



The Contested Planet: Green criminology, environmental crime and the world

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Structure:

- Introduction: contestation, conflict and crime
- Contested laws: environmental crimes
- Contest in the legal market place: consuming the planet
- Contest as conflict: fighting over resources
- Contested evidence: denial of health hazards and climate change



Reflections:

Risk and late modernity

Ecocide, Law and Leadership

Conclusion and Hope





Inter-Governmental Panel on Climate Change

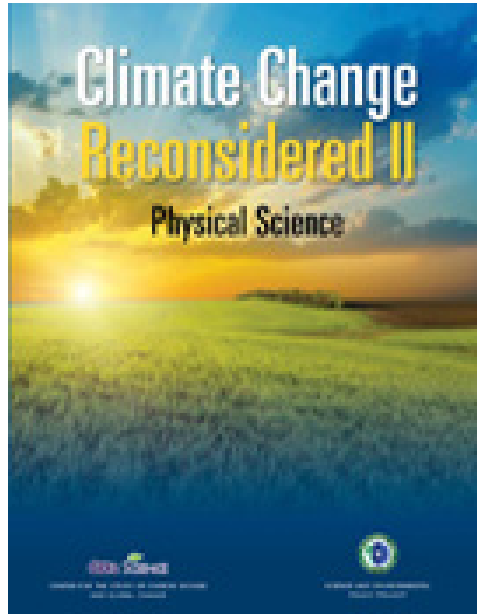
‘Warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented

The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, sea level has risen, and the concentrations of greenhouse gases have increased’

(IPCC Report, 2013, Summary for Policymakers page. 3)



Non-Governmental International Panel on Climate Change (NIPCC)



“Whereas the reports of the United Nations’ Intergovernmental Panel on Climate Change ([IPCC](http://www.ipcc.ch/)) warn of a dangerous human effect on climate, NIPCC concludes the human effect is likely to be small relative to natural variability, and whatever small warming is likely to occur will produce benefits as well as costs.”

<http://climatechangereconsidered.org/>



Heartland Institute

web site: (<http://heartland.org/about>).

THE HEARTLAND INSTITUTE 

mission to ‘discover, develop, and promote free-market solutions to social and economic problems.’



tourism will thrive ...





a global green criminology?

Bowling, Sheptycki, and others ...

distinctions between transnational, international and global criminologies

A 'global criminology' is 'some way from being fully established'

However - a green perspective within criminology has already offered a great deal to the development of both transnational and global criminology.



includes work on

- transnational trafficking of wildlife, timber and waste, and global circulation of air and water pollution
- seen in calls for a global or planetary perspective to be taken in a green criminology that is also concerned with crimes of war and violations of human rights
- and explicitly reflected in White's proposal for an eco-global criminology.



- Green issues are highly topical, representing matters of urgency and challenge
- Dependent upon a mix of particular models of production and consumption
- System generates benefits and dis-benefits from the flow of trade and exchange in goods, people and ideas.
- Complex relationships and trends
- Built upon the idea of '*environment as property*', as '*resource*',
 - owned and exploited for the benefit of some but not for the benefit of all.



what follows from this is *Contestation*

– giving rise to the current state of our conflicted, damaged and contested planet.

Definition of **contestation**: the action or process of **disputing or arguing**

Following from the Definition of **contest**:

- an event in which people compete for supremacy in activity
- a competition for a political position
- a dispute or conflict

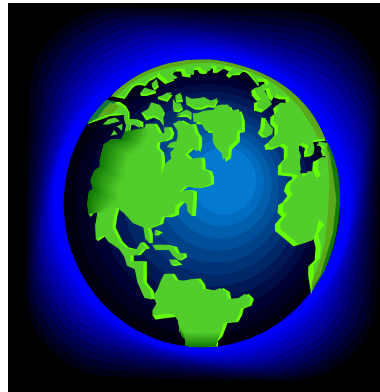
e.g.
engaging in competition to attain (a position of power) or taking part in a competition; opposing (an action or theory) as mistaken or wrong or engage in dispute about....



The contested planet

contest in /of the market

conflict as contest



contesting laws

*contestation of evidence
and denial of harm*



- in the *legitimate contest of the market place* where products and prices compete for consumers
- forms of environmentally damaging crime and *the contesting of laws*
 - *Ownership of property*
 - *Protection of environment*
 - *Or suppression of laws*



- *conflict as contest*, whether actual or threatened
- *contestation of evidence and denial of harm*

Contest in the legal market place: *Problems of consumption vs. 'business as usual'*

World poverty and hunger are undeniable facts.

UN Food and Agriculture Organisation, nearly 870 million people of the 7.1 billion people in the world (one in eight) lived with chronic undernourishment





in order for those 'without'
to be able to consumer more,
those with more than they need
should consume less



across developed economies, consumption and growth are internalised and internationalised obsessions

growth depends not only on the wheels of production continuing but also the cycle of consumption.

we are persuaded to 'buy more', to 'buy new' and to discard the old as soon as new models and fashions appear



everyday consumption means that individually and collectively we are “a link in a long global chain” (Polgreen 2008: 1)

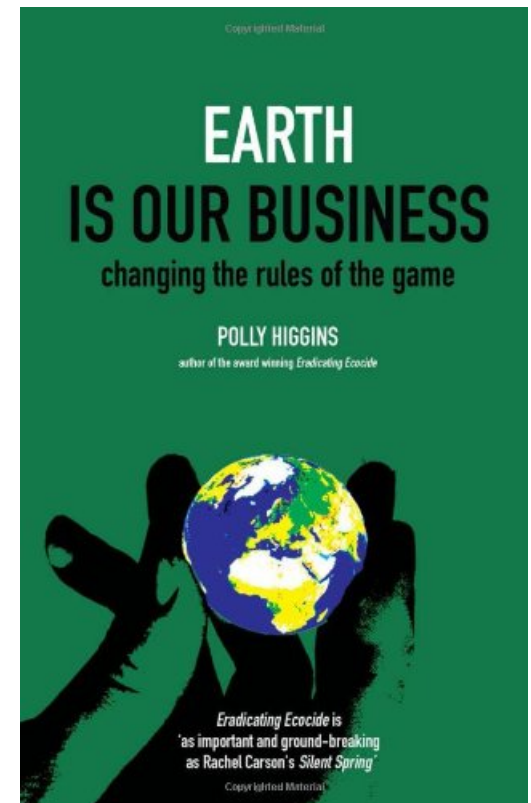
a ‘global chain’ on which Western economies are dependent and essential to support ‘business as usual’ and a standard of living that must be ‘guaranteed’



Contested laws and environmental crimes

‘Law shapes our societies, our way of thinking, our behaviour. By labelling our world a thing of property, legal systems have legitimised and encouraged the abuse of Earth by humans.’

Higgins (2012: 15)





Environmental crime or harm can be defined in terms of either the destruction and degradation of the earth's resources

or as taking advantage of such situations and/or the efforts made (*or not made*) to regulate or prevent it.

This latter point – about efforts *not made* – is important



- cases attempting to establish liability and responsibility for this are, predictably, usually contested by the accused
- often proved un-resolvable in courts of law
- preference is for things to 'stay the same' because there is 'no need for change' and there 'isn't really a problem'
- *Denial* of environmental crimes and harms is a powerful force.



Huisman and van Erp (2013)

- over twenty examples of environmental crime cases in the Netherlands
 - the phenomenon of ‘denial’ is common and runs through
 - But also found that ‘most (although not all) of
- ‘[the] ... cases of environmental crimes were crimes of *omission*: crimes that constitute *not taking* actions prescribed by regulation or, in other words, crimes that consist of *doing nothing*.’



there *are* deliberate acts of environmental crime

Block (2002) > cases of environmental crime and pollution and uses routine activity theory

Szasz (1986) > waste disposal - corporate actors are not ignorant or powerless but benefit, knowingly or otherwise, from their relationship with organized crime

Ruggiero and South (2010) > very active collaboration between local government, legitimate business and organised crime

Bisschop (2012) > illegal transport of e-waste - draws attention to 'new' behaviours in this area and legally questionable methods.



Wildlife are obviously now part of such a global trade as 'commodities'

e.g.

Lemieux and Clarke (2009) on elephant poaching and the ivory trade and the effect of CITES agreements

Wyatt (2012) on wildlife trafficking & fur and falcon markets in Russia



Contest as conflict: fighting over resources, fighting for the future

Resources may, ironically, be a curse for a nation or community

Wenar (2008: 3) in the following way:

'Economists have noticed a peculiar phenomenon in some less developed countries, which is a symptom of the violation of property rights that concerns us. They have named this the resource curse. ...

For many less developed countries, natural resources have become an obstacle to prosperity instead of its foundation.'



e.g. 'ecological modernization'

- suggests that 'green technologies', developed and commercialized in advanced economy nations, will benefit, or at least have the capacity to benefit, all populations and the planet itself (Bonds and Downey, 2012: 168).

'green technologies' refers to innovations that enable 'business as usual' to continue

but in a 'greener' fashion, insofar as the innovations support more energy-efficient working

– *such as home-working facilitated by adoption of information technologies*

- *or transport – such as fitting cars with catalytic converters, using bio-fuels, and hybrid cars.*



Stanley Cohen (1982) warned of assumptions that the transfer of ideas and practices from the context of western modernity to other societies and cultures will always carry with it benign outcomes...

In this case, the dependence of green technologies on particular natural resources (such as rare metals)

-largely found in and extracted from developing or peripheral countries –

means they may well benefit advanced consumer societies but they are also likely to generate *‘environmental degradation, violence and social disruption’* in the developing nations of the world

(Bonds and Downey, 2012)



Conflict over natural resources possession

territorial disputes:

the desirable nature of land owned by others may be based on ambitions to extend power, to punish or to repatriate

but the bottom line usually concerns the resources that such land – or seas – can bring...

Conflict may be fuelled by competing claims



Conflict over declining resources:

The consequences of climate change can be perceived and anticipated in various ways.

e.g.

transforming patterns of local and global life,

simultaneously encouraging and impeding mobility,

leading to the re-valuing of resources and the re-structuring of markets,

and may also re-shape the *causes* of conflict



consider water

Michel (2009) warns

“Insufficient water supplies can impair agricultural production, endanger public health, strain established settlement patterns, and jeopardize livelihoods and social well-being.

Where different countries (e.g., upstream and downstream) or different communities (e.g., rural and urban) share the same river, worsening climate pressures could engender sharpened competition or even violent confrontations to secure an increasingly scarce resource.”



environmental rights, human rights and environmental security all come together around access to water and food

climate change is likely to produce differentiated social vulnerability to water and food scarcity

with related competition and conflict arising.



Conflict over extracting resources:

contested mining and extraction processes

(eg mountaintop removal or fracking)

protest and campaigns against environmental and health impacts

local unease as well as disease may go back centuries,

dependence of the local economy on industry while it devastates the health of workers and local environments



economic interests are powerful

not only when mobilised by mining companies

but also by local people concerned about jobs and security



Contested evidence: denial of health hazards and climate change

environmental health problems are strongly contested ...

because the cases and hazards identified by local inhabitants, representatives and scientists are products of processes at the heart of the modern economy (Brown, 2003 : 2):

‘When environmental factors are the subject of inquiry, discussions of science are very contested because they lead to potential challenges to the underlying status quo production, distribution, disposal and regulatory practices of our society.’

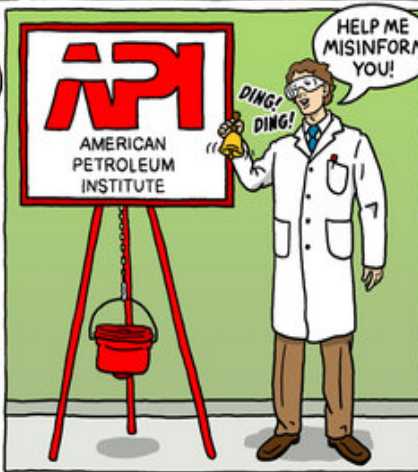
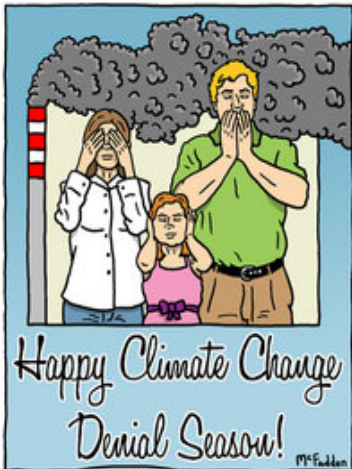


most controversial area of denial and consequential damage concerns climate change:

Climate change will make resources scarce and lead to displacement of some peoples

but it will also have effects that encourage or facilitate forms of crime.

Agnew (2012: 37) has issued a 'dire forecast' about the impact of climate change on crime but also its impact on the planet.





e.g. Lynch, Burns and Stretesky (2010)

political discourses of the Bush Administration aimed to undermine climate change evidence and reassure consumers about the acceptability of carbon-profligate lifestyles.

aim to defend economic interests and 'the preservation of a way of life'

the preservation of the supply chain and the natural resources that feed it, become

not matters of international environmental sustainability -
but of 'national security' and 'national interest'.



Risk and late modernity

Heckenberg and White recommend that we adopt a forward-looking and horizon-scanning approach in order to identify the environmental problems and risks that we are heading toward...

Genetic engineering is concerned with the manipulation of existing genes

real new horizon is synthetic biology which 'provides the technology to create life that has not and could not naturally have existed' (Savulescu, 2012: 33)



Ulrich Beck and interpretation of the 'risk society' ...

evident that experts and systems *do not seem to be able to manage the risks and hazards that emerge at an ever increasing and rapid pace driven by science and the market....*

We are left in what Beck called a state of 'tragic individualization'.



Bovenkerk (2003):

“Risks lend themselves perfectly to ... ‘problem displacement:

‘solving’ environmental problems by simply moving them’

‘if you move risks away, you do not have to acknowledge their existence and therefore do not have to legitimate or justify them.’



Ecocide, Law and Leadership

1957 Treaty of Rome laid the foundations for the (then) European Economic Community (EEC)

a product of an era when environmental concerns were not high on the international agenda.

a globalised and more environmentally aware policy context has meant that some legislation directed at environmental protection has been required and the basis for this was provided by the 1987 Single European Act

strengthened in subsequent revisions to the Treaty.



The problem in the EU and internationally is one of harmonisation –

how can the criminal law and tariffs of penalties operating in so many member states in the EU – and those beyond – ever be reconciled?

Although there are now many international laws in place, the case against reliance on law alone is that

–as indicated earlier –

it is so frequently and strongly contested.



Just under fifteen years ago (1st July 2002) the International Criminal Court came into operation following adoption of the Rome Statute in 1998

Covers genocide, war crimes and crimes against humanity as offences that can be subject to court trial.

Graham (2013) reminds us, while these crimes can involve the trial of those involved in combat and implementation, 'The Rome Statute also contains a fourth crime – an act of aggression. Unlike the others, this is a *leadership crime*'

under which Heads of government, cabinet ministers, military chiefs and others can be charged.



failure to act to prevent or to provide safeguards can be commercially motivated or arise from inefficiencies or basic lack of concern.

also classes of *in-action* that are more than simply criminal, cynical or selfish.

These may be examples of what we could call crimes of leadership.

Leadership is a well known and crucial issue, considered in relation both to what leaders did and *did not* do, reflecting fundamental failings of those in positions of leadership and responsibility.



familiar in relation to criminal failures of corporations (Johnson, 2003) with resulting losses, harms and miseries for victims.

It is also central to crimes of genocide, war-making and persecution (Heller, 2007) and is relevant to proposals for a law of ecocide.



A proposal for a crime of ecocide would embrace this principle and need to bring leaders to account, human-caused ecocide would become a responsibility of governments as well as businesses – (Higgins, et al, 2013).



Polly Higgins, principal (though not the first) advocate of an international law of ecocide, currently occupying the Arne Naess Chair for Global Justice and the Environment at the University of Oslo

has described the case for a law of ecocide in the following way, (Higgins, 2012: 9):

'In 1948 the United Nations created the crime of genocide in response to the mass atrocities which arose out of World War Two. Today we face mass destruction of the planet, but unlike genocide, ecocide is not a crime of intent. ...



‘Ecocide is a crime of consequence, one that often arises out of the pursuit of profit without imposition of a legal duty of care. Currently there is no crime to address this anomaly during peace-time.

The capacity of ecocide to be trans-boundary and multi-jurisdictional necessitates legislation of international scope. ...

In the event that ecocide is left to flourish, the 21st century will become a century of ‘resource’ wars.’ (p.9)



Need a new spirit in national and international leadership:

‘When leaders fail to act or make decisions that lead to mass damage and destruction, that surely can only be called a crime.... **The plight of our time is the abject failure of leadership, the lack of a duty of care.**’



Conclusion and Hope

Instead of denial we need renewal – of ideas about sustainability, about justice, about alternatives, and about the future.

Bovenkerk (2003) observes that

‘If alternatives are not actively sought, risk displacement will continue to take place ...

The environmental justice movement argues for a policy of ‘Not In *Anyone*’s Back Yard’ instead of ‘Not In My Back Yard’ – or from NIMBY to NOPE – Not On Planet Earth.’



To NOPE add HOPE

because as Bob Agnew has written, at present the forecast for the future is dire (Agnew, 2013).

I started with stories and developments from the USA that might give rise to pessimism.

So let me end with contributions from two Americans concerning themselves with Hope:

physicist and blogger Tom Murphy

and the American poet, farmer and environmentalist Wendell Berry.



Murphy writes that:

‘It is not obvious how we maintain our current standard of living once fossil fuels begin their ... decline this century.
,
...’

Murphy favours adoption of a slow-growth model for the planet in which we could expect

more of some things

and less of others:



Expect More:

Reading; story-telling; gardening; connection with nature; community; fishing; whittling; lemonade; sitting on the front porch; cross-breezes; seasonal adjustment; blankets; wool socks; sweaters; connection to sunrise/sunset; local governance; mom & pop stores; crafts; goats and chickens; bicycles; train rides; pies cooling on the sill; music; singing and playing musical instruments; rain catchment; canning; craftsmanship; repair; durable goods.



Expect Less:

Waiting for airplanes; commuting; abstract/meaningless jobs; Wal-Mart; fast food; strip malls; four-car families; climate change; dominance of banks; capital gains; disposable junk; junk mail; species extinction; minibar charges; traffic jams; identity theft; freeway noise; advertisements; consumerism; faddish gizmos; cheap plastic crap; outsourcing; industrial effluent; credit card debt.

- See more at: <http://physics.ucsd.edu/do-the-math/2012/02/my-great-hope-for-the-future/#sthash.ohctsEaj.dpuf>
[Tom Murphy, 'Do the Math' blog, 28/2/2012, <http://physics.ucsd.edu/do-the-math/2012/02/my-great-hope-for-the-future/>]



finally, a few words from ‘A poem on hope’ by the American poet, farmer and environmentalist Wendell Berry:

*Because we have not made our lives to fit
Our places, the forests are ruined, the fields eroded,
The streams polluted, the mountains overturned. Hope
Then to belong to your place by your own knowledge
Of what it is that no other place is, and by
Your caring for it as you care for no other place ...*

<http://johnsuhar.wordpress.com/2010/12/30/wendell-berry-a-poem-on-hope/>