its use of public relations strategies, including 'invisibility', which is 'the planned and coordinated avoidance of media communication, attention, and representation in order to achieve political and/or social ends' (Lester and Hutchins 2012, p. 849). Tactics here include only providing minimal comment and depersonalized spokespeople to journalists seeking to 'balance reporting' by including the perspectives of all stakeholders (Brüggemann and Engesser 2017).

The image of shifting power, or the 'dance' (Anderson 2014) between conflict actors, is at the crux of the relationship between courts and news media (Davis and Strickler 2000; Johnston 2002). The courts rely on media to translate court action and decisions for the public (Johnston and Breit 2010; Keyzer et al. 2012), but tensions arise when news production practices risk the independence and rigor of the legal process and judiciary. At the heart of this tension is the practice of news framing, which describes the processes of journalistic selection of language, visual content, evidence, and sources that influences how an audience interprets an issue (Entman 1993). Hall et al.'s (2013) seminal study on the representation of crime in media, highlighted how journalists' preference for authoritative statements from accredited sources, leads to those who represent institutions becoming prioritized, or 'primary definers', in news reporting (p. 61). This process results in those with privileged access to news media able to 'frame' issues in a way that 'lead to certain questions being asked and others being ignored' (Cohen and Young 1973, p. 164). While courts hold power over how journalists report what was said in court, which can limit how legal matters are reported, there remains space outside the court for interest groups to act as 'surrogate press secretaries' to publicize court decisions (Jamieson 1998, p. 5). This process of translation can lead journalists to over-simplify court decisions, report inaccurately, and frame legal decisions as though a 'sporting event' with clear winners and losers (Davis 2014; Haltom and McCann 2004; Spill and Oxley 2003, p. 29). However, some matters before the courts can be seen as not only legal debates, but also sites of argument and contest extending into the public sphere (Konkes and Lester 2016). Considerable work has been done on the role of framing and news sources in news media representations of environmental issues (e.g., Bacon and Nash 2012; Bowers 2011; Brevini and Woronov 2017; Demetrious 2017; Lehotský et al. 2019; Schneider et al. 2016; Worden et al. 2014). Despite emerging legal scholarship examining the use of PEL as an activist strategy in Canada and elsewhere (e.g., Noonan 2018), less is known about how the mediatization of PEL informs public opinion (Konkes 2018). Existing research provides some insight into the role of legal actors in social movements (and hence environmental campaigns), such as the difficulties that 'community enterprise lawyers' or 'cause lawyers' experience when straddling the legal and activist spheres (Morgan 2017; Sarat and Scheingold 2006), and others have identified news discourses of court cases influences the public interpretation of legal decisions (Clawson et al. 2003; Gibson et al. 2014; Solberg and Waltenburg 2014). However, little is understood of how legal actors inform and influence the mediated visibility and framing of PEL coverage, especially in a media landscape where both the environment and court news 'beats' are less resourced, and there is an increasing reliance

on public relations, news agencies, and global image banks (Forde and Johnston 2013; Friedman 2015; Greenslade 2016; Johnston 2016; Machin 2004).

To address this gap, we analyzed eight PEL cases against the Adani mine project between 2014 and 2017 to examine how legal actors engaged with media 'outside of court' to influence public understanding and debate about the Australian environmental law occurring 'inside court'. We used a mixed-methods approach that combined content and textual analysis with semi-structured interviews to evaluate the communication strategies of various actors during the conflict. Seven Australian news media outlets (The Australian, ABC News, Australian Financial Review, The Guardian, Courier Mail, Sydney Morning Herald, and Central Queensland News) were selected for news coverage of these PEL events, which garnered 275 news texts. Content analysis was used to count sources (Tankard 2003) quoted in texts, including those who were first quoted (priority source) or less prominently (secondary source) (see Table 1). Framing analysis is commonly used in media and communications research and the study of social movements (see for example, Benford and Snow 2000; Pan and Kosicki 1993; Reese et al. 2003) and researchers generally develop their own coding systems (Hansen and Machin 2013, pp. 88–91). We drew on Kitzinger's (2009) emphasis on 'language devices' to examine how, when and by whom frames are used, and critical discourse analysis (Carvalho 2008; Van Dijk 2001) to identify five PEL frames: (1) court conflict; (2) activist tactic; (3) public right; (4) bureaucracy; and (5) criminality occurring in news text and images. Consistent with the approach taken by Lester and Hutchins (2009), we undertook ten semi-structured interviews with those involved in the PEL actions, including environmental groups acting as litigants; anti-mining activists; an industry lobby group; and legal actors, such as, solicitors, legal counsel, and expert witnesses. To avoid duplication, participants from the same organization were not included unless they held distinctly different roles. Results from corpus were crossed referenced against interviews, revealing results that may not have surfaced in using textual analysis alone.

Table 1. The number of news texts reporting on PEL cases per case (refer to references for summary of court cases).

Case	No. of News Texts
ATSH case	1
NQCC case	0
MCG sea dumping case	1
ACF case	70
Land Court case	76
LSCC Supreme Court case	21
WRAD case	30
MCG case	76
TOTAL	275

2. Results

The content analysis of the corpus of 275 texts identified 128 named individuals and 41 organizations as sources who were quoted directly or indirectly. Individuals and organizations were categorized into 26 categories (see Figure 1) and 'politicians' followed by 'litigant' and 'Adani' were identified as the most present sources.

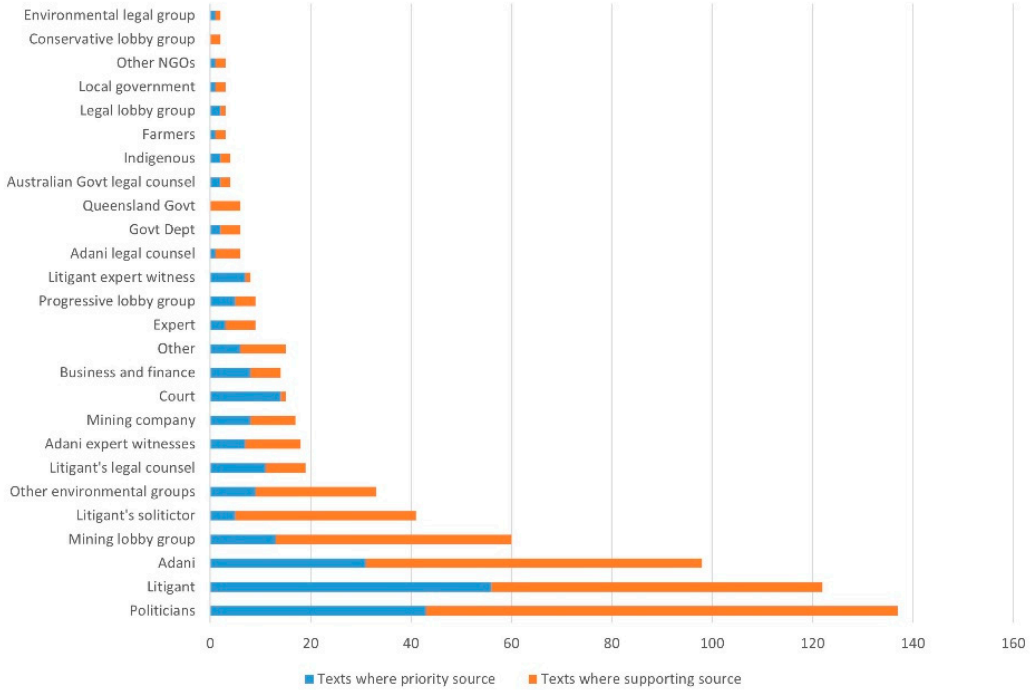

Figure 1. Number of sources per source category in the corpus.

Individuals in the 'politician' category were the most visible in news coverage and was driven by 30 named politicians who were identified and quoted without by any one individual dominating. Of all the political actors selected, only three of those quoted supported PEL action against the mine (e.g., Robertson and Milman 2015). Interaction and visibility in news media depended upon the legal status of the politician. As some politicians were legal parties, such as the Federal Environment Minister, they appeared more careful and considered in their communication and interaction with news media and those not directly involved tended to noisily support the mine and used dramatic language to gain media attention (e.g., Viellaris 2016). Increased visibility of politicians in response to court decisions, even when supporting the mine, was not necessarily deemed negative by campaigners because many in the environment movement viewed politicians talking about court cases as an opportunity to gain media attention for the campaign (Anonymous 2018).

Unsurprisingly, conflict actors, including Adani (the coal mine developer and one of the legal parties) and environmental groups (as litigants) were the second most visible news sources. Without the litigants, there was no legal action and no story, and they were often priority sources. All of the environmental groups acting as litigants—the Australian Conservation Group (ACF), Conservation Action Trust, Whitsunday Residents Against Dumping, the Mackay Conservation Group and Land Services of Coast and County—were news sources. The most visible litigant was the ACF (47 source counts), because an appeal in that case provided opportunities for increased news interest. The most prominent 'public face' in the 'litigant' category was a more controversial litigant, Derec Davies from Land Services of Coast and Country (26 texts, ten as priority), followed by Mackay Conservation Group spokesperson, Ellen Roberts (22 texts, 11 as priority). Both of these sources were often framed as activists (e.g., McCarthy 2015). Geoff Cousins, ACF President (2014–2016), was the third most sourced individual litigant (21 texts). As a well-known businessman turned environmentalist, who has maintained access to the corporate and political world (Beresford 2015, p. 294), Cousins had a markedly different personal brand to other grassroots activists, such as Davies and Roberts. Interviewees from both sides of the conflict agreed Cousin's personal brand contributed to his appeal to journalists as a source (Meadows 2018; Roche 2017). As well as using their own spokespeople, interviews for this study revealed that litigants encouraged others in the environmental movement to

act as alternative voices to provide local and diverse perspectives. 'Other environmental groups' were the sixth most sourced category in the corpus.

The significant presence of litigants in texts occurred despite interviewees from the legal fraternity citing a preference for clients to stay quiet and not jeopardize the case (Anonymous 2017; Barnden 2018; McGrath 2017). The desire to speak publicly about the case created tension between litigants, lawyers and news media and professional communicators working within environmental groups helped to bridge these different spheres and reduce communication divides (Meadows 2018).

As the proponent for the mine, Adani was an important source in the PEL story. Unlike litigants who changed with each case, Adani was consistently a legal party, which reflected in their dominance as a source. The category 'Adani' was a combination of different individuals, and unidentified spokespeople were the most quoted in this category, with the Adani Australia Chief Executive, Jeyakumar Janakaraj (16 texts) and Adani's Chair, Gautam Adani (six texts) following. The dominance of nameless 'spokespeople' revealed the extent to which Adani controlled their mediated visibility through maintaining a low profile, or 'invisibility'. Tactics included giving journalists only public statements rather than interviews or other sources and making their media releases available as social media posts on Facebook and Twitter (e.g., Adani 2016). Such social media posts were risk averse—written as media releases without encouraging comments—and resulted in different outlets tending to use the same quotes from Adani statements. There were media moments, often from exclusive interviews or public speeches which identified people, such as Janakaraj, as sources (e.g., McKenna 2016), but Janakaraj rarely made public comments on PEL cases. This strategy of limited, often depersonalized, Adani messaging did not lead to a significant reduction in mediated visibility because even in the absence of a public comment on a PEL event, journalists would still find a quote from a previous news event to 'balance' reporting (e.g., Vogler and Dibben 2016). A fourth category worth noting was the 'mining lobby group', notably the Queensland Resources Council (90%) and its Chief Executive Michael Roche, who used dramatic language, such as calling litigation a 'relentless barrage of lawfare' (McCarthy 2015) to add to the support for the mine shown by many politicians and the company itself. When interviewed about this tactic, Roche (2017) said the 'corporate' nature of the mining industry and the rarity of a 'senior person from a major mining house wanting to engage in that day-to-day battle with a Geoff Cousins' meant the Queensland Resources Council took a proactive public relations role.

The Federal Court was the only legal actor visible in the news considered a disinterested party; all other legal actors represented an interest. The 'court' category was not as visible as conflict actors, but when present the voice of the court often gained priority (93% of texts where the court was quoted were as priority source). The 'court' was present during hearings, judgements, and costs where formal written material was available from the court, but not observed during filing. Expert witnesses from both legal parties were visible in the corpus. Adani expert witnesses were more present overall, but litigant expert witnesses, when quoted, were more likely to be the priority source (88% compared to 39%). Some expert witnesses were able to transition easily, as a voice within the court to a voice outside the court. For example, Tim Buckley from the Institute for Energy Economics and Financial Analysis, was a financial expert witness in the *Land Court case* hearing who transitioned from expert witness to lobby group expert with ease in the corpus (e.g., McGrath 2015) despite many experts within financial institutions not being permitted to talk directly to the media on behalf of the organization (Buckley 2017).

In all cases, the litigant was represented by a not-for-profit community legal center and while being the most visible legal actor across the corpus, in contrast to the court, the litigant's solicitor was rarely a priority source (13%). The Queensland Environmental Defenders Office (EDO) represented the most litigants and actively worked to engage with news media, even though some found this relationship 'uncomfortable' and solicitors generally wished to stay out of the news (Anonymous 2017). News media also tended to frame those in this legal group as 'activists' rather than as independent legal service

providers, which was noted by one solicitor as a 'frustrating' aspect of working in this field (Anonymous 2017).

3. Discussion

Observing source visibility in the corpus, largely as a result of the public relations strategies of all actors, provides insight into the mechanisms at play when PEL campaigns appear in news media which, in turn, informs public opinion and support for our legal systems. In PEL news coverage of Adani cases, political voices and conflict actors dominated the news rather than legal actors. The influence of conflict actors and their claims align with Jamieson (1998) who highlighted how spasmodic communication from the court and its withdrawal from discourse once a final decision is given provides a platform for interested parties to tell the legal story from their perspective. The high visibility of both Adani and litigants was a result of the journalistic practice of balanced reporting that endeavors to represent all sides in a conflict. As such, PEL news reporting can provide new openings for environmental voices and forces responses from industry and governments who might otherwise seek invisibility during conflict about their actions. These results contrast with Worden et al.'s (2014, p. 371) study of Australian coal industry news coverage which found the dominance of coal mining companies and limited representation of other perspectives.

Litigants used each PEL event as a public relations opportunity. The litigant initially held communicative power when they filed cases and built upon this position using 'optimum timing' and prominent spokespeople. Litigants understood the importance of public support for court action and the need to engage with both the legal and political spheres at the same time and countered the portrayal of being 'activists' litigants by drawing on the community voices to legitimize their standing. As a result, litigants and the environmental campaign achieved the desired 'mediated visibility', despite creating tension between legal actors, media, and the litigant. Interviews revealed the considerable effort taken to ensure the opportunity for public relations outside of court did not undermine the opportunity to make progress within the judicial system.

Mining company Adani was almost as visible as the litigants, yet their communicative strategy was one of control strategic invisibility. Adani's media statements on social media were a more traditional one-way public relations exercise aimed to discourage journalists pursuing questions, in contrast to the litigants who used social media to initiate dialogue among supporters and mobilize efforts. Adani controlled more personalized visibility by providing exclusive interviews with chosen news outlets, while appearing to minimize public comment. This strategy of controlled visibility possibly achieved the desired aim of limiting mediatized conflict between the parties while meeting news media's demand for 'balance'.

Litigants were publicly supported by their solicitors, which suggests that lawyers and the legal sphere can be considered a new, or fifth, pillar of action for scholars investigating the mediatized environmental conflict in matters involving PEL. The role of lawyers here includes comments from community legal organizations translating the 'legal-ese' into language understood by news organizations and their audiences, which provide a deeper understanding of the law and a considered sense of legal wisdom. This legal translation and perspective is important, especially with the lack of time and resources given to journalists to interpret legal cases and outcomes (Davis 2014). In the cases examined here, community legal organizations can be seen to have played a dual policy and court role: their expertise in strategic communication served alongside providing legal advice and representation taking lawyers from the legal sphere into the political and pitching them to be viewed as part of the campaign against the mine, rather than an independent lawyer acting on behalf of a client. In this dual role, lawyers not only represented their clients, but were seen as participants in campaigns designed to highlight deficiencies in law.

The economic perspective of the coal lobby groups countered the legal view of the community legal organizations. The Queensland Resources Council was a busy communicator, making efforts to be at media conferences and releasing public statements and, while

always present, often being used by journalists as a secondary source for their colorful language to gain attention in order to reframe the PEL in question as either an activist issue or dull legal matter in contrast to the measured "public interest" frame used by the litigants. While activists in other protest spaces are often seen using more dramatic communication tactics to gain media attention (see for example, Lester 2010), litigant activists were notable for the effort taken to present a measured and reasoned engagement with the law. Perversely, in seeking media attention, the Queensland Resource Council used the familiar activist tactic of being ever present to provide a colorful quote, especially when Adani was silent.

Overall politician visibility in the case study was consistent with Hall et al.'s (2013) labelling of politicians as 'primary definers' of news, although no single individual was the main definer due to the different roles politicians played during the debate. Those directly involved in legal cases appeared more communicatively controlled, perhaps because of their awareness of the legal risks associated with public communication during a legal case. In contrast, politicians who supported the mine, but were otherwise not party to the case, were more likely to noisily support Adani and used the dramatic language of the activist tactic to gain media attention. These politicians filled the vacuum left by Adani's strategic invisibility and acted as 'primary definers' to frame, and therefore delegitimize, PEL as an activist stunt.

Within this interplay, news media delineated between 'inside court' and 'outside court'. Some sources were bounded by this delineation, while others were not. For instance, without legal party status, the Queensland Resources Council and other environmental groups had no voice in court. This made the media conference and other appearances 'outside court' a critical arena for conflict actors. So critical, in fact, that there was sometimes a race to get to this important arena ahead of others. The physical location of the courtroom steps and the need to be 'present to be heard' were important to those seeking mediatized visibility. From the rhetorical confines of 'inside court', conflict actors sought control the narrative 'outside court'.

Some legal actors, namely judges and legal counsel, were constrained by the physicality of the court. These actors were cited from within the 'inside court' or from court documents. They avoided media contact, and this limited how news media translated their perspectives. In contrast, several expert witnesses transcended the legal boundary and blurred the line between inside and outside court when they seamlessly transitioned between the role of expert witness and partisan commentator. As expert witnesses, their primary function inside court was to assist the court resolve the dispute (see for example, Queensland Land Court 2018), but the court process to determine agreement and disagreement between expert witnesses established the courtroom as a space of divided opinion where one expert was pitted against the other through the questioning by legal counsel. Transitioning from expert witness inside court to lobby group representative outside, these actors extended the polarization of views beyond the courtroom and enabled legal discourse to mix with public discourse. Expert witnesses who transitioned to lobby group representation sustained or re-injected evidence at 'optimum times' using the expert witness label to add authority. While this conflict between witnesses provided 'a hook' for journalists, it also served to reinforced PEL as being part of the broader Adani conflict.

There were a number of voices, which did not appear to influence how PEL was represented in these cases. A significant number of expert witnesses were not mentioned in media, including some scientists, which meant expert opinion in news media on a number of project environmental impacts was low compared to evidence given in court. Most of the cases against the mine involved administrative elements of the law, but at the heart of the legal action were the scientific questions of the mine's immediate and indirect impact on the environment. Only one case, the Land Court case, allowed for merit review of science-based decisions, but due to controversy over evidence given regarding the mine's employment benefits, the economic merit of mining gained prominence. This observed absence of scientists is consistent with studies of mediatized conflict in the Tasmanian

salmon industry (Cullen-Knox et al. 2019), the protection of the Great Barrier Reef (Foxwell-Norton and Konkes 2019) and, more broadly, climate change news (Anderson 2011). While claims of environmental impact were often spoken by litigants in the PEL cases here, the legitimacy of these claims did not carry the authority of expert witnesses.

Another group without influence in the corpus was farmers. Farmers are a familiar symbol of connection with the land in news media but are also depicted coming into conflict with mining and other extractive industries (Greer et al. 2011; McKenzie 2009) as well as environmentalists. This lack of media interest in the farmers' perspective was in contrast to another legal case against a proposed coal mine, the Alpha mine, where Bruce Currie, a local grazier, commenced PEL in relation to the risk of water contamination caused by industry (see for example, Weekes 2017). News coverage of the risks to water raised in the Land Court case compared to the absence of farmers and their concerns about water quality and other impacts in the coverage in the Adani mine PEL warrants further research.

4. Conclusions

Across each of the cases, news media clearly delineated between 'inside' court and 'outside' court in their reporting, with some news sources bound by this delineation and others not. The dominance of outside court sources telling the PEL news story served to privilege the political aspects of PEL over the legal perspective in news reporting. As such, our findings show PEL events 'inside court' can be used as a platform for actors to promote the connection between mining and GHG emissions 'outside court'. This process not only provides media visibility to the connection between coalmining and climate change, which is contested in Australia's climate wars, but also forces industry and governments to engage with the need to incorporate climate change mitigation more explicitly in policy and law. As Hutchins and Lester (2015) observe, engaging different spheres of action, such as the deployment of strategic climate litigation described here, serves to destabilize traditional power dynamics inherent to mediatized environmental conflict (Hutchins and Lester 2015).

Media coverage of this instance of PEL in Australia demonstrated how media and communication practices pierce jurisdictional boundaries to ensure that strategic litigation informs broader environmental debates. Here, we observed how Australian courts, through processes that typically reassert national sovereignty and border controls through application of the law, were used by environmental campaigns to challenge transnational industrial activity and, further, to make visible the failings of our legal systems to protect publics from such corporate interests. In these cases, activists were not only using the court to stop or delay activity, but to engage other spheres of action that operate beyond and through these sovereign borders. Court action within a jurisdiction is a crucial component of a transnational environmental campaign and provides a communication platform irrespective of the eventual legal outcome. Communication outside the court takes PEL beyond an isolated action within the legal sphere and demands the complex interaction between all spheres involved in mediatized environmental conflict. These conclusions are applicable beyond Australia because as Spier (2013) suggests, the legal systems of common and civil law countries, such as the United States and Canada, have a lot in common despite differences in national provisions. As such, while case studies, such as ours, have findings limited to the specificities of their jurisdiction, they can contribute to a better understanding of how strategic litigation is not limited to the legal sphere, but rather part of the wider discursive struggles that inform political decision-making and social changes that mark mediatized environmental conflict.

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Conflicts of Interest: The authors declare no conflict of interest.

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Court Cases

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(Land Services of Coast and Country Inc v Chief Executive 2016) Land Services of Coast and Country Inc v Chief Executive, Department of Environmental and Heritage Protection & Anor [2016] QSC 272 where Land Services of Coast and Country challenged the validity of the mine's approval in the Queensland Supreme Court (*LSCC Supreme Court case*).

(Whitsunday Residents Against Dumping Ltd. v Chief Executive 2017) Whitsunday Residents Against Dumping Ltd. v Chief Executive, Department of Environment and Heritage Protection & Anor [2017] QSC 121 and 159 where the local Queensland group Whitsunday Residents against Dumping challenged the validity of the Abbot Point Port expansion approval in the Queensland Supreme Court (*WRAD case*).

North Queensland Conservation Council v Minister for the Environment & Ors [AAT2014/1043] where the environmental group North Queensland Conservation Council challenged the approval of dredge sea dumping from the Abbot Point Port expansion in the Queensland Administrative Appeals Tribunal (*NQCC case*).

Mackay Conservation Group v Minister for the Environment [QUD118/2014] where the Queensland-based Mackay Conservation Group challenged the approval of dredge sea dumping from the Abbot Point Port expansion in the Federal Court of Australia (*MCG sea dumping case*).

Alliance to Save Hinchinbrook Inc v Minister for the Environment [QUD8/2015] where the Queensland-based environment group Alliance to Save Hinchinbrook challenged the fast-tracked approval of dredged material from the Abbot Point Port expansion on land in the Federal Court of Australia (*ATSH case*).

Mackay Conservation Group v The Commonwealth of Australia & Ors (NSD33/2015) where the Mackay Conservation Group challenged the mine's Federal Government approval (*MCG case*).

Australian Conservation Foundation Incorporated v Minister for the Environment [2016] FCA 1042 and 1095 and subsequent appeal Australian Conservation Foundation Incorporated v Minister for the Environment and Energy [2017] FCAFC 134 where the ACF challenged the mine's Federal Government approval of the mine (*ACF case*).

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