

International Journal for Crime, Justice and Social Democracy



Green Criminology–Law Interdisciplinarity Towards Multispecies Justice: The Case of Wildlife Trafficking in Vietnam

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Abstract

Green criminology provides a significant opportunity for interdisciplinary engagement to address the many environmental problems of the twenty-first century that are too complex to be solved through a single disciplinary lens. Hall (2014) has called for increased collaboration between green criminologists and legal scholars while also acknowledging that this form of interdisciplinarity is more challenging than for more traditional forms of criminology. This paper adopts Hall's call as a starting point for a critical exploration of two areas that offer ground for collaboration: positioning analyses of environmental harm within wider regulatory frameworks and considering the ways human and non-human victims interact with 'the mechanisms of justice' to exercise 'environmental rights' (Hall 2014: 105). We examine these areas drawing on the case of wildlife trafficking in Vietnam. We argue that 'multispecies justice' presents a useful framework to progress green criminology–law collaborations in the Vietnamese and other contexts.

Keywords

Law and green criminology; wildlife trafficking; Vietnam; multispecies justice; responsive regulation; interdisciplinary research.

Please cite this article as:

McEwan A and Turley EL (2021) Green criminology–law interdisciplinarity towards multispecies justice: The case of wildlife trafficking in Vietnam. *International Journal for Crime, Justice and Social Democracy*. Advance online publication. <https://doi.org/10.5204/ijcjsd.1804>

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ISSN: 2202-8005



Introduction

The environmental problems that have reached a crisis point in the twenty-first century have belatedly jolted humanity into realising that the fate of humans and other species are interconnected and inextricably entwined. While governments grapple with finding regulatory solutions, in the domestic realm, our entwinement with local and distant lives and ecosystems compels us to change our habits in the hope of lightening our burden on the Earth.

Averting an extinction crisis and ameliorating looming climate catastrophes are challenges too complex to be apprehended or addressed from a single disciplinary perspective or worldview (Okamura 2019). As the problems we face and cause are multifactorial and interconnected, our responses must meet this complexity. Thus, a renewed focus on interdisciplinary research and policy development offers us an opportunity to put interconnectedness into practice in a multitude of more-than-human worlds. It is against this background that this paper argues for green criminology–law interdisciplinarity in the interests of multispecies justice (MSJ). We adopt Hall’s (2014) arguments regarding green criminology–law interdisciplinarity as a starting point.

Hall (2014) views the integration of various forms of legal analyses as vital to achieving green criminology’s goals: environmental, ecological and species justice (White 2013). However, this interdisciplinary relationship is more challenging than for traditional areas of criminology (Hall 2014). For example, green criminology does not share the law’s ‘classical doctrinal notions of certainty and consistency’, leading to tensions between the two worldviews (Hall 2014: 98). Further, some legal scholars may doubt they have the capacity to contribute to the green criminological project due to green criminology’s association with “deep green” perspectives and rights for non-human animals (Hall 2014: 106).

We are interested in how legal scholars and green criminologists might realise their interdisciplinary potential to address environmental harms. We explore two areas Hall (2014) identifies as fertile ground for collaboration. First, as criminal law alone is an inadequate mechanism for addressing environmental harm, analyses of environmental harm are best positioned within broader regulatory debates. Second, the way ‘human and non-human victims might interact with the mechanisms of justice’ to defend or exercise ‘environmental rights’ is an area for future green criminology–law collaboration (Hall 2014: 105).

When discussing an appropriate regulatory framework, Hall (2014: 98, 104) highlights the Ayres and Braithwaite (1992) responsive regulation model that integrates criminal, civil and administrative law and extends to ‘extra-legal’ responses. We examine this proposal according to a case study from the Global South. With regards to ‘human and non-human interactions with justice’, we argue that the notion of ‘multispecies justice’ (Celermajer et al. 2021) is a useful framework to progress green criminology–law collaborations. To support this argument, we draw on examples from the Global South and beyond.

The arguments presented in this paper draw on research into illegal wildlife trafficking in Vietnam conducted by the first author in partnership with Education for Nature Vietnam. Education for Nature Vietnam identified a need to better understand the illegal trade of the douc langur, a critically endangered genus of old-world monkey (International Union for the Conservation of Nature 2021; Nadler and Brockman 2014). The first author conducted a mixed-methods analysis of 41 Education for Nature Vietnam case files related to law enforcement seizures involving the trade of the douc langur. The sample was selected from a pool of 73 case files dealing with ‘langurs’, using the formula $N = 2$ or more animals seized + douc langur. Although the wildlife trade involves ‘any sale or exchange by people of wild animal and plant resources’ (TRAFFIC 2008: vii), this paper focuses on the illegal trade of wild animals, their body parts or products derived from them. Although our focus is on the illegal trade, we recognise that the relationship between the illicit and legal trade is problematic, and that the dynamics of wildlife trading destabilise the ‘illegal–legal’ binary.

The next section provides the background and an overview of the trafficking of the douc langur (genus *Pygathrix*), also known as ‘Vooc’. This section is followed by a brief discussion highlighting the key aspects of the legal framework in Vietnam and an analysis of Hall’s arguments about responsive regulation in the Vietnamese context. The final section of this paper examines how MSJ can be used to develop an understanding of what achieving justice might mean for wildlife trafficking and sets out the implications of using an MSJ perspective for green criminology–law collaborations. We discuss issues relevant to Vietnam and international developments to illustrate the usefulness of a multispecies framework. Although we are located in Australia—which is part of the Global North in many ways (Sollund and Runhovde 2020)—our engagement with a southern agenda comes from a desire to ‘bridge global divides’ (Carrington et al. 2019: 165) and reach out to scholars who can enrich and elaborate on our analysis through dialogue and critique.

Background and Context

Wildlife Trafficking in Vietnam

Vietnam sits at the heart of the Indo-Burmese biodiversity hotspot (Treue and Lankeit 2007) and has one of the world’s most biologically diverse ecosystems (Song 2008). Although habitat destruction is a major threat to the survival of many species in Vietnam, illegal wildlife trafficking is another significant contributor to the problem (Wyatt and Cao 2015).

The Global South is much more than a source of wildlife to be trafficked for consumption in the Global North (cf. Sollund and Runhovde 2020). A recent situational analysis of wildlife consumption found that the number of consumers in China, Thailand and Vietnam was of a scale large enough to drive the wildlife trade in those countries (USAID Wildlife Asia 2017). The region has a robust illicit wildlife trafficking economy.

In Vietnam, wildlife trafficking has its roots in sustained engagement with China. The northern area of modern Vietnam was Chinese territory for a millennium. As early as 231 CE, an imperial Han administrator located in what is now Vietnam wrote, ‘agricultural taxes yielded little revenue compared to international trade’ to his superiors. Among the goods traded were ‘elephant tusks, rhinoceros horns, tortoise shells ... parrots ... enough to satisfy all desires’ (Dutton, Wener and Whitmore 2012: 15–16). These glimpses of the ancient Chinese–Viet relationship provide important clues about the normative basis for the contemporary prominence and flows of wildlife trafficking in Vietnam.

The Illegal Trade of the Douc Langur: A Snapshot

Douc langurs are found to the east of the Mekong River, in parts of Cambodia, Laos and Vietnam (Nadler and Brockman 2014). They are trafficked in Vietnam and across its borders. Compared to research on tigers, pangolins and rhinoceros, much less attention has been paid to the drivers of the trade and consumption of douc langurs. In Vietnam and China, primates are used in traditional medicine as ‘bone glue’ or *cao* (Nadler 2014: 54). Primates are also traded as pets (Beyle et al. 2014) and hunted for meat (Song 2008). In 2020, the first author analysed a sample of Education for Nature Vietnam case files ($N = 41$) relating to trade seizures involving douc langurs for the period 2010–2018. Of the 568 douc langurs seized, only three douc langurs were alive at the time of the seizure. The remainder were either complete corpses or body parts, usually bones. The case file analysis confirmed traditional medicine as a significant driver of the trade and Vietnam as a source and transit country. In general, the features of the illegal trade of douc langurs mirror those of wildlife trafficking more broadly.

The Education for Nature Vietnam case files provided evidence of douc langur trading into Vietnam across Cambodian and Laotian borders. Most of the seized animals were headed north, and most seizures made in the northern provinces had China as the ultimate destination (McEwan 2020). Another trade feature was the diffuse and transient nature of the trading networks, involving anonymous ‘middlemen’ approaching people in rural areas to source, hunt and transport douc langur corpses or body parts. These

trade networks were loose assemblages, gathering and falling away as douc langurs were moved across the landscape (McEwan 2020).

Cultural norms relating to ‘prestige’ and traditional beliefs about health benefits encourage wildlife consumption (USAID Vietnam 2018: 9). These factors, combined with the dynamics of regional economic development, make for a rapid impetus towards species extinction. It is important to put these drivers into a broader context. In Vietnam, people living in rural areas continue to rely on forest resources and use animals to meet their daily needs, including for medicine (Nguyen and Dinh 2020). Hence, medicinal use may not always be linked to the ‘prestige’ that is commonly associated with socio-economic advantage or class. In addition, poor hunters may eat douc langur meat before selling the bones or other body parts. Forty per cent of the labour force in Vietnam is employed in the agricultural sector (OECD 2020), and this is a useful proxy to estimate population density in rural areas, suggesting that domestic traditional medicine use may be significant.

Legal Framework in Vietnam

Vietnam’s history has been shaped by waves of external and internal colonialism, and its legal framework has been influenced by Chinese, French and Soviet law (Gillespie 2005; Goscha 2017; Nghia and Ha 2018). Vietnam’s Constitution (2013) establishes the nation as a socialist republic [Article 2] and provides for a one-party system of governance under the Communist Party of Vietnam [Article 4(1)].

Son (2018) observes that the Vietnamese Constitution serves dual functions; it describes the nation’s socialist principles, structure and goals in constitutional language, though it establishes norms that constrain constitutional politics. Based on this constitutional dualism, Vietnam has maintained its commitment to socialism while facilitating a transformation in its regulatory environment via *Doi Moi* (Renovation), a suite of market-based reforms introduced in 1986 (Nicholson and Nguyen 2007). Contemporary Vietnam is a socialist-oriented market economy (Son 2018; Constitution of the Socialist Republic of Vietnam 2013: Article 15) that has increasingly incorporated ‘contemporary mixed-market regulation’ (Gillespie 2005: 45).

Contemporary regulatory frameworks in Vietnam support private enterprise, enhance global engagement and have streamlined administrative procedures (Thanh and Nguyen 2016). In parallel, the role of government and public agencies has moved from direct intervention to ‘indirect management using legal and economic instruments’ (Thanh and Nguyen 2016: 1). A detailed analysis of the regulatory environment in Vietnam and its epistemological underpinnings is beyond the scope of this paper (for this, see Gillespie 2018). However, based on the notes above, Vietnam’s broader regulatory approach shares key features with that of Western democracies. Indirect management suggests aspects of self-regulation, along with enforcement regimes that prohibit and penalise breaches.

Putting aside normative assessments, the wildlife trade in Vietnam is subject to regulatory measures, including criminal penalties, that reflect the country’s accession, in 1994, to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) (opened for signature on 1 March 1973 and entered into force on 1 June 1975). While regulatory scholarship tends to focus on legal markets, Ayling (2015) argues that the application of regulatory theory can contribute to the development of responses to the illegal wildlife trade. Not only can it provide a better view of the possible actors who may contribute to achieving compliance, but it can also highlight regulatory strategies beyond rule making (Ayling 2015). In the next section, we examine Vietnam’s approach to wildlife trafficking according to Hall’s (2014: 98, 104) recommendation that the role of criminal, civil and administrative law ought to be positioned as graduations across a broad regulatory framework that includes ‘extra-legal’ responses.

Responsive Regulation and the Illegal Wildlife Trade in Vietnam

Essentially, responsive regulation, as developed by Ayres and Braithwaite, takes the form of a regulatory pyramid, which is mirrored by an enforcement pyramid (Braithwaite 2008). Persuasion, usually achieved through educational strategies and stakeholder engagement, forms the pyramid's base (Ayres and Braithwaite 1992). Above persuasion are civil and administrative penalties, and enforceable undertakings—which represent the promises made to a regulator by an individual or company, who has allegedly breached a regulation, that are enforceable in court (Johnstone and Parker 2010). Criminal penalties, or incapacitation, form the pyramid's tip and are used as a last resort (Ayres and Braithwaite 1992). The base of the pyramid reflects restorative justice principles, the middle layer deterrent justice, and the tip relates to measures taken to incapacitate irrational or incompetent actors (Braithwaite 2008).

Responsive regulation makes assumptions about its regulatees. In the context of wildlife trafficking and the wildlife trade more broadly, regulatees include individuals, and commercial entities, be they legal or illicit. Persuasion assumes the virtuous actor and deterrence assumes the rational actor (Braithwaite 2008). Later in this section, we will discuss the limitations of a regulatory approach as a way of addressing wildlife trafficking. In particular, the capitalist imperative that drives responsive regulation is essentially incompatible with the vulnerability of myriad wild non-human animal species around the globe. Before addressing this issue, we consider the question of whether Vietnam's approach aligns with the responsive regulation model.

Vietnam's Constitution (2013) recognises that 'everyone' and the state have a duty to protect the environment [Article 43; Article 50; Article 63(1)]. The state's duty is conceived in terms of 'nature and biodiversity' [Article 50; Article 63(1)]. Consistent with these constitutional commitments, Vietnam is a party to a range of international treaties aimed towards environmental protection goals. Of these, CITES is the overarching international instrument aiming to protect 'certain species of wild fauna and flora against over-exploitation through international trade' (CITES Preamble). As a regulatory regime, CITES facilitates normative consensus among its 183 state parties. In this sense, CITES unifies the Global North and South in protecting 'certain species' against 'over-exploitation'. Acknowledging CITES' role in facilitating normative consensus does not amount to an evaluative statement regarding CITES' effectiveness or otherwise (for a critique, see Goyes 2021a). It merely recognises that CITES brings many nations into a global conversation about the issue of wildlife trafficking and the wildlife trade.

CITES permits and prohibits the trade according to lists set out in its three appendices. Species listed in Appendix I are those threatened with extinction. Trading these species is 'subject to particularly strict regulation in order not to endanger further their survival' [Article 2(1)]. As critically endangered species, douc langurs are listed under Appendix I. Species listed under Appendices II and III are subject to regulated commercial trade. Since 1994, Vietnam has gradually integrated the CITES regime into domestic law.

In Vietnamese domestic law, species listed in Appendix I are protected under Decree No. 160/2013 (updated by Decree No. 64/2019) and Decree No. 06/2019 ND-CP. The constitutional intention to deal 'strictly' with those 'who weaken biodiversity' [Article 63(3)] is evident in recent amendments to the Criminal Code (No. 100/2015/QH13, amended by No. 12/2017/QH14). The amendments, which commenced in January 2018, introduced higher penalties for wildlife trafficking-related offences and wider enforcement powers (Anh 2021). The Law on Forestry (No. 16/2017/QH14) and Decree No. 155/2016/ND-CP are also relevant to the wildlife trade. The Law on Forestry prohibits a range of acts, including hunting or trading of forest animals [Article 9(3)]. There is also a range of administrative penalties pertaining to violations against environmental protection regulations (Nguyen and Dinh 2020). For example, Decree No. 42/2019/ND-CP addresses administrative violations of fishery regulations. Decree No. 155/2016/ND-CP stipulates administrative penalties for the illegal exploitation of non-endangered wildlife species in restricted areas and violations of regulations in biodiversity conservation facilities (Education for Nature Vietnam 2019c; Than 2020). In addition, the Law on Investment (No. 61/2020/QH14) bans the trade of species that are listed in Appendix I of CITES and various other species.

Criminal penalties form the tip of the ‘wildlife trading’ responsive regulatory pyramid, and Vietnam has carefully attended to this aspect. Enforcement trends post-2018 amendments are encouraging. For example, a review of prosecutions undertaken by Education for Nature Vietnam for the period 2015–2020 (the Education for Nature Vietnam Review), based on Education for Nature Vietnam’s Wildlife Crime Incident Tracking Database (Education for Nature Vietnam 2020), indicated that the Criminal Code amendments have supported and been a catalyst to the criminal justice system taking wildlife trafficking more seriously. The Education for Nature Vietnam Review found that ‘most courts’ were imposing longer prison sentences for serious wildlife crimes (Education for Nature Vietnam 2020: 3). The Education for Nature Vietnam Review also found an increase in rates of law enforcement action; for the two-year period commencing January 2018, there was a 44 per cent increase in the number of wildlife trafficking seizures (Education for Nature Vietnam 2020: 4). Wildlife trafficking is a serious crime, and well-publicised, heavier sentences are likely to be a general deterrent on the population. This notwithstanding, green criminology would advise caution regarding the risks of a heavy criminal justice approach that may lead to over-policing and discriminatory police practices, particularly for indigenous and minority communities (Blaustein, Fitz-Gibbons and White 2018). Hence, criminal penalties must be balanced to ensure that they do not disproportionately affect people living in poorer communities and regions.

Thus far, it is evident that Vietnam’s approach aligns with the responsive regulation model. In integrating CITES into domestic law, Vietnam’s approach reflects global practice. Vietnam’s framework also integrates administrative and criminal penalties depending on the severity and nature of the regulatory breach or offence. Although there is no regime of civil penalties for regulatory offences in Vietnam, penalties for administrative offences are disposed of by administrative agencies out of court (Bui 2018).

The remainder of this section explores two issues not explicitly addressed by Hall (2014). First, the role of non-government organisations (NGOs) in this regulatory field is discussed. NGOs have a key role in persuasion and in the implementation of other non-legal measures, particularly via strategies aimed at demand reduction. In our view, the aim of non-legal measures ought to be to stop *all wildlife trade*, not just certain species. Secondly, we question whether responsive regulation is compatible with green criminology’s goals.

Non-Government Organisations: Third-Party Regulators Towards Combating the Wildlife Trade

The Vietnamese Government and wildlife and biodiversity conservation NGOs are working actively to combat the illegal wildlife trade in Vietnam (Ayling 2015; Tatarski 2020). The role NGOs play in combating the wildlife trade in Vietnam is consistent with Braithwaite’s argument (2006) that, in developing states, NGOs are key actors in systems of networked governance.

Networked governance involves a variety of third-party actors engaged as regulators, including industry associations, professionals, co-regulators, NGOs and the domestic arms of international organisations. On some issues, other states may collaborate and act as foreign enforcers (Braithwaite 2006). In addition, the media often drives and escalates responsiveness (Braithwaite 2006). For example, national media coverage of the prosecution and sentencing of a wildlife trafficking kingpin will raise community awareness and have a general deterrence effect. In keeping with the first author’s experience, the following discussion will focus on the role of NGOs.

Some of the regulatory practices NGOs are involved in include community awareness raising and education, persuasion, ‘naming and shaming, restorative justice, consumer boycotts, and litigation they may initiate themselves’ (Braithwaite 2006: 888). The potential effectiveness of these activities is illustrated by a community awareness campaign conducted by the Vietnam CITES office and Humane Society International. The campaign aimed to correct the notion among Hanoi residents that rhinoceros horn had medicinal value (Ayling 2015). A survey conducted a year later demonstrated a significant drop in consumption (Ayling 2015). Another example is the work of Education for Nature Vietnam. In addition to consumer awareness and education campaigns, Education for Nature Vietnam works with the criminal justice system to strengthen legislative frameworks to protect wildlife (Education for Nature Vietnam

2019b). The organisation also engages with businesses to fight wildlife trafficking (Education for Nature Vietnam 2019a). Indeed, in combining community awareness campaigns, education and law reform advocacy, and working collaboratively with the government and the courts, Education for Nature Vietnam exemplifies the role of NGOs in networked governance. Further, it provides a contemporary and practical example of green criminology-law interdisciplinarity, as Education for Nature Vietnam's activities encompass both the legal and illegal wildlife trade. As Ayling (2015: 1) argues, a 'whole of society' response is needed to reduce the demand for wildlife.

The Capitalist Imperative, Responsive Regulation and Green Criminology Goals

Responsive regulation is underpinned by liberal Western values and democratic constitutionalism (Hong and You 2018). CITES establishes a regulatory field for the trade of wild animals and sets the terms of trade. The CITES regime attempts to integrate two competing policy claims. It is a regulatory instrument through which wild animals are made objects of international trade (Sollund 2019) but also includes a modest conservation objective: protecting species 'against over-exploitation' (CITES Preamble).

Overall, one of the major problems with the CITES regime is that it decontextualises risk. By operating according to species classification, it treats wild animals as if they exist in the abstract, thereby ignoring the multiple layers of risk pressing in on both endangered species and those who are currently of least concern under the International Union for the Conservation of Nature assessment criteria. Decontextualisation is also at the root of commodification because, removed from their environment of origin, each non-human animal becomes a 'good'. Although treating non-human animals individually may be appropriate for the purposes of sentencing, it fails to recognise the web of interrelationships in which species live.

Braithwaite observes that 'markets do not make moral judgments' although efficient markets produce 'bads as well as goods' (Braithwaite 2008: 198). As an example, Braithwaite points to multinational pharmaceutical companies having globalised both the production and distribution of heroin and drugs that treat HIV. If we accept the wildlife trade in terms of responsive regulation, or more belatedly, regulatory capitalism (Braithwaite 2008), the illegal wildlife trade would be considered the market in vice (Braithwaite 2008), and the legal trade the market in virtue whenever regulatees are following the legal requirements of the trade.

If the capitalist dynamic of unequal exchange is placing untenable pressure on wild non-human animal species, how can we accept unsustainable wildlife trade as a market 'in virtue'? We can only do so if we convince ourselves that 'the market in virtue' refers solely to rule compliance. This narrow approach risks achieving what Rawls refers to as 'pure procedural justice' (Rawls 1999: 74), whereby the outcome is considered 'just' because the procedure has been followed. Lastly, it is important to note that the classificatory distinctions that inform CITES are not shared by many people who consume or hunt wild animals. For example, when it comes to using primates for traditional medicine, a 'monkey' may suffice, be she a macaque or a langur. There are immense challenges to overcome if we expect people living in remote or rural areas to make nuanced decisions based on species distinctions. Thus, persuasion via education is complex, and it may prove more effective to move towards extinguishing wildlife consumption in toto by helping communities to identify and integrate viable alternatives.

Wildlife Trafficking and the Problem with Binaries

Hall (2014) emphasises two dichotomies in green criminology: legal versus illegal environmental harm, and individual versus corporate crime. We agree that the lawful activities of corporations that cause environmental harm require scrutiny, and so do the practices of the government agencies responsible for permitting various forms of environmental harm or imposing penalties for breaches. Holding corporations and government agencies to account are part of the checks and balances required to ensure practices meet community expectations and adhere to standards of transparency and accountability. However, thinking according to binaries may stymie critical thinking about the causes and dynamics of wildlife trafficking.

In Vietnam and across Southeast Asia, the individual–corporate crime dichotomy may not properly account for the circumstances in which wildlife trafficking is often perpetrated. Wildlife crime, including trafficking, can be a simple or complex phenomenon (Moreto and Pires 2018). A simple example would be a person hunting an individual member of an endangered species for meat or other uses (MacMillian and Nguyen 2013). At other times, endangered species may be killed by local hunters and traded into organised criminal networks that move across national borders, involving fraud and associated crimes. These networks are fluid, agile entities (Luong 2020; Wyatt et al. 2018) and do not clearly align with the individual-versus-corporate division.

Moreto and Pires note the intersections between transnational organised crime, corruption and other illicit markets. Recognition of organised criminal networks in this field shifts attention beyond the role of civil sanctions, torts and criminal law in their traditional sense to questions of corruption prevention (Wyatt et al. 2018). It is possible that maintaining the illegal-versus-legal division may not be very helpful in fully understanding the blurred boundaries between legitimate and illegitimate wildlife trading and how the trade reflects the decentralised and fragmented dynamics of capitalism in the twenty-first century (Povinelli 2016). Poor regulation of the legal wildlife trade creates opportunities for wildlife laundering. As a result, animals traded or exported as commercially bred may have been caught in the wild (Species Survival Network Primate Working Group 2015; Wyatt and Cao 2015). Like any other field of capitalist enterprise, organised criminal networks evolve according to the dynamics of supply and demand. The illegal wildlife trade offers an example of enormous environmental harm perpetrated by actors that do not fall within the usual definitions of individual offenders or corporations.

While it is possible to usefully consider responses to wildlife trafficking within a responsive regulation framework, particularly in relation to non-legal measures, it is also problematic. First, as a mechanism for supporting purported ‘sustainable development’, responsive regulation is at odds with green criminology objectives in many ways. For example, understanding the wildlife trade as a regulatory field that encompasses wildlife trafficking as an illicit aspect of ‘the wildlife trade’ tends to legitimise the legal trade. As the international context for wildlife trade is one of widespread threatened species extinctions, and the boundaries between legal and illegal wildlife trade are blurred, there is an urgent need to reassess the benefits of the legal wildlife trade. These factors notwithstanding, one of the strengths of responsive regulation is its capacity to push thinking beyond the legal-versus-illegal dichotomy, presenting opportunities for developing holistic frameworks. Overall, if the responsive regulation model is to be applied to achieve green criminology objectives, it must fully consider the contemporary dynamics of transnational capitalism and develop a more-than-human perspective. It is along these lines that the following section considers the concept of MSJ for green criminology–law interdisciplinarity.

Multispecies Justice as a Frame for Green Criminology–Law Collaboration

What is Multispecies Justice?

MSJ is an emergent ethical position that considers the non-human within its scholarship and argues that human life is intertwined with all other forms of life and all environmental processes (Celermajer et al. 2021). MSJ recognises that many of the injustices affecting non-human species are the result of anthropocentrism—a position that places humanity at the centre of the world and privileges human interests beyond those of any other species or nature (De Lucia 2017). Thus, rather than positioning humans as exceptional or more valuable, MSJ aims to embed humans in the world alongside other species rather than above them (Celermajer et al. 2021).

MSJ refers to ‘relational webs’ to convey the connectedness of all ecological life on Earth (Celermajer et al. 2021: 120). On this basis, it rejects notions of human exceptionalism present in other eco-philosophies and justice-based approaches, including environmental justice (Brisman and South 2019). MSJ rejects anthropocentric notions of justice that claim to acknowledge the value of non-human species while maintaining a hierarchical approach.

Animal rights movements have disrupted the normative thinking that positions humans as superior to other forms of life based on human consciousness and the capacity for language. Yet, MSJ scholars are critical of animal rights movements due to their tendency to focus on *either* utilitarianism *or* rights as the basis for recognising personhood for non-human animals (Celermajor et al. 2021). Further, according to MSJ scholars, the emphasis on sentience neglects non-animal species such as plants and bodies of water, thereby ignoring their place in the interconnectivity of species. Although MSJ is critical of animal rights movements, we prefer to consider rights and welfare as part of a continuum of tools to be deployed in the interests of MSJ. This perspective also opens opportunities for green criminology–law interdisciplinarity towards MSJ. In our view, combating the illegal wildlife trade falls within green criminology’s aims of environmental, ecological and species justice (White 2013). Further, MSJ encompasses all these goals, although from a basis of context and the embeddedness of life. The next section considers what MSJ may mean in the context of the illegal wildlife trade in Vietnam.

Multispecies Justice and Wildlife Trafficking in Vietnam

Southern green criminology adopts the ‘north-south’ division (Goyes 2019) to signify the urban/rural and majority/minority divisions that are often present in Global South countries (Goyes and South 2017). This pattern is evident in Vietnam. While Vietnam is now categorised as a middle-income country, with around 13 per cent of the population part of the global middle class (World Bank 2018: 2), this new prosperity is yet to reach all. Almost 45 per cent of Vietnam’s ethnic minorities live in poverty (World Bank 2018). These poor households are concentrated away from the cities, ‘in highlands and mountainous areas’ (World Bank 2018: 2).

MSJ acknowledges that the fate of the douc langur is embedded in a social context, where the fate of humans and non-human species are perpetually entwined. In the context of wildlife trafficking, the engagement of local hunters in the rural and remote areas of Vietnam involves exploitation on the part of traders. As Lin (2005) explains, local farmers and indigenous peoples sit at the bottom of the wildlife trade pyramid. They hunt animals and sell them into the illegal trade to supplement their incomes (see also Sollund 2020). Hence, while individuals may be perpetrators of wildlife crime, they are simultaneously exploited within the larger dynamics of social inequalities, an issue to which green criminology turns its critical lens. As Lin observes in relation to wildlife trafficking across Southeast Asia:

[f]urther up are larger groups of “middlemen” who purchase the species from the impoverished peasants and re-sell them at huge profits. Such “middlemen” may comprise an extensive distribution network. Finally, there are the major smuggling rings that are usually involved in other clandestine smuggling activities. Because they tend to have resources, knowledge of smuggling routes and techniques, and tend to resort to violence, such smuggling rings are traditionally perceived as the greatest difficulty in regulating the illegal wildlife trade (2005: 201).

From an MSJ perspective, the lives of the local people who engage in the wildlife trade are interconnected with douc langurs. Both are subject to exploitation. In terms of justice, we recognise that hunters are exploited and structurally disadvantaged. Although it may be appropriate in many instances (Goyes 2021b), we refrain from referring to local hunters as victims. Although hunters operate in a field that is highly determinative (Bourdieu and Wacquant 1992), we wish to not lose sight of the importance and presence of agency in Global South settings. For example, in MacMillian and Nguyen’s (2013) ethnography of hunting among the Katu ethnic group in Vietnam, those who trapped wildlife around their own farmland did it mainly to protect their crops. Other motivations included food, enjoyment and tradition (MacMillian and Nguyen 2013).

Wildlife Crime Convergence As a Multispecies Justice Issue

As the profitability of the illegal wildlife trade has increased, wildlife crimes have converged with other forms of organised crime (Feltham 2021). Crime convergence may occur opportunistically, as a career shift to enhance income or as a diversification strategy. Thus, it may be better to address wildlife trafficking alongside other crimes rather than separately (Feltham 2021).

Many transnational criminal networks are engaged in several forms of organised crime that incorporate wildlife and human trafficking. This lends weight to the usefulness of the MSJ framework because crimes committed against humans and non-human animals simultaneously are interconnected (Celermajer et al. 2021; Sollund 2019). For example, this is evident in a case in which a Malaysian wildlife trafficker collaborated with nine Vietnamese men to smuggle tiger parts across Southeast Asia (Feltham 2021). All the men, bar one, had been trafficked from Vietnam and were living illegally in Malaysia. They were involved in illegal logging for a Cambodian crime syndicate boss. The men stated that they were poaching tigers and other wildlife to earn additional income. The same crime syndicate was trafficking women from Vietnam to Malaysia to work in the sex industry (Feltham 2021; see also Luong 2020). From an MSJ perspective, it is within these types of connected frameworks that we consider human and non-human interactions with justice rather than approach these forms of crime as mutually exclusive. However, an MSJ approach suggests that enforcement authorities ought to treat both crimes as equally culpable and avoid undertaking assessments that result in only the human-related or property crime being prosecuted.

Legal Scholarship and Green Criminology For Multispecies Justice

Ideas of certainty and consistency underlie the law and its methods. Whether we look to common law nations or civil law jurisdictions like Vietnam, both traditions have forms of legal analysis that can be characterised as ‘black letter’ law. Black letter law aligns with legal positivism (Hall 2014). Legal positivism emphasises the existence of laws and their effect rather than debates about moral standards and what ought to be (Davies 2017). In contrast, the ‘deep green’ aspects of green criminology and the discipline’s overall critical perspective tend towards a disruption of the status quo.

Hall contrasts the black letter view and its assumptions with socio-legal studies or ‘law in context’ methods. While Hall (2014: 96) positions the aspirations and approach of green criminology as running counter to black letter law, he also notes that green criminology attracts scholars from ‘legalistic fields’, especially criminal law, international law and environmental law.

While the analytical methods referred to above are definitive of the legal method (Vick 2004), legal scholarship and the role of law in society are evolving in ways that put doctrinal skills at the centre of a broad professional and scholarly repertoire, including active engagement in law reform. Across the globe, lawyers have increasingly engaged in law reform-related matters. This engagement requires consideration of what the law ought to be, not only to provide certainty for individuals in ordering their affairs but also for the common good. Responding to law reform processes often involves ‘law in context’ considerations as well as ‘black letter’ analysis. Indeed, black letter analysis contributes to ensuring enacted legislative provisions avoid substantive discrimination, are suitably inclusive and align with their express purpose.

The developments discussed above reflect the considerable capacity for disciplinary ambidexterity whereby lawyers deploy ‘black letter’ and ‘law in context’ skills in response to the many daunting environmental questions that face humanity in the Anthropocene. With increasing pressure from the international community and growing civil society engagement and advocacy, issues such as climate change, carbon dioxide reduction targets and the prevention of species extinctions have become mainstream law and policy issues (Bagshaw, O’Malley and Foley 2020).

In Roberts’ (2017) view, maturity in legal scholarship has seen the character of legal education transition from one focused on vocational education for legal practitioners to a discipline with reflexive capacity and critical intellectual dimensions. Increasingly, legal researchers work across competencies, from black letter legal analysis to using socio-legal or law in context concepts and methods (Davies 2017). While

doctrinal skills sit at the core of the legal discipline, it is possible to schematise doctrinal skills as a subset of a larger ‘law in context’ field (Parker and Goldsmith 1998). These points go some way to demonstrating the capacity for effective green criminology-law collaborations.

An example of advocacy of the type described above that is attracting worldwide attention is the Nonhuman Rights Project (NhRP). The NhRP, a civil rights organisation located in the United States, is currently focused on challenging the legal status of individuals of several species: chimpanzees, elephants, dolphins and whales. The aim is to persuade the courts that these individuals should not be deemed property at law and that they ought to be granted legal personhood (Nonhuman Rights Project 2021). In May 2021, the New York Court of Appeals agreed to hear the NhRP’s arguments concerning Happy, an elephant who is kept in the Bronx Zoo (Nonhuman Rights Project 2021). The proceedings are based on the common law writ of habeas corpus, a doctrine that allows ‘the body’ to be brought before the court (Field 2005) and which has traditionally been used in the context of false imprisonment. If the NhRP’s pleadings are successful, its clients will be afforded bodily liberty and the right to freedom (Choplin 2018). Importantly, the NhRP has begun to collaborate with groups in other nations, including Spain, France, Argentina, Turkey and India (Nonhuman Rights Project 2021).

In our view, the NhRP is working towards MSJ objectives as part of a holistic and international movement that seeks to improve the lives of non-human species and recognise the context in which their lives unfold. Hence, we can embrace rights and utilitarian approaches rather than schematise them in terms of a dichotomy. For example, as McEwan (2010: 89) notes, ‘both John Stuart Mill and Peter Singer argue for absolute rights within the bounds of utilitarian theory’.

The innovative aspect of MSJ lies in its capacity to consider the interests of non-human species as at least equal to those of their human counterparts, thereby collapsing the hierarchy that, MSJ scholars argue, undermines other approaches to justice. The NhRP also integrates green criminology concerns. Foregrounding legal protection for non-human species suggests great potential for green criminology–law interdisciplinarity. Clearly, green criminology and the law can work together to address the injustices experienced by non-human species and examine practices that entail harm but are currently legal (Gacek and Jochelson 2020). Green criminology has the tools to expose law’s anthropocentrism, to critique and to offer alternative perspectives, such as is implicit in NhRP’s advocacy.

Law responds to social change and thus has the capacity to accommodate progressive reform (Gacek and Jochelson 2020). Green criminology can inform law on matters of non-human species justice by interrogating and making environmental harm and harm to non-human animals visible within the legal sphere. It can call for the law to take more notice of the interests of non-human species in their own right (Gacek and Jochelson 2020). The NhRP is deploying the tools of black letter law in a ‘green’ context. The intersections between green criminology and legal scholarship contain possibilities of expanding social understandings of human–animal relationships and broadening discussions relating to MSJ. Finally, a green criminology perspective can elucidate the socio-political and anthropocentric orientations of the justice system to galvanise reform (Gacek and Jochelson 2020).

Conclusion

This paper sought to extend Hall’s (2014) proposal for green criminology–law interdisciplinarity through a critical exploration of two areas that Hall identified as opportunities for collaboration.

The first opportunity lies in Hall’s recommendation that analyses of environmental harm be positioned within wider regulatory debates and frameworks. Thinking in terms of a law-regulation continuum rather than a legal–illegal dichotomy opens space for dialogue and exchange, especially when non-legal mechanisms like persuasion sit at one end of that continuum. Wildlife trafficking deserves attention as a form of harm that is threatening the survival of thousands of non-human animal species around the world. Given the urgency of the issue and the widespread harm caused, wildlife trafficking in Vietnam provided an apt case study to consider these ideas from a Global South perspective.

Second, there is great potential for green criminology–law collaboration in investigating and progressing the ways ‘human and non-human victims’ interact with ‘the mechanisms of justice’ to exercise ‘environmental rights’ (Hall 2014: 105). It also provides an opportunity to propose MSJ as a framework that can study the exploitation driving the illegal wildlife trade while also incorporating local perpetrators and their animal victims in context. The discussion highlights how, in the local context of the illegal wildlife trade, the fates of humans and non-human species are entwined and vulnerable to the market dynamics of the illegal and legal wildlife trade. Justice ought to be nuanced enough to respond to complexity and across species.

We have argued that wildlife trafficking can be understood in regulatory terms (Ayling 2015). Further, the approach adopted by Vietnam with regards to criminal and administrative penalties aligns with the responsive regulation model. The role NGOs play in combating the wildlife trade in Vietnam is consistent with Braithwaite’s (2006) arguments regarding the nature of networked governance in developing states. NGOs play a key role at the base of the regulatory pyramid. Education for Nature Vietnam is a noteworthy example of an NGO that integrates law reform advocacy through a green criminology perspective. Finally, lawyers and legal scholars worldwide are increasingly deploying ‘black letter’ and law in context skills in response to the daunting environmental issues that face us all in the Anthropocene. Hence, we conclude with optimism that legal scholars and green criminologists have ample opportunity to realise their interdisciplinary potential in the interests of MSJ.

Acknowledgement

The paper relates to research funded by a CQUniversity New Staff Funding Grant (CQUniversity ethics approval number 0000021633). Education for Nature Vietnam made in kind contributions to the project. The views expressed in this article are the authors’ own and do not represent those of Education for Nature Vietnam. We acknowledge and thank Dr Dat T Bui for his comments on the draft version of this paper and the anonymous peer reviewers for their helpful feedback.

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