Green Criminology and Dirty Collar Crime

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> *'According to Seattle, an American Indian chief, the earth is not the white man's sister, it is his enemy. He says: Carry on contaminating your beds and one night you will be suffocated by your own rubbish'. (*Eduardo Galeano*,* Memoria del Fuego*).*

> *'In June 1996, 640 tons of urban Californian trash ended up in a suburb of Beijing, China: faced with a stinking pile of refuse containing sewage, used syringes, and a decomposing dog, the 'China Daily' Newspaper stated: "if the U.S. government is concerned about human rights, it should ... stop the dirty business." (Ajello and Ranawana, 1996)' (in Mandel, 1999: 66).*

Introduction

Among all organisms inhabiting the planet, only humans generate masses of non-reducible waste. The problems of waste management and rubbish disposal are absolutely central and yet generally overlooked issues for a hyper-consumer society. These problems lead to uncomfortable questions and as with Al Gore's message about the challenge posed to human society by climate change, at the heart of these questions there is an 'inconvenient truth' about the crisis of waste that 'rubbish society' brings with it and that urgently needs to be addressed (O'Brien, 2007; Girling, 2005). According to Rosenthal (2008), across continental Europe and in the USA,

> … longstanding landfill sites are filling up quickly, and in Europe's small spaces there is little room for new ones. The problem has made it imperative for European nations to cut their waste.
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> By 2020, the European Union will require member nations to reduce the amount of trash sent to landfills to 35 percent of what it was in 1995. It has already begun severely restricting and reducing the use of landfills, aka garbage dumps, because of the host of health and environmental problems they produce.
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> But none of this will be easy. Italy, Spain, Greece and Britain each still send more than 60 percent of their garbage to landfills. A recent study found that they, as well as Ireland and France, are unlikely to meet those long-term

landfill targets. In 2006, the United States sent 55 percent of its waste to landfills, according to the Environmental Protection Agency.

Responding to the 'inconvenient truth' of impending waste management collapse will require changes in individual and social behaviours. In turn, such changes will require motivation, perhaps based on the exercise of incentives, encouragements to compliance or forms of regulation. This is necessary because finding workable and palatable alternatives to mass consumerism and hence mass waste production is harder and less attractive than engaging in denial and employing techniques that help us to neutralise – at least psychologically – the scale and significance of the problem (Sykes and Matza, 1957). However change is also difficult for other reasons, not least because waste disposal is highly profitable big business and attractive to both legitimate and illegitimate enterprises. In short, waste generates 'dirty capitalism' and 'toxic crimes'.

Green criminology, environmental injustice and the avoidance of responsibility

Recent studies, covered by various terms such as green, environmental, conservation or eco-criminology (Lynch, 1990; South and Beirne, 1998; Beirne and South, 2007; Sollund, 2008; White, 2008; Herbig and Joubert, 2006; Walters, 2010), have fused elements of critical criminology and environmental awareness and produced a now substantial body of work examining criminological and public health consequences of environmental harms and injustice. Given the evident problems posed by environmental damage and pollution, Simon (2000: 635) suggests that only a form of 'institutionalised insensitivity to right and wrong' can explain continuing environmental victimization, injustice and violations of environmental and corporate crime laws. At the global level, Simon indicts the waste industry for activities that are all the more devastating because 'most of its victims include the least powerful people on the face of the earth, poverty-stricken people of color, most of whom are powerless to resist the environmental deviance of multinational firms.' (ibid: 639). Many studies have drawn attention to this environmental victimization of communities of the poor and powerless due to the frequency with which their locations may be the sites of, for example, polluting industry, waste processing plants or other environmentally hazardous facilities (Bullard, 1994; Williams, 1996; Lynch and Stretesky, 2001). In

the following paragraphs, a few illustrative examples are provided before we move onto our main case study.

From the 1940s to 2010

In the 1940s, Love Canal was an abandoned navigation canal used by a company called Hooker Chemical as a convenient disposal dump for thousands of drums of toxic chemical waste (Szasz, 1994: 42). In 1952 the canal was covered up and one year later Hooker sold the land to the Niagara Falls Board of Education. A school was built. Developers built homes and "unsuspecting families" moved in. In the 1970s, after heavy rains, chemical wastes began to seep to the surface, both on the school grounds and into people's yards and basements. Federal and state officials confirmed the presence of eighty-eight chemicals, some in concentrations 250 to 5,000 times higher than acceptable safety levels. Eleven of these chemicals were suspected or known carcinogens; others were said to cause liver and kidney ailments. (ibid.)

Also dating from the 1940s was the operation of the massive steel works at Corby in the county of Northamptonshire, England. During its 46 year history, this '680 acre site had produced a dizzying array of dangerous waste – nickel, chromium, zinc, arsenic, boron and cadmium' (Gordon, 2009) but when the time came to close and dismantle the plant through the 1980s and 1990s, it was as if Love Canal and numerous developments in public health awareness and waste management had never happened. The local authority had taken control of the site and now needed to dispose of the waste from the old steel works and this they proceeded to do, 'in the back of open lorries, sludge spilling onto the public roads of the town' with one local remembering 'the smell and the metallic taste of it, and how if you drove behind one of the lorries, your car always ended up covered in a light film.' (ibid). Reporting as the High Court heard a group litigation case against Corby Borough Council at the end of July 2009, Gordon (31st July, 2009) records that the court heard how

> waste was dumped all over Corby by staff that Mr Justice Akenhead described this week as being "unqualified and insufficiently experienced"; a waste management expert who saw how the materials were disposed of, was said to have been "appalled". Even at the time that the land was being "reclaimed", an auditor described the operation as "naïve, cavalier and incompetent." … after

> a ten year battle, the Judge ruled that Corby Borough Council had been negligent and that the dumping of toxic material may have caused birth defects in children.

This was a case described by lawyers acting for the affected families as 'the biggest child poisoning case since Thalidomide' (Gammell, 29th July 2009) yet at the end of the day, not only did local government, health and environment regulatory bodies dismally fail in their responsibilities but it may be that justice is still denied the families if they are unable to prove causation between the toxic materials disturbed and distributed during decommissioning of the works and the instances of birth defects in individual children (Semple Fraser, 2009).

Such 'toxic tragedies' (Cass, 1996) are commonplace internationally, frequently exhibiting characteristics such as: difficulty of prosecution due to problems in drawing together evidence that can tie commercial operations to specific illegal offences; cases of corruption; and strong industry 'profit-at-all-costs' motivations (Cass, 1996: 110-112). In the latter case, the rationality of a business enterprise may lead to deliberate choice of criminal activity due to the low chance of detection, difficulty of proof of guilt and options for 'fixing' cases should they come to the attention of rule- or law-enforcers or even the courts (Cass, 1996: 112 drawing on Sutherland, 1949). Within this general pattern may be found what Gobert and Punch (2003: 27) refer to as 'crime facilitative industries in which one can discern a recurring and disproportionate pattern of criminal activity. Persons with a criminal record may be attracted by the opportunities provided by these industries, seeing in them the potential for remunerative illicit business'. Gobert and Punch draw on the work of Huisman and Niemajer (1998) to identify some of the features that may make elements of the Netherlands waste disposal business prone to rule-bending and criminal opportunism. It seems highly likely that the same features will be found more broadly across international boundaries.

> Companies are paid prior to delivery and, as a result, are easily tempted to take on contracts they cannot possibly fulfil. They then will turn to illegal methods for satisfying their obligations. The firms involved are typically small and run by managers with a dominant managerial style but few qualifications. By providing high rewards and/or by establishing dependency relationships,

> managers who are averse to regulation and unions are nonetheless able to create a loyal workforce. At the same time these managers will strive to forge good contacts with government officials, employing professional consultants to advise them on how to portray an image of being environmentally friendly … Behind this façade the companies will consciously and systematically violate the law.

Mandel (1999: 66) describes the business of such violators as 'unsanctioned hazardous materials transfers', moving unwanted, frequently toxic, waste from regulated spaces to sites where weak or no opposition will be encountered and from developed to developing nations, all part of a global industry of various 'deadly transfers' occurring across a 'disorderly world'. Mandel (1999: 66) provides notable examples of this rather one-sided trade:

> Between August 1987 and May 1988, in a deal arranged by an Italian trader with a Nigerian national, five ships transported over 8,000 drums containing 3,800 tons of hazardous wastes (some of which contained PCBs, some of the world's most toxic pollutants) from various European countries and the United States to Koko, Nigeria; when residents near the dirt lot where the waste was dumped fell seriously ill and Nigerian officials found falsely labeled leaky drums full of the waste, the Italian government eventually had to send two ships to pick up the waste and to return it to Italy and repackage it for disposal.

The principal case study, presented later, might suggest that a note of caution and scepticism be attached to the apparent resolution of this particular affair but in both this and the next example, what is striking is the neo-colonialist assumptions about legitimacy of using less developed countries as dumping grounds for the waste of the over-developed nations.

> In spring 1987 the Mexican navy had to prevent forcibly the unsanctioned dumping by an American garbage barge of over 3,000 tons of hazardous wastes in Mexico: a common reaction to the incident was that it exemplified the "scorn" some in the United States felt toward Mexico, viewing it as their "outhouse". (Singh and Lakhan, 1989: 889, 895; in Mandel, 1999: 66).

Just over twenty years later, a case highly reminiscent of the two above began to make international headlines. In 2009 a major waste disposal multinational, Trafigura, was being sued in London's High Court by thousands of Africans reporting injuries which they attributed to toxic waste that was landed and disposed of on 19th August 2006, in and around Ivory Coast's largest population centre, the city of Abidjan (Jones and MacKean, 2009). According to the BBC news programme Newsnight (13th May 2009), this was 'the biggest toxic dumping scandal of the 21st century' (at least so far) and 'the type of environmental vandalism that international treaties are supposed to prevent'. The toxicity of this waste was confirmed by a toxicology expert consulted by the BBC who observed that such a combination (which included 'tons of phenols which can cause death by contact, tons of hydrogen sulphide, lethal if inhaled in high concentrations, and vast quantities of corrosive caustic soda and mercaptans') could 'bring a major city to its knees'(Newsnight report, 13th May 2009). Apart from the High Court action, there is an additional legal development of note that followed from this episode. This is of some significance for this area of environmental crime and law enforcement.

Responding to this case in the same year, the EU Commissioner for the Environment, Stavros Dimas, reported that this was unfortunately only one of many such incidents and that '51% of EU waste shipments in 2005 were found to be illegal', a staggering proportion (and not including, of course, those shipments not detected as illegal). In response, in 2007 the European Commission proposed that a EU-wide framework of criminal penalties should be established to address the problem of companies that manage to avoid serious punishment by identifying and operating from those jurisdictions with the least stringent or punitive laws: ''Member states have very different ways of punishing environmental pollution' said the commission official, so things are done in the country 'where there are least sanctions'' (Mahoney, 2007). Regrettably, this attempt to unify and standardise penalties across the EU was rejected by the European Court of Justice in October that year, arguing that while the EU could oblige member states to introduce penalties for pollution, it could not determine 'the type and level of the criminal penalties to be applied'. As with much

environmental legislation this potentially leaves protections and penalties open to dilution and means the opportunity to close loopholes that enable polluters to take advantage of jurisdiction in the most lenient and facilitating host country available has been missed. A number of other problems emerge in the debate of environmental law, a brief summary of which is provided in the section that follows.

Environmental law

Environmental law can be described as a conceptual hybrid, in that its doctrinal content largely derives from principles enunciated in other legal contexts. It is inspired, on the one hand, by public law, consisting of sets of regulations, procedural constraints, and control processes. It contains, on the other hand, elements of private law, where it affects property and other recognised rights and interests. 'Therefore, there can be a sense that environmental law discourse is ultimately shackled by a dependent, satellite status, a repository of greener values, but for the most part swimming against a distinctively ungreen tide of prevailing legal priorities' (Stallworthy, 2008: 4-5). Environmental law, in other words, suffers the legacy of legal reasoning geared to the protection of socio-economic systems heavily orientated towards unfettered industrial growth, production and consumption.

Increasing commitment to market freedom has created a situation in which ethics, education and the 'invisible' mechanisms of the economy itself are seen as the only regulatory tools upon which states are expected to rely. Critics, however, argue that legal control cannot be discarded, and that strategies require 'legal embeddedness" if they are to succeed. 'The environment needs good law if it is to avoid suffering further serious harm' (Wilkinson, 2002: 8).). More specifically, laws are faced with the challenges posed by the following three categories of conduct: a) legal persons discharging substances in accordance with the conditions established by a licence; b) legal persons discharging substances in breach of their licence; c) legal persons discharging substances without holding a licence (Wolf and Stanley, 2003). It may be true, as Stallworthy (2008: 1) argues, that environmental law is evolving 'to the stage that it has developed a coherent basis of applicable theory and principles'. It has to be stressed, however, that such law has mainly focused upon the second and third category mentioned above, namely on the harm caused by white collar, corporate or conventional offenders, while the damage caused by industrial development itself has remained largely unaddressed. And yet, the reach of environmental law could potentially introduce into legal discourse 'long unasked questions as to the ecosystem and biodiversity protection, as well as appropriate conditions for access and use of natural resources' (ibid: 3).

In response to such problems, the notion of inter-generational equity has been set forth, namely a theory of 'justice between generations' identifying obligations and rights enforceable in international law. According to this theory, each generation receives a natural and cultural legacy from previous generations that it holds in trust for succeeding ones. This partnership between the living, the dead, and the unborn entails 'a duty on mankind to pass on to succeeding generations a planet at least as healthy as the one it inherited so that each generation will be able to enjoy its fruits' (Kofele-Kale, 2006: 324). It is hard to establish, however, how such moral obligation lends itself to be turned into a legal one. Some authors tend to see its fairness and concerns as perfectly suitable for incorporation into statutory legal principles (Wolf

and Stanley, 2003). Others, by contrast, criticise governments for their unwillingness or inability to translate such moral obligation into radical regulatory measures. In an effort to balance business interest with public interest, governments can at most implement policies that limit rather than eliminate environmental damage. Such measures may include the 'polluter pays' rule, whereby businesses should internalise the costs of the pollution they generate; 'eco-taxes', which are expected to encourage firms to reduce the environmental impact of their activities; and 'emissions trading' an 'eco instrument' which establishes the maximum level of 'pollution credits' for businesses. 'Over time, the regulator reduces the number of credits in circulation and this results in an increase in the price of the credits. This provides a financial incentive for participating firms to reduce their need for credits by developing less polluting methods of production' (Wolf and Stanley, 2003: 18).

Critics of these 'eco instruments' remark that environmental law as a whole has proved a colossal failure, despite good intentions and the hard work of many citizens, lawyers and government officials. Agencies are accused of adopting an excessive degree of discretion in their statutes so that continuing damage to the atmosphere and other natural resources is allowed. In response, a 'public trust doctrine' is advocated as a fundamental mechanism to ensure governmental protection of environment and of public welfare and survival. 'At the core of this doctrine is the principle that every sovereign government holds vital natural resources in "trust" for the public'. In this way, a shift is encouraged from a system driven by political discretion to 'one that is infused with public trust principles and policies across all branches of government and at all jurisdictional levels' (Wood: 2009: 43). The expansion of the public's *res* would add new quantifiable assets to the range of collective protected interests. 'While the courts have traditionally focused on water and wildlife resources in applying the public trust, the new climate-altered world demands a far more encompassing definition of the public's natural *res*' (ibid: 78).

Ecocide, Geocide and the Polluter-Industrial Complex

It is as difficult to establish uncompromising principles in environmental law as it is to apply them with consistency, if at all. Different interests (aligned or conflicting) between social groups may determine whether or not certain conducts are deemed deserving of prohibition and legislation in the first place (Szasz, 1986; South, 2009: 42). Powerful offenders can manage to reject criminal definitions applied to them, while powerful groups in general constantly strive to persuade legislators that the imposition of norms of conduct on them would be detrimental to all (Ruggiero, 2000). In the case of powerful actors whose conduct impacts on the environment, moreover, the ready-made rationalisation is at hand according to which, a law imposing limits to the harm they cause implicitly shatters the core values of economic development, therefore of collective wellbeing. According to Faber (2009: 83), the 'polluter-industrial complex' is committed 'to discrediting the environmental movement, and to weakening the government programs and policies that promote environmental justice,

protect public health and safeguard the earth'. Boekhout van Solinge (2008: 26) notes how some legal scholars have put forward proposals that would move legislation radically forward in ways that would enshrine rights to environmental justice and environmental health as well as principles of sustainability. For example, Gray (1996) has proposed a civil law liability of 'ecocide', defined as 'causing or permitting harm to the natural environment on a massive scale' which would 'breach a duty of care owed to humanity in general', an approach derivable from international law and commitments to human rights to life and to health. In similar terms, Berat (1993) has argued for adoption of the concept of 'geocide' as a means of framing the violations of health and environmental rights that follow from intentional destruction of species and habitats (Boekhout van Solinge, 2008: 26). However these propositions are, at present, probably unlikely to meet with international agreement and in this normative void, green criminologists may therefore find themselves in a situation where acting as 'green moral entrepreneurs', focusing on harm rather than criminalised conduct, becomes one of the few available options.

In the first part of this paper, we have outlined the concerns of green criminology with principles of environmental justice. Various writers have exposed failures of regulation and avoidance of responsibility and have contributed to the production of relevant recommendations for the kinds of policy and legislation required for the defence of the earth. In the second part, the focus shifts onto conducts which are not adopted in a normative void but are violations of even the limited and inconsistent existing norms. As we shall see, after discussing such conducts, relating to the case of Naples and the 'rubbish crisis' experienced by this Italian city, an analysis of the novel ways in which white collar and organised crime are connected will be necessary.

Rubbish **tsars and new entrepreneurs**

In Naples, local administrators have failed, or more likely avoided, to find a solution to rubbish disposal due to the presence within its territory of a myriad of groups with a vested interest in this specific industry. Fear of losing political support has led the local authorities to contract to a large number of small companies the business of garbage management, despite the dysfunctional effects such unregulated segmentation

visibly caused. This distribution of 'favours', which some would attribute to the peculiar Neapolitan way of practising the principles of democracy, in reality, is seen by Vilfredo Pareto (1966) as a fundamental feature of democracy itself. In the 'cynical' analysis of Pareto, the essence of democracies is the patron-client relationship, a relationship based for the most part upon economic interests.

> 'In such systems, democratic participation is achieved by courtesy of a vast number of mutually dependent hubs of influence and patronage, which keeps together by the fact that each hub is dependent to some extent on the good graces of another such hub' (ibid: 67).

The task of these systems, in order to maintain their stability, is to aggregate the various centres of patronage, the various clienteles, in such a way that they are all satisfied.

This Paretian arrangement, however, proved politically effective but economically disastrous in Naples, to the point that in 1994 an 'Extraordinary Commissioner for Rubbish' was appointed by central government. The small companies, in other words, proved competent in ensuring consensus and votes but inept in delivering the services entrusted to them. The newly appointed Commissioner, however, lacking the awareness of the local political alchemy, found no cooperation in the region of Campania and its capital Naples. As an outsider, he proved unable to elaborate a plan likely to be supported by the several groups of interest involved. The task, therefore, was given to a local representative, the Governor of the Region itself, Antonio Rastrelli. This politician of the Right planned an ambitious large-scale integrated cycle which included differentiated collection of garbage, its dumping in controlled sites, its transformation into compressed materials termed 'ecoballs', and the conversion of the latter into combustible oil. This, finally, was to be sent to incinerators and turned into electricity.

Only in 1998 did this ambitious plan go out to tender, and when the winning company was offered the contract in the year 2000, Antonio Bassolino from the Left became Governor of the Campania region. Signatory of the contract with Bassolino was the corporation Impregilo, a conglomerate which included Fisia Italimpianti, Badcock Communal GMBH, Deuthsche Babcock Anlage, and Evo Oberhausen. The

conglomerate offered suspiciously low costs and took on the commitment to manage the whole cycle and build the necessary facilities.

It should be noted that the owner of Impregilo is Pier Giorgio Romiti, the son of the long-term director of personnel of the Fiat complex, a top manager who switched to private large-scale enterprise after serving the largest entrepreneur in the country for three decades. Pier Giorgio achieved what his father had long dreamed, investing his own capital and gaining a position in the exclusive circle of Italian capitalism no longer as an employee but as a proprietor (Astone, 2009) .

Emergency situation

Impregilo showed its negotiating power, based both on the reputation of its family ownership and on contingent urgency, by obtaining permission to build disposal sites wherever they chose as a reward for charging such a low price for its services. The place of Acerra was chosen, namely an area where a new paediatric hospital was due to be built. While the inhabitants of Acerra started to riot, it became apparent that, even when completed, the prospective disposal sites would only be sufficient to process fifteen per cent of the garbage produced in the region (Petrillo, 2009).

Impregilo limited its job to the destruction of the rubbish brought by the lorries, compressing hundred of thousands of 'ecoballs', and burying them in some existing regional sites, or sending them abroad. According to the agreement between the Regional authority and the company, while the whole cycle and plant were being completed, some sub-contractors would have been chosen for the disposal of the rubbish. This 'interim' solution, in fact, lasted between 2000 and 2007, when it became clear that the old system based on numerous sub-contracts granted to small companies had never been abandoned. In fact, the Paretian distribution of favours, as described above, intensified, causing frenetic estate activity in the area, with land being sold at three to-four times its market value. New small entrepreneurs entered the scene, buying land from private owners and, pending improbable authorisation, turning it into disposal sites.

The new set of adventurous entrepreneurs expanded the already large area of illegal waste disposal, stepping up the provision of illicit dumping services to industrialists from the North of Italy. In the previous years organised crime based in the Campania region had often offered waste-disposal services to firms operating in the North,

including those producing poisons such as dioxane. In this respect, investigators had already warned that 'the seawater of large parts of the Naples province was polluted mainly because of unauthorised dumping, which constituted ninety per cent of the total waste actually disposed of in the bay of Naples' (Ruggiero, 1996: 140).

Under the new circumstances, firms set up by organised criminal groups proliferated, including improvised lorry owners limiting their role to the transportation of garbage. The complicity of local politicians was detectable in the hasty, routine authorisations given to such improvised entrepreneurs, some of which used cover names of family members or associates without a criminal record. One such company, pending assessment of the ecological harm it caused, marketed its activity under the cynical denomination 'Ecologia 2003'. The small camorra entrepreneurs realised that one kilo of rubbish was worth more than one kilo of tomatoes, thus turning as much land as they could into illicit dumping sites. Sites previously shut down by the authorities due to their dangerousness for public health were also utilised (De Crescenzo, 2008).

On 27 June 2007, the investigative judges of Naples brought criminal charges against twenty-eight individuals: some managers of Impregilo for 'fraud against the public administration' and some administrators for incapacity to control the work of those they commissioned and for their failure to denounce the fraud. After an emergency situation lasting fourteen years, and with a waste of money quantifiable at about eight billion euros, sixty tons of rubbish were scattered on the streets of the Naples province. In the streets of Naples alone there were five thousands. Pier Giorgio Romiti and Antonio Bassolino were identified as the main responsible figures and consequently incriminated (De Stefano and Iurrillo, 2009). The former was accused of presenting an inadequate, fraudulent, tender while aware that the price quoted was unrealistic and that its company lacked the technical capacity to perform the job required. The latter was charged with gross negligence and complicity in the fraud, having granted an invalid contract and failed to intervene when the improper conduct of the beneficiary became manifest. Bassolino displayed public irritation at the charges, and justified himself by saying that he had signed the agreement without 'reading it', as he often did: 'I sign so many papers!' He also argued that a proper assessment of the contracts granted to external entities was the remit of his close collaborators, particularly 'technicians' with the relevant expertise and monitoring capacity required (Piccoli, 2008: 15).

Dirty collar crime

Some aspects of the case just described are far from unique. As we have seen in the first section of this paper, research conducted in previous years has shown that processing industrial waste without a licence and sidestepping environmental regulations 'is cheaper and faster'. Cases uncovered in the Netherlands proved that illegal enterprises may offer service packages which comprise false invoices, transport facilities, mendacious chemical reports as to the nature of the substances dumped and forged permits to dump. In most European countries some legally registered companies also operate illegally. They either establish partnerships with legitimate firms or run their own in-house parallel illicit business. The choice between the two services is the result of how much the customer is prepared to pay. It is otiose, in this respect, to question whether customers are aware of the illegal nature of the cheaper option, as its very cheapness speaks for itself (van Duyne, 1993; Brants, 1994; Moore, 1994). In the USA research indicated that the involvement of organised crime reaches all aspects of the business, from the control of which companies are officially licensed to dispose of waste to those which earn contracts with public or private organisations, and to the payment of bribes to dump site owners or the possession of such sites (Block and Scarpitti, 1985; Szasz, 1986; Salzano, 1994).

Recent cases which occurred in Germany show that even in countries where the legislation is progressive and clear illegal disposal of waste is widespread. Such cases emerged when a mismatch was noted between the quantity of waste expected and that actually received by incinerators operating in the eastern regions of the country. The missing portion of waste was found to have been dumped in illegal disposal sites. Entrepreneurs utilising such dumps opted for the cheapest way of waste management, thus circumventing the rules which impose a fee of around 200 euros per tonne of waste treated (Natale, 2009). Cases also emerged in which the composition of the waste treated was falsely certified, so that substances which should have been disposed of in special sites were instead dumped in inappropriate ones. That cases such as these occur in highly ecologically aware Germany may be surprising. However, the paradox is that the development of illegal dumping services runs parallel with the very increase in environmental awareness, the latter forcing

governments to raise costs for industrial dumping, which indirectly encourages industrialists to opt for cheaper, if illicit, solutions.

Past and current cases of illegal waste disposal share a key characteristic, displaying the dynamic of a specific partnership between the official economy and organised crime. Organised crime offers a service to legitimate business and receives in exchange opportunities for entrepreneurial development (Ruggiero, 1996). The case of Naples, however, offers new material for reflection that may modify previous analytical assumptions.

Benefiting from chaos

The judicial investigation was a clear response to widespread stereotypes. First, that responsibility for the rubbish crisis was to be directly attributed to organised crime; second, that the root of the problem was the demagogy of the environmental movement; and third, that local administrations were 'Nimby', that is they were unprepared to host dumping sites in the areas they governed. In fact, organised crime found business opportunities courtesy of the inefficiency of legitimate entrepreneurs and the 'dirty collar offenders' operating among them. Moreover, even the trite adage whereby entrepreneurs from the north of the country find an unfavourable atmosphere for business in the south due to the activities of organised crime proved totally inaccurate. The case discussed above shows that the prime beneficiaries of the chaotic situation were the very actors who produced it, namely the legitimate companies who, after giving organised crime a chance to offer their services, blamed organised crime itself for their own incapacity to deliver what was required by contract. Among the other benefits gained was a request for more funds to perform a job which, as it was claimed, was hampered by chaos and by the insatiable demands for protection money made by local criminal groups. Dirty collar crime, in brief, created a particularly favourable climate for business: causing chaos boosted profits. False blame allocation also proved ineffective with regard to the purported demagogy of the local environmental movement and unwillingness of the local authorities to host waste disposal sites on their territories. The investigation made it clear that the former started its mobilisation only when unauthorised sites were used, including a site destined for the construction of a new paediatric hospital. Local administrators, in their turn, were proven not only to be well prepared to have dumping sites

legitimately built in the territories they governed, but also to turn a blind eye when illegitimate ones provided a hasty solution to the emergency situation.

From Landesco to Block and Chambliss

When John Landesco (1929) described the structure, cultural background and operations of organised crime in Chicago, he highlighted the ties of mutual interest that mobsters established with the police, entrepreneurs and customers for the goods and services they supplied. Such ties, generally hidden from public view, often became manifest at weddings, funerals, political banquets and other occasions that brought the community together. In a fascinating chapter on the funerals of gangsters, Landesco remarked that, while in life one may conceal personal ties, in death one cannot avoid disclosing them. Additionally, at other venues such as political meetings and banquets, the politics-business-crime nexus was visually inescapable, with the City Hall attaché drinking next to racketeers, businessmen and police officers, all discussing ways of helping each other in their respective entrepreneurial efforts. However, even this unedifying description is superseded by the case examined above. Landesco's detailed analysis confirms that often the official economy and organised crime are engaged in an exchange of services and a mutual entrepreneurial promotion. The garbage crisis in Naples displays some traits that enable this analysis to be taken further, approaching definitions provided by Block (1991) and Chambliss (1978). The former suggests that the term 'organised crime' should be abandoned altogether in favour of the term 'illegal enterprise'. The latter, after a long period of participant observation spent in the underworld, concludes that organised crime consists of businessmen, politicians, and a minority formed by members of criminal syndicates.

Così fan tutti

The Naples case shows that organised crime is able to penetrate the legitimate economy when the latter provides facilitating openings and apposite entrepreneurial space. The encounter between organised crime groups and business, in other words, does not amount to an unnatural meeting between a dysfunctional and a harmonious entity, but between opportunity seekers who are equally prepared to creatively bend

the rules. A harmonious economy would immediately detect unorthodox operations and single out crooked operators, thus excluding adventurers and criminals and pushing them back within the narrow confines of the conventional, illicit, economy proper. The cases presented, instead, show that a mutual learning process is in place whereby criminal techniques 'migrate' from one group to another, from legitimate to illegitimate entrepreneurs, and vice versa. The former learn from the latter the way in which public resources can be ransacked, while the latter learn from the former how fraud is a substantial aspect of business (Ruggiero, 2007). We have seen how the official companies involved in the garbage crisis in Naples undercharged the local administration for a service that they, in reality, were unable and unprepared to provide. Similarly, groups of criminals operating in Naples have become legendary for their ability to sell so-called 'parcels', namely items of no value that are purportedly quality goods in high demand. 'Parcels' vary from offering boxes presumably containing latest model computers or state of the art mobile phones, while the real content of the boxes may consist of stones or mineral water bottles. Entrepreneurs involved in the case of Naples sold their own 'parcel', a fraudulent promise of a service which they knew in advance they could not deliver. Both legitimate aad illegitimate entrepreneurs contributed to saturate the environment with illegality, thus blurring the boundaries between economic initiative and crime. In such an environment they found it easy to justify their practices through a typical rationalisation (everybody does it) that echoes Mozart's opera: *Così fan tutti*.

Socialism for the rich

The specific 'dirty collar crime' described in the previous pages shows how business can benefit from the very disasters it creates. When small adventurous companies entered the scene, along with firms directly or indirectly owned by criminal organised groups, the official contractors who had committed themselves to the management of waste demanded more public finances to fight chaos and restore order, namely to bring the garbage disposal cycle as a whole under their own control. They also used the concomitant popular protest as a form of pressure upon the authorities to persuade them to release more funds (Brusasco, 2009). Finally, they felt that they were entitled to be rescued like other companies experiencing difficulties, whether engaged in the

manufacturing or the financial sectors, that had been similarly ‘bailed out’. This prompts a final, more general observation. The very notion of enterprise in past centuries, gained acceptance in the collective sensibility because entrepreneurs, while creating goods and providing jobs, risked their own resources in ventures whose outcomes were more or less unpredictable. Failure to keep a company healthy immediately turned into the risk of exclusion from markets. Dirty collar criminals, by contrast, translate their own failure into novel opportunities for profit; they avoid the uncertainties of private markets, opting for more secure sources of income within the public sphere. Their lack of genuine economic initiative is reflected by their targeting of institutions and collective actors rather than clusters of private consumers. Moreover, when they fail they remove the variable risk and divert it onto the collectivity, requiring assistance from the state, and while publicly advocating liberalism, they aim at the construction of a form of socialism exclusively tailored for the rich.

Conclusion

In the principal case study here, corrupt procedures, incompetent administration, criminal entrepreneurship and corporate profiteering all overlap as contributors to outcomes of severe environmental offences and public health hazards. In other cases, described earlier, different combinations of these elements apply but the problems of ineffective response and avoidance of responsibility are common to all. These are crimes of toxic capitalism, in which legal dirty-collar offenders and illegal organised crime seek out and exploit ‘negotiably-regulated' spaces. Even where regulations and controls are operating and asserted these drive some behaviours underground, create profitable enterprises to bypass them and are unable to change values and incentives that favour environmentally bad outcomes. Such outcomes are problematic and damaging in a variety of ways: to law, civic life, and public health.

The difficulties of finding appropriate and effective legal or civil remedies in this particular arena of environmental harms and crimes are now well known and problems of inadequacy of arrangements and resources for enforcement of rules and laws are commonplace and described internationally (Hutter, 1986; du Rees, 2001; De Prez, 2000). This situation applies across a range of related organised, corporate and

white-collar crimes involving 'breaches of health, safety, environmental, consumer or food legislation committed by both large multi-national corporations and local businesses' (Croall, 2009: 167). Organised forms of crime operating as illegal enterprises, frequently with legal fronts, tend to avoid effective sanction and disruption by means of intimidation, corruption and value to legitimate business as a way of 'externalising criminogenesis' (Szasz, 1986: 23). Where such enterprises and their offences are treated as corporate crime, the law is often found to be, as Punch (2009: 52) puts it, 'weak, if not impotent': 'The law is in a sense merely paper, a statement of moral disapproval or intent, or what is referred to as the 'law in the books''. Clearly the forms of response and methods of rule- and law-enforcement available to local, national and international bodies formally responsible for environmental protection (albeit that these are sometimes lacking in demonstration of such responsibility in practice), are limited in scope and impact. In moving forward, new tools and arrangements are needed but it should not be forgotten that there will also be much to remember, re-learn and apply anew from past encounters with enterprise crime, corrupt government and fraudulent businesses.

References

Ajello, R. and Ranawana, A. (1996), 'The West's Toxic Trade with Asia', World Press Review, 43, December: 31.

Astone, F. (2009), Gli affari di famiglia, Milan: Longanesi.

Beirne, P. and South, N. (eds). (2007) Issues in Green Criminology: Confronting Harms against Environments, Humanity and other Animals. Cullompton: Willan.

Berat, L. (1993), 'Defending the Right to a Healthy Environment: Towards a Crime of Geocide in International Law', Boston University International Law Journal, 11, pp. 327-348.

Block, A. (1991), Perspectives on Organizing Crime: Essays in Opposition, Dordrecht: Kluwer.

Block, A. and Scarpitti, F.R. (1985), Poisoning for Profit: The Mafia and Toxic Waste in America, New York: William Morrow.

Boekhout van Solinge, T. (2008), 'Crime, Conflicts and Ecology in Africa' Pp. 13-34 in Sollund, R. (ed.) Global Harms: Ecological Crime and Speciesism, New York: Nova Science Publishers.

Brants, C. (1994), 'The System's Rigged – Or Is It?', Crime, Law and Social Change, 21: 103-25.

Brusasco, T. (2009), 'Il caso Napoli e la stampa tedesca', Narcomafie, 4: 23.

Bullard, R. (1994), Unequal Protection: Environmental Justice and Communities of Color. San Francisco: Sierra Club Books.

Cass, V. (1996), 'Toxic Tragedy: Illegal Hazardous Waste Dumping in Mexico' in Environmental Crime and Criminality: Theoretical and Practical Issues, edited by Edwards, S., Edwards, T. and Fields, C., New York: Garland.

Chambliss, W. (1978), On the Take: From Petty Crooks to Presidents, Bloomington: Indiana University Press.

Croall, H. (2009), 'Community Safety and Economic Crime', Criminology and Criminal Justice, 9, 2: 165-185.

De Crescenzo, D. (2008), 'Sporco, troppo sporco', Narcomafie, 7-8: 15-16.

de Prez, P. (2000), 'Excuses, Excuses: The Ritual Trivialisation of Environmental Prosecutions', Journal of Environmental Law, 12: 65-77.

De Stefano, B. and Iurrillo, V. (2009), La casta della monnezza, Rome: Newton Compton.

Du Rees, H. (2001), 'Can criminal law protect the environment?', Journal of Scandinavian Studies, 2: 109-126.

van Duyne, P. (1993), 'Organised Crime and Business Crime-Enterprises in the Netherlands', Crime, Law and Social Change, 19: 103-42.

Faber, D. (2009), 'Capitalising on Environmental Crime: A Case Study of the USA Polluter-Industrial Complex in the Age of Globalization', in Kangaspunta, K. and Marshall, I.H. (eds), Eco-Crime and Justice: Essays on Environmental Crime, Turin: Unicri.

Girling, R. (2005), Rubbish: Dirt on Our Hands and Crisis Ahead, London: Transworld.

Gammell, C. (2009), 'Corby Birth Defects: Worst Child Poisoning Case since Thalidomide', 29th July, Telegraph.co.uk, accessed 6th January 2010.

Gobert, J. and Punch, M. (2003), Rethinking Corporate Crime, London: Butterworths.

Gordon, B. (2009), 'Corby's Toxic Waste: The Families Speak Out', 31st July, Telegraph.co.uk, accessed 6th January 2010.

Gray, M. A. (1996), 'The International Crime of Ecocide', California Western International Law Journal, 26: 215-271

Herbig, F. J. W. and Joubert, S.J. (2006), 'Criminological Semantics: Conservation Criminology – Vision or Vagary?', Acta Criminologica, 19, 3: 88-103.

Huisman, W. and Niemeijer, E. (1998), Zicht op organisatiecriminaliteit: Een literatuuronderzoek. The Hague: SDU uitgevers.

Hutter, B. (1986). ''An Inspector calls: the importance of proactive enforcement in the regulatory context', British Journal of Criminology 26, 2: 114-128.

Jones, M. and MacKean, L. (2009), 'Dirty tricks and toxic waste in Ivory Coast', BBC news online, 13th May, 2009 (http://news.bbc.co.uk/go/pr/fr/-/1/hi/programmes/newsnight/8048626.stm).

Kofele-Kale, N. (2006), *The International Law of Responsibility for Economic Crimes*, Aldershot: Ashgate.

Landesco, J. (1973 [1929]), Organized Crime in Chicago: Part III of the Illinois Crime Survey, Chicago: University of Chicago Press.

Lynch, M. (1990), 'The Greening of Criminology: A Perspective On the 1990s' Critical Criminologist, 2: 3-4, 11-12.

Lynch, M and Stretesky, P. (2001), 'Toxic Crimes: Examining Corporate Victimization of the General Public Employing Medical and Epidemiological Evidence'. Critical Criminology, 10: 153-172

Mahony, H. (2007), 'EU court delivers blow on environment sanctions', EUObserver.com, 23rd October, 2009.

Mandel, R. (1999) Deadly Transfers and the Global Playground: Transnational Security Threats in a Disorderly World, Westport, Conn.: Praeger.

Moore, R.H. (1994), 'The Activities and Personnel of Twenty-First Century Organised Crime', Criminal Organizations, 9: 3-11.

Natale, S. (2009), 'Germania, modello Napoli', Narcomafie, 4: 20-24.

O'Brien, M. (2007), A Crisis of Waste? Understanding the Rubbish Society, London: Routledge.

Pareto, V. (1966), Sociological Writings, London: Pall Mall Press.

Petrillo, A. (2009), Biopolitica di un rifiuto. Le rivolte anti-discarica a Napoli e in Campania, Verona: Ombre Corte.

Piccoli, G. (2008), 'Rifiuti, camorra e mala amministrazione', Narcomafie, 7-8: 12-21.

Punch, M. (2009), 'Why Corporations Kill and Get Away With It', pp. 42-68 in Nollkaemper, A. and van der Wilt, H. (eds). System Criminality in International Law, Cambridge: Cambridge University Press.

Rosenthal, E. (2008) 'A Whiff of Naples Arrives in Hamburg', New York Times, June 9th.

Ruggiero, V. (1996), Organised and Corporate Crime in Europe: Offers That Can't Be Refused, Aldershot: Dartmouth.

Ruggiero, V. (2000), Crime and Markets, Oxford: Oxford University Press.

Ruggiero, V. (2007), 'It's the Economy, Stupid! Classifying Power Crime', International Journal of the Sociology of Law, 35: 163-177.

Salzano, J. (1994), 'It's Dirty Business: Organized Crime in Deep Sludge', Criminal Organizations, 8: 17-20.

Semple Frase. (2009), Environmental Update August 2009, Semple Fraser Commercial Law website: http://www.semplefraser.co.uk/index.php?s=81.

Simon, D. R. (2000), 'Corporate Environmental Crimes and Social Inequality', American Behavioural Scientist, 43:633-645

Singh, J. and Lakhan, V. (1989), 'Business Ethics and the International Trade in Hazardous Wastes', Journal of Business Ethics, 8: 889-899.

Sollund, R. (ed.) (2008), Global Harms: Ecological Crime and Speciesism. New York: Nova Publishers.

South, N. (2009), 'Ecocide, Conflict and Climate Change: Challenges for Criminology and the Research Agenda in the 21st Century', in Kangaspunta, K. and Marshall, I.H. (eds), Eco-Crime and Justice: Essays on Environmental Crime, Turin: Unicri.

South, N. (1998) 'A Green Field for Criminology?: A Proposal for a Perspective', Theoretical Criminology 2, 2: 211-234.

South, N. and Beirne, P. (eds). (1998), For a Green Criminology, special issue of Theoretical Criminology, 2, 2.

Stallworthy, M. (2008), *Understanding Environmental Law*, London: Sweet & Maxwell.

Sutherland, E. (1949), White-Collar Crime: the Uncut Version, New York: Dryden Press.

Sykes, G. and Matza, D. (1957), 'Techniques of Neutralization: A Theory of Delinquency', American Sociological Review, 22:664-670.

Szasz, A. (1986), 'Corporations, Organized Crime, and the Disposal of Hazardous Waste: An Examination of the Making of a Criminogenic Regulatory Structure', Criminology, 24: 1-27.

Szasz, A, 1994, EcoPopulism: Toxic Waste and the Movement for Environmental Justice, Minneapolis: University of Minnesota Press.

Walters, R. (2010), 'Eco crime' in Muncie, J, Talbot, D and Walters, R (eds). Crime: Local and Global, Cullompton: Devon.

White, R. (2008), Crimes Against Nature: Environmental Criminology and Ecological Justice, Cullompton: Willan.

Wilkinson, D. (2002), *Environment and Law*, London and New York: Routledge.

Williams, C. (ed). (1996) Environmental Victims, special issue of Social Justice, 23, 4.

Wolf, S. and Stanley, N. (2003), *On Environmental Law*, London: Cavendish.

Wood, M.C. (2009), 'Advancing the Sovereign Trust', *Environmental Law*, 39 (1): 43-89.