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Green Criminology, Environmental Crime Prevention and the Gaps between Law, Legitimacy and Justice

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This paper introduces a 'green criminology' and examples of environmental crimes and harms. It then explores approaches to responses based on principles of crime prevention and environmental justice. It considers the limitations of such approaches and the gaps between law, legitimacy and justice.

Keywords: green criminology, environmental crime prevention, legitimacy

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1 Introduction

Until recently, mainstream law-based policing and criminal justice, as well as traditional criminology, have paid relatively little attention to crimes and destructive acts affecting the environment, and to the human and non-human victims of such events. Acts of corporate pollution and trafficking in endangered species have attracted some attention but in general these have not been priorities. And yet, as Skinnider (2013: 1) points out, "Environmental crime affects all of society" and "can have detrimental consequences on the economies and security of a country". Harms and damages can be felt immediately or only in the long-term and may be 'direct or indirect', their causes may arise in many different ways, their origins may be 'point source or diffuse', their effects may be 'individual or cumulative', 'local, trans-boundary or global', and those responsible might be individuals, groups, corporations, governments or criminal enterprises (ibid.).

Over the past few decades, awareness of the *financial* as well as human costs of environmental damage has increased and this has registered with some who are not otherwise environmentally 'green'. For example, the World Economic Forum has drawn attention to the global challenges posed by our poor stewardship and use of water resources which they see "as having the potential to seriously disrupt social stability, upend business supply chains, imperil food and energy production, and generally make life miserable for billions of people" (Walton, 2014). The challenge of climate change is now more widely understood, and the profits involved in illicit trafficking in protected species and precious resources such as conflict diamonds or illegally harvested timber, have been recognized as very sizeable. All of this has meant that it is not only traditional environmentalists who have taken note of developments but also those concerned with national security, international relations and economic development. A report on *The Globalisation of Crime* from the United Nations Office on Drugs and Crime (2010: 149) points out that trafficking of environmental resources is now a key challenge for some developing nations: "Many emerging economies are based on exporting raw materials, but under-resourced governments may lack the capacity to regulate the exploitation of these assets. Rather than promoting economic progress, poorly managed natural wealth can become a cause of bad governance, corruption or even violent conflict."

Foster (2001: 373; see also South, 2012) argues that contemporary threats to national security are no longer simply those of a military nature but that "numerous new threats derive directly or indirectly from the rapidly changing relationship between humanity and the earth's natural systems and resources. The unfolding stresses in this relationship initially manifest themselves as ecological stresses and resource scarcities. Later they translate into economic stresses – inflation, unemployment, capital scarcity, and monetary instability. Ultimately, these economic stresses convert into social unrest and political instability."

And in making this case in 2001, Foster noted that he was not the first to do so – observing that Ullman (1983) and Matthews (1989: 162–177) had also argued that "global developments now suggest the need for ... [a] broadening definition of national security to include resource, environmental and demographic issues". This reflects what Popovski and Turner (2008: 7) refer to as the need for change across the broader canvas of international law, order and legitimacy:

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"As norms evolve and develop, international law must adapt. Laws are codified rules – fixed representations of how society believes the world should be ordered, in a snapshot of norms and expectations at the time. But as society changes and new problems emerge, so norms adaptively respond, while fixed rules may no longer be relevant."

Social change and new problems related to environmental matters have indeed encouraged greater interest from national and international law-enforcement, regulatory agencies and legislative bodies as well as stimulating a rapidly growing field of relevance within criminology.

2 A 'Green' Criminology and Environmental Crime

A new field of a 'green' or 'conservation' or 'eco-' criminology, alongside allied work on environmental justice and victimization, is now represented by a substantial literature (Ellefson, Sollund, & Larsen, 2012; Eman, Meško, & Fields, 2009; Gibbs, Gore, McGarrell, & Rivers, 2010; Lynch, 1990; Lynch & Stretesky, 2003; Sollund, 2008; South, 1998, 2014; South & Brisman, 2013a; South, Eman, & Meško, 2014; Walters, 2010; White, 2008; White & Heckenberg, 2014). Simply put, this kind of perspective argues that a wide range of actions imperil the planet as well as the future of humanity and other species, and these crimes and harms need to be recognised and responded to.

One of the earliest sociologically-oriented criminologists to draw attention to the need for concern about environmental crimes and acts of 'ecocide' was the Slovenian researcher Pečar whose work is described by Eman, Meško, and Fields (2009: 578) as follows:

"Environmental crime, according to Pečar, is every permanent or temporary act or process which has a negative influence on the environment, people's health or natural resources, including: building, changing, abandonment and destruction of buildings; waste processing and elimination of waste; emissions into water, air or soil; transport and handling of dangerous substances; damaging or destruction of natural resources; reduction of biological diversity or reduction of natural genetic resources; and other activities or interventions, which put the environment at risk. Later, [Pečar] ... defined ... environmental crime [as the result of] selfishness, which is determined by the need for profit associated with the control of nature [and] characterized the pollution of nature and the environment as a devaluation of the environment, what he also named 'ecocide' – intentional destruction of the living environment. Under this term the author classified examples of waste dumping and negative environmental interventions."

Subsequent work (see Higgins, Short, & South, 2013; Lynch & Stretesky, 2014; South et al., 2014; White & Heckenberg, 2014) has followed along very similar lines.

Skinnider (2013: 2) summarises possible definitions of 'environmental crime' as follows. One legalistic and "narrow interpretation of environmental crime is that it covers only activities prohibited by current criminal law". However in criminological and sociological approaches it might be more common to adopt a definition that would "also include any illegal activities or formal rule-breaking, whatever form the rule might be" and this would therefore include administrative and regulatory sanctions. Importantly here, Skinnider (ibid.) makes a point that "the influence of business interests over law and regulation" means that "conduct that might be criminal in one jurisdiction might be dealt with by lesser sanctions in others". And finally Skinnider (ibid.) notes that a further definition includes activities which are 'lawful but awful' (see also Passas, 2005) and this "recognizes the fact that many environmental disruptions are actually legal and take place with the consent of society". This is a point to which I will return.

In the world of regulation and law enforcement the problems posed by environmental crimes and harms call for us to do familiar things better and more innovatively, and for new ways of doing things urgently and collaboratively - but at the same time, new challenges also re-enforce the wisdom of some old messages – in this case that 'prevention is better than cure'.

3 Prevention of Environmental Crime - and its Limitations

Weber, Marmo, and Fishwick (2014: 233) suggest that: "The study of transnational crimes such as trafficking of human beings, cross-border trade in illicit goods, and environmental destruction opens up important new frontiers in criminological inquiry, and invites researchers, practitioners and students to engage with international legal instruments and UN-sanctioned crime prevention techniques."

On this note, these authors draw attention to the 2002 UN guidelines regarding crime prevention which are intentionally broad and define the benefits of crime prevention in a way that we can easily see as applicable if directed at environmental breaches and harms. The guidelines state that: There is clear evidence that well-planned crime prevention strategies not only prevent crime and victimization, but also promote com-

munity safety and contribute to the sustainable development of countries. Effective, responsible crime prevention enhances the quality of life of all citizens ... (in Weber et al., 2014: 111).

Governments do take the matter of prevention seriously and generally point out that this involves shared responsibility. As one example, the advice on pollution prevention from the UK Government Environment Agency points out that "businesses and individuals are responsible for complying with environmental regulations and for preventing pollution of air, land and water. Many thousands of pollution incidents occur each year, originating from factories, farms, transport activities and even homes. Each incident is an offence and can result in prosecution as well as environmental damage. However, most cases are avoidable ..." (Environment Agency, 2013).

Prevention and avoidance of breaches of laws and regulations are desirable for many reasons but the idea of shared responsibility for prevention is not always accepted. Or the 'message is received' but 'the meaning is not understood'. The strategies of denial and techniques of neutralization that are so familiar to us from the criminological literature on other subjects (Cohen, 1993; Sykes & Matza, 1957) are often at work here. Furthermore, as McGarrell and Hipple (2014: 2) note, a wide range of criminological research evidence suggests that "the adoption of new policy or practice often suffers from implementation failure" and that "even in cases where ... support by key decision-makers and resource constraints ... [is] not an issue, weak implementation' can hinder impact, while reasons for implementation failure can be as diverse as 'ideological conflict, resource constraints, opposition from line-level actors, poor communication, and lack of clarity and consistency in policy or intended practice."

Politics and law enforcement frequently share a short-term horizon dictated by seeking the approval of the general public, superiors and peers and avoiding the uncomfortable and unpopular. But the 'here and now' must not be the only preoccupation of those tasked with the protection of populations and prevention of crimes and harms.

A framework governed by the concept of 'impact', as measured in terms of proximity along a timeline (now, impending, or future), geography (distance – close, remote) and the degree of seriousness of foreseeable (and, if speculating further, 'unforeseeable') consequences needs to be part of the toolkit of those concerned about environmental crime-prevention and response.

The point about 'geography' and distance is to remind us that we are all victims or potential victims and we should avoid sheltering behind denial and what can be called 'strategic ignorance' (McGoey, 2012) – in this case the idea that *a threat that is close to 'us' is something to worry about* but that *a threat a long distance away is not*. *All* environmental crimes are of relevance and geographical mapping and data would help us to identify what resources we need and where – locally, regionally, globally – in order to aid prevention and response. And in terms of both geography and time, while the effects of a single offence at one location or at one point in time may not appear significant, as Skinnider (2013: 1) recognises, "the cumulative environmental consequences of repeated violations over time can be considerable".

Table 1: Temporal and geographical dimensions of the challenges of environmental crimes and harms

Crimes and Harms	**Consequences**
Familiar Crimes	Crime / Harms - Past and Present (now and known)
Future Crises	Regional impacts and harms (anticipated and unanticipated)
Forecast Catastrophes	Regional to Global Consequences

One further, related, problem is that environmental crimes can commonly be regarded by perpetrators and indeed by the public as 'victimless crimes' – the 'denial of the victim'. One general message from many studies is that inequalities in patterns of victimization and in availability of resources devoted to prevention, mitigation and support persist in this area (Camacho, 1988; Croall, 2010; Hall, 2013; Stretesky & Lynch, 1999) (although this is also the case in more traditional and familiar examples of crime, harm and victimization and the responses from law-enforcement and legislators). There will however always be a victim if only because the chain of effects we should be conscious of, and concerned about, is that somewhere down the line, environmental damage and degradation has an effect on dependent species – which includes us.

In fact, societies tend to minimise the significance of environmental crime and damage. According to Lynch (2013: 49), if we were to compare rates of 'ordinary crime' to environmental harms and negative impacts, the latter would significantly outweigh the former. Lynch (ibid.) argues that for this reason we need to re-think our categorizations regarding victims: "The definitions of victims and victimization incidents commonly found within criminological literature illustrate the restrictive scope of the traditional criminological gaze and frame of reference. By taking a broader frame of reference, green criminology calls attention to the extensive array of violence humans produce and the large number of victim and

victim incidents that escape the attention of orthodox criminological approaches."

Not least among the questions raised by a broader definition of the idea of the 'victim' is the issue of whether the environment itself should be seen as a subject or object of victimisation.

In the traditional view of Victimology, it is people and only people – the human species not other species or the wider environment – that would qualify as 'victims'. This is reflected in the utilitarian and *anthropocentric* view of nature and the environment as existing "to be appropriated, processed, consumed and disposed of in a manner which best suits the immediate interests of human beings" (Halsey & White, 1998: 349). Although this view can be stretched to embrace the 'long-term' in a way that includes human individuals or communities of future generations, acknowledging the principle of intergenerational equity (Skinnider, 2013: 7).

Alternatively, an *ecocentric* perspective would view "human beings as merely one component of complex ecosystems that should be preserved for their own sake. Here the victim is specific environments and non-human species. Scholars from the animal rights perspective take the position that animals are themselves victims as 'individuals', not just part of nature" (Beirne, 2009; Sollund, 2012). Finally, a *biocentric* perspective might see "any human activity that disrupts a biotic system as environmental crime. These last two perspectives prioritize the intrinsic value of ecosystems over human interests" (Halsey & White, 1998; Skinnider, 2013: 7–8).

Such categories will continue to stimulate important criminological and philosophical debate although it may be unlikely that legal and regulatory systems will embrace either ecocentric or biocentric principles in the very near future.

4 Enforcement and Prosecution of Environmental Crimes and Harms – and their Limitations.

International environmental law has been a growing area and has stimulated expansion in criminal law in domestic contexts. Simultaneously, national agencies have been invited to come together in a variety of transnational policing and security networks and alliances such as environmental crime campaigns and committees led by Interpol and the United Nations and in globally-regional initiatives such as the Asian Regional Partners Forum on Combating Environmental Crime and the UNODC Partnership against Transnational Crime through Regional Organised Law Enforcement – PATROL (United Nations Office on Drugs and Crime, 2014).

The enforcement of environmental law and regulation is a complex matter. It can involve a number of agencies and give rise to a variety of tensions in the operationalization of directions to detect, deter and prevent. In many jurisdictions it is not the police but environmental regulators that have primary responsibility for the application of law and securing of compliance, often demonstrating a preference for use of non-criminal penalties and adoption of a civil sanctions regime. Such regimes may depend upon administrative, paper-based monitoring and encouragement of compliance and this is probably easier to apply when dealing with relatively low level and minor offences. In political contexts where there is hesitancy about being seen as 'anti-business' and where public funds are scarce and scrutinised, then a focus on the 'low-level and minor' may be encouraged and constitute the bulk of occurrences processed.

This is, of course, because the enforcement of laws and regulations takes place in contexts shaped by political viewpoints and prevailing economic policies - so in some circumstances (and particularly in most countries in recent years) - the dominant context has been one supporting deregulation and encouraging voluntary compliance. The proposition here is that market competition will provide effective and efficient remedies - and efficient companies will willingly comply and engage in self-policing because this is a cost-effective system that does not impose a cost burden on them or their customers. However, generally speaking - and one would have thought this unsurprising – the idea of cost-effectiveness that most companies adopt is to try to save money, cut corners and 'turn a blind eye' to potentially expensive problems. As Stretesky (2006) has shown in a series of studies, self-policing and self-reporting of infractions is an attractive approach particularly for larger companies because they are multiple offenders and value control over how, and how many, offences are reported; the conclusion drawn is that generally self-policing as an approach seems to neither improve nor deteriorate the environmental track record of a company. It may therefore be economically efficient but it does not seem to add anything in terms of effectiveness. Other approaches, promoted by a wide range of commentators, would argue for an appeal to moral and ethical principles, and the exercise of education, naming and shaming. And all of this is unarguably *ideally* what should work. But regrettably it does not seem to do so and profits come before prevention, companies use corporate social responsibility programmes in a cynical manner to claim good citizenship, and despite the importance of 'brand recognition', unless the media glare and corporate guilt are particularly clear and unavoidable neither companies nor customers pay long-term attention to stories told and lessons taught via the 'naming and shaming' process. This is not to say that there is no place for its strategic use as a technique, just that expecta-

tions about its power to reform should be realistically modest (Braithwaite & Drahos, 2002).

In terms of delivering 'enforcement', frequently agencies can be hampered by mission confusion, dilution of resources and compromise because they have too many competing priorities. For example, administrative efficiencies, budget cuts and new strategies may mean the same body is responsible for encouraging compliance in the course of doing business but also charged with prosecution and penalties in cases of offending (Prez, 2000). The mission and governance of such agencies can also be compromised by systemic problems of 'regulatory capture' (Davis & Abraham, 2013) - where senior decision-makers or influential inspectors within regulatory bodies are largely (in one way or another – e.g. past or likely future employment, professional or social links) representatives of the regulated.

Environmental offending poses particular problems for those involved in detection and response. For example, finding proof of the offence and of the damaging nature of its effects and consequences; and working in a social context where members of the general public do not see such offences as a high priority, and where business and industry may routinely operate with assumptions that some actions and their outcomes have always been accepted whether legal or illegal and should continue to be regarded as unproblematic. And should matters get to court or a tribunal, legal argument can result in the 'trivialisation' of injurious actions (Du Rees, 2001) with little by way of deterrent or punitive penalty resulting.

As with many other kinds of crime or cases of non-criminal breaking of rules or regulations, the failure to take measures to avoid the problem is significant. For businesses, non compliance with 'good practice' and with efforts aimed at prevention can, as noted earlier, follow from short-term assumptions about cost-savings and familiar narratives of denial – 'whatever I do won't matter or make a difference', 'no--one will catch me', 'others are more guilty of this than me', and so on, and because there have always been problems with the inadequacy of resources for enforcement of such rules and laws it is possible that offenders will remain undetected or not prosecuted (Du Rees, 2001).

At the same time, official and high-level support for sanctions can wax and wane illustrating how vulnerable to political values and the social construction of public agendas environmental law and enforcement actually is. A good example of this is the way in which the idea of environmental justice has developed, at times gaining prominence while at other times being relegated to the sidelines.

5 Environmental Justice and the 'Winds of Change'

According to Lewis (2012: 87) environmental justice can be defined in terms of "inequality or unfairness in the distribution of environmental burdens, where there is exclusion from the processes which determine how that distribution will be effected, or where disproportionate distribution is not balanced by sufficient reparation. This extends to potential injustices between developed and developing states, and between present and future generations." In this way environmental justice and human rights can be seen as tied together and there is some expression of this in various international treaties, in some national laws and constitutions, in propositions that environmental rights should be seen *as* human rights and in cases where human rights regimes explicitly incorporate environmental rights for current and future generations (Gianolla, 2013; Hiskes, 2008). However it is difficult to achieve and maintain high-level support for such ideals or to mobilise effective response in cases where both rights and the environment suffer, are violated and destroyed (South & Brisman, 2013b; Ruiz, 2011). To enact environmental justice on any basis requires action but experience indicates that self-interest and contested evidence (Hulme, 2009) disincline many or most from seeking genuine change in their own lives or on a broader scale while political will is swayed by short-term priorities.

In the U.K. in the 1990s and early 2000s, NGOs such as Friends of the Earth Scotland, had raised the profile and legal standing of the concept in Scotland, England and Wales but, as elsewhere, in the context of an economic recession, governments have become wary of environmental protection measures in case these are seen as a burden on business and the economy. So Pedersen (2014) asks "What happened to environmental justice?" and observes that "one thing which the British understanding of environmental justice shares with those developed elsewhere" is "a susceptibility to political neglect in accordance with executive winds of change". Thus he argues that, particularly in the UK, "environmental justice is today most notable by its absence when it comes to official directives, guidelines and statements". This development undoubtedly chimes with one aspect of populist conservatism in the U.K. reflected in dislike of European Union interventionism in the area of environmental regulation.

All of this raises important questions about how satisfactory current systems of policing, regulation and law are in a world increasingly aware of – and increasingly facing – changing environmental problems? Although awareness of environmental issues has grown, the problem of response faces familiar tensions and dilemmas, and meanwhile, the political

agenda has a tendency to move uncomfortable and difficult challenges up and down the scales of importance and urgency, with resources diminishing as the priority reduces.

6 Legality, Legitimacy and Justice

Environmental crimes and harms may be committed by those who can draw on legal standing and legitimate status; such actions should be responded to on the basis of legality, legitimacy and justice. But the relationships between these powerful notions, and the gaps between them, are complex and significant. According to Fabienne (2014: section 1), "if legitimacy is interpreted descriptively, it refers to people's beliefs about political authority and, sometimes, political obligations. In his sociology, Max Weber put forward a very influential account of legitimacy that excludes any recourse to normative criteria ... According to Weber, that a political regime is legitimate means that its participants have certain beliefs or faith ..." and "Weber distinguishes among three main sources of legitimacy – understood as both the acceptance of authority and of the need to obey its commands. People may have faith in a particular political or social order because it has been there for a long time (tradition), because they have faith in the rulers (charisma), or because they trust its legality – specifically the rationality of the rule of law ...". However, values and normative judgements do intrude into interpretations of the relationship between law, legitimacy and justice. So trust in the legality of what governments or political authorities do may be misplaced – or perhaps more accurately, trust in the justice of what the powerful do may be unfounded. If this is so, then as governments make the law and corporations can find ways to bend it, certain actions may be legal but in a normative sense they may be neither just nor legitimate.

In order for criminal justice and regulatory response to avoid the erosion of legitimacy and claims to justice then, as Skinnider (2013: 3) observes, "there is a need for [such] ... systems to function with certainty in order to be fair and consistent. The question then is whether environmental harm can fit neatly into the existing" systems of criminal justice, regulation and law? If the answer to this question is 'no', then, in turn, in the anthropocene 21st century, as Popovski and Turner (2008: 7) suggest: "The legitimacy of law can be undermined by its structural inability to face urgent problems and respond to pressing issues." If institutions – political and legislative – fail societies locally or globally because they do not respond appropriately, for example with sufficient resource to meet immediate challenges or willingness to commit to principles of intergenerational justice and plan for the needs of generations of the future, then legitimacy will be questionable and eroded. Certainly neither environmental nor inter-generational justice are being served.

Popovski and Turner (2008: 6) remind us that "legitimacy needs law as much as law needs legitimacy". The two need to be able to catch up with each other and be complementary and environmental crime provides a perfect example of an area of hugely significant activity where, at present, they do not always do this. Of course, sometimes flexibility is needed in law. Equally, sometimes claims to legality and legitimacy do not really deserve to be respected or supported. As Popovski and Turner (2008: 6) argue, "appeals to legitimacy outside the law are vulnerable to opportunism by powerful states, with dangerous consequences ...". So powerful states can and do opt out of attempts to create internationally legally-binding environmental controls and agreements. Similarly, big business often makes successful calls for exemption or exceptional leniency with regard to environmental regulation and argues that it is authoritarian and misunderstands the reality of business needs to aim to impose criminal or serious financial penalties on commercial offenders. Again, opt-outs and exemptions are legal and they have legitimacy but trust in that legitimacy may be eroded - and they do not serve the wider interests of justice.

This is an analysis supported by scrutiny of the shaping, by external interests, of the requirements of the mandatory Impact Assessments now expected in the case of all European Union policies. Smith et al. (2010) conducted an examination of internal documents from British American Tobacco (BAT), disclosed as a result of litigation in the United States, as well as a review of other relevant literature and interviews with key informants, and show that from 1995, BAT worked with other businesses to promote European regulatory reforms that would be favourable to large corporations, in particular, the establishment of a business-orientated form of Impact Assessment. A lobbying campaign, led by BAT but also involving a network of other companies, ensured binding changes to the Treaty of Amsterdam that require policymakers to minimize legislative burdens on businesses. This thereby shapes all future EU policy decisions and increases the likelihood that policies will benefit corporations rather than citizens. This is a clear example of a campaign and subsequent state of affairs that is unjust but perfectly legal and part of a process accorded legitimacy, although if widely known about it is also a case that could test faith in that legitimacy. The authors of this analysis also show that other business sectors such as the chemical industry – a frequent pollution offender – have since used Impact Assessments to "delay and weaken EU regulation on the Registration, Evaluation, Authorisation and Restriction of Chemical Substances (REACH)" (Smith et al., 2010: 9, Box 2).

7 Environmental Politics and Participation.

One hope for enhanced legitimacy and justice in legal and enforcement systems lies with demand for greater consultation, participation and public involvement. Pedersen (2014) raises a question related to developments in the UK, asking whether the 2008 Regulatory Enforcement and Sanctions Act which emphasises use of civil rather than criminal sanctions, will have implications for environmental justice. This could, he notes, be a welcome development if it is successful in encouraging and delivering greater compliance. But Pedersen (2014: 90) also suggests it could make *even more* of a contribution to environmental justice in terms of legitimacy and inclusion if the communities affected and distressed by environmental damage were to be engaged in the processes of "negotiation and application of enforcement undertakings where these include provisions for community compensation". As yet (in 2014) there is no indication that this is happening but even if the prospects for genuine involvement are not good this is an important point and should not be overlooked. As Bodansky (1999: 618) has pointed out, "lack of public participation has been one of the principal elements of the democratic deficit critique" in the European Union, and "the transparency deficit is perhaps even worse on the implementation and enforcement side [of EU governance] where the use of committees to elaborate and apply standards ... is notoriously obscure."

Legitimacy is enhanced by participation and – in theory if not necessarily in practice – movements in international law are seen by some as leading to increased and enhanced public involvement in environmental matters. International agreements such as the Aarhus Convention are supposed to be leading towards citizen rights to environmental information, a voice in decision-making and "access to legal remedies where environmental laws are broken" (Christman, 2013: 6). However, it has to be recognised that while provision of information is one thing - the rights of citizens to *meaningfully* participate in decision-making is quite another – and their willingness and ability to engage is something else again. Furthermore, as Christman (ibid.) neatly puts it, while citizens may be "invited to submit comments on an activity ... decision-making rests with government".

In fact, in the interests of transparency and legitimacy, legally created opportunities for public participation have been opening up and may multiply – but they have their limitations. As Bodansky (1999: 619) clarifies: "In speaking of participation by 'the public', we are indulging in a bit of a euphemism. What is meant more precisely is participation by non-governmental groups such as Greenpeace [and others] which often have opposing positions and may or may not reflect the 'public interest' – if such a thing exists at all. Indeed, even if international meetings were opened up and NGOs given unrestricted access, *few members of the public would as a practical matter be able to participate*."[2]

Nonetheless, as Pedersen (2014: 2) points out, it may prove to be significant at both international and national state levels, that a recent report from the UN Independent Expert on Human Rights and the Environment has suggested that states run the risk of failing to satisfy their responsibilities in relation to human rights if domestic environmental laws are not enforced – and presumably this includes taking seriously any provisions to engage public participation.

8 Conclusion

I have argued that environmental issues have come to a position of some greater prominence on policy, enforcement and criminological agendas. However, for all the desirability and promise of crime prevention orientated toward environmental offending it is an under-developed field while enforcement and legal responses face considerable challenges ranging from apathy to resistance. Nonetheless, with regard to the future momentum of initiatives to take environmental law enforcement and regulatory compliance seriously, it is important to recognise that even though the political profile of environmental issues may fall as well as rise, some of the key features of actions and frameworks of response *are* being consistently pursued. Furthermore, in terms of the 'slow capacity' for law to catch up with the 'dynamic conditions' of international relations and global challenges, globally shared problems such as the impact of climate change may help to encourage some international legal and law enforcement harmonisation while discouraging and penalising "behaviour that could be legal but illegitimately harming the environment" (Popovski & Turner, 2008: 7). Taken seriously, the problem of legal but illegitimate harms to the environment needs to be examined in the context of the gaps between legality, legitimacy and justice.

Greater public engagement and participation could benefit environmental crime prevention and actions to detect and mitigate environmental harms, not least in enhancing the perceived status, importance and legitimacy of such activities. This will not be easy however as there are various barriers to genuine participation. The most promising scenario for future crime prevention is one in which we recognise that we are individually and collectively responsible for the health of our environment and that we or future generations will suffer if we do not preserve it.

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[2] Italics added by author (N. South).

From the point of view of a 'green' criminology, the ultimate environmental victim is the planet – we share it and it sustains life. There cannot be any better argument for developing and implementing strategies to prevent crimes that damage the environment and for enforcing laws that are designed to protect it.

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Ekološka kriminologija, preprečevanje ekološke kriminalitete in vrzeli med pravom, legitimnostjo in zakonitostjo

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Članek predstavi ekološko kriminologijo ter primere ekološke kriminalitete in okoljske škode. V nadaljevanju analizira pristope k odgovorom, ki temeljijo na načelih preprečevanja kriminalitete in okoljske pravičnosti. Prispevek preučuje omejitve takšnih pristopov in vrzeli med pravom, legitimnostjo in zakonitostjo.

Ključne besede: ekološka kriminologija, preprečevanje ekološke kriminalitete, legitimnost

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