



The pore space scramble

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Climate change and energy security continue to be the context of the transition to a secure, affordable and low carbon energy future, both in the UK and beyond. This is reflected in for example, binding climate policy targets at the EU level, the introduction of renewable energy targets, and has also led to an increasing interest in Carbon Capture and Storage (CCS) technology with its potential to help mitigate against the effects of CO₂ emissions from fossil fuel burning. The UK has proposed a three phase strategy to integrate CCS into its energy system in the long term focussing on off-shore subsurface storage (DECC, 2014). The potential of CCS therefore, raises a number of challenging questions and issues surrounding the long-term storage of CO₂ captured and injected into underground spaces and, alongside other novel uses of the subsurface, contributes to opening a new field for discussion on the governance of the subsurface.

Such 'novel' uses of the subsurface have led to it becoming an increasingly contested space in terms of its governance, with issues emerging around the role of ownership, liability and property rights of subsurface pore space. For instance, questions over the legal ownership of pore space have arisen with ambiguity over the legal standpoint of the surface owner and those wanting to utilise the pore space for gas storage, and suggestions of whether there are depths at which legal 'ownership' becomes obsolete (Barton, 2014). Here we propose to discuss this 'pore space scramble' and provide examples of the competing trajectories of different stakeholders, particularly in the off-shore context given its priority in the UK. We also propose to highlight the current ambiguity around property law of pore space in the UK with reference to approaches currently taken in different national contexts. Ultimately we delineate contrasting models of governance to illustrate the choices we face and consider the ethics of these models for the common good.

Barton, B (2014) The Common Law of Subsurface Activity: General Principle and Current Problems. In: Zillman, D.N., McHarg, A., Barrera-Hernandez, L., Bradbrook., A. (Eds), *The Law of Energy Underground: Understanding new developments in subsurface production, transmission, and storage*. Oxford University Press, Croydon, pp. 21-36.

DECC (2014) *Next steps in CCS: Policy Scoping Document – Developing an approach for the next phase of Carbon Capture and Storage projects in the UK*. HM Government.