

Towards a Socio-Legal agenda on Environmental Crimes:

*Exploring potential synergies between
Law and Criminology*

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Legal approaches to environmental crimes

- Environmental Crime Directive: identifies conducts which are criminalised when unlawful, and committed intentionally or with at least serious negligence.
- unlawful: infringing EU or MS env law
- conducts:
 - discharge, emission or introduction of materials or ionising radiations; collection, transport, recovery, disposal of waste; operation of a plant carrying out dangerous activity
 - need of conduct causing/likey to cause death or serious injury to persons, or substantial damage to environment.
 - Killing, destruction, possession of specimens of protected wildlife, except when it has a negligible impact on their conservation status

Green Criminology approaches to environmental crimes

- GC as a broad scholarly field encompassing a variety of approaches and perspectives

South: 'GC as an open framework that does not aim to provide a unified theory'.

- GC: the study by criminologists of env crimes, harms, laws and regulations
- env crime = env harms proscribed by law + Transnational EC
- env harms = wide range of injuries to, and degradations of natural environment. Unlike environmental crime, env harms includes both acts and omissions that are *legal* and those that are *illegal*.

Defining the object of analysis: a legal perspective

- Establishing the boundaries of application of criminal law: which conducts should be criminalised? What criteria do we apply?
 - ✧ Criminal law perspective: harm; culpability (intentionality/mens rea); deterrence
 - ✧ Law & Economics:
 - classic L&E approach → cost-benefit analysis (G. Becker) = deterrence
 - behavioural studies (more recently) → information
 - ✧ Criminology inputs: Du Rées = rationality and reputational costs ; other individual motivations (lazyness; lack of knowledge; irrelevance of harsh penalty).

Defining the object of analysis: GC perspective

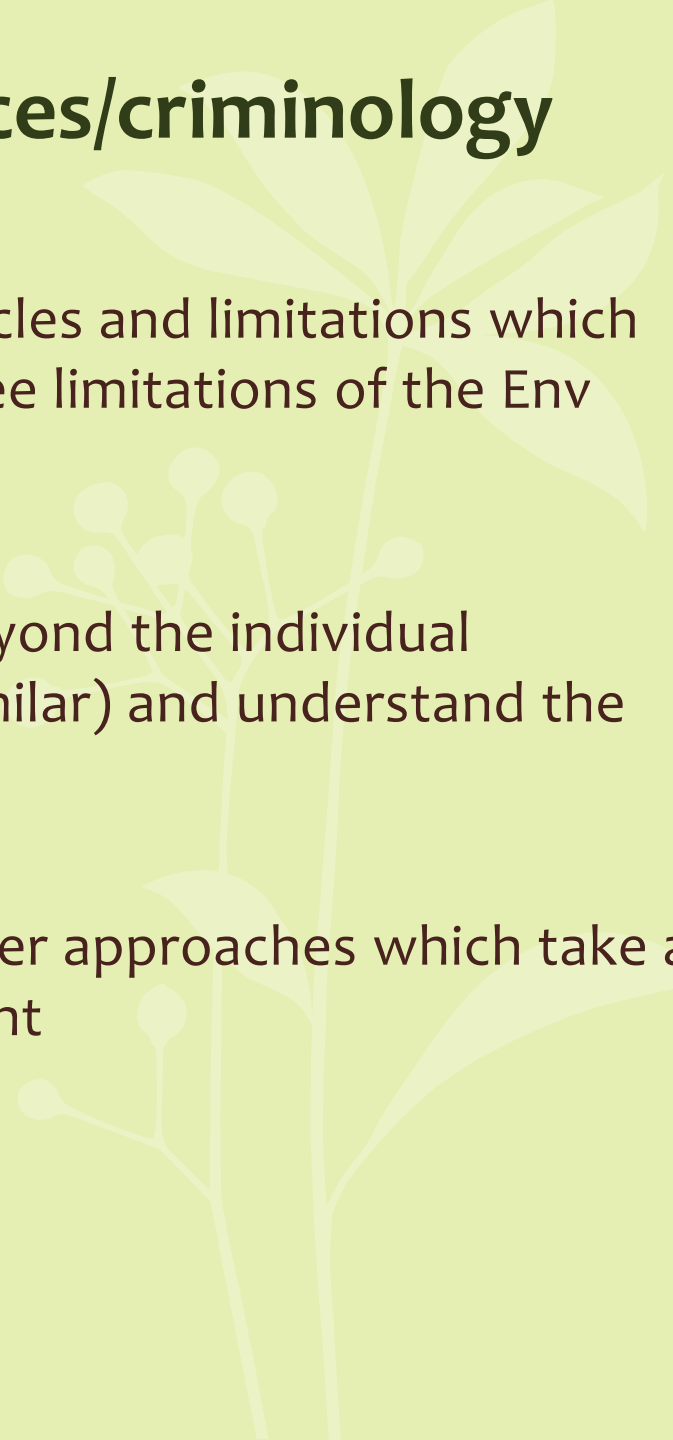
- Legal procedural approach: maintains traditional focus on violations of enacted environmental law (including civil and regulatory violations)
- Critical, socio-legal approach: examining environmental harms that are not statutorily prohibited but regarded by some as equally or more damaging than some actions that are legal offences
- GC drive attention to a category of environmentally harmful conducts which include not only violations of regulatory rules (often strict liability is enough → civil/admin penalties apply), and those impacts that are often seen as the ‘crimes’ of the powerful that do not actually break the laws but morally and ethically can be seen to be anti-social, damaging or even lethal in consequences’.

GC: going beyond the individual motivations

- Critical green criminology = Michael J. Lynch & Paul Stretesky:
'This green criminology developed to account for the tremendous amount of ecological destruction occurring across the globe. ... Criminologists often concentrate on individual causes of crime and therefore tend to ignore the larger structural conditions that promote environmental harm.

Accordingly, CGR call for a more comprehensive definition of green crime that encompasses illegal and legal—but harmful—acts that are acceptable according to law.

Bringing law and social sciences/criminology together

- Expanding focus → Overcome the obstacles and limitations which underlie political definitions of crimes (see limitations of the Env Crime Directive)
 - Better understanding drivers = going beyond the individual motivations (cost-benefits analysis or similar) and understand the processes and structural conditions
 - Refining the responses = elaborating other approaches which take a broader set of considerations into account
 - Refining remedies
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Exploring synergies: understanding drivers

- better understanding drivers = going beyond the individual motivations (cost-benefits analysis or similar) and understand the processes and structural conditions
- Rothe & Collins = *IFIs as facilitator of env crime*
- Razzaque, *Toxic Ships, environmental crimes, and the North-South discourse*
: ship-recycling and hazardous waste:
 - Regulatory loopholes
 - Criminogenic effect of environmental legislation
 - structural conditions: inadequate capacity in developing countries
 - lack of appropriate remedies
 - north-south division and inequalities → social injustice

Exploring synergies: refining the responses

- Refining the responses = elaborating other approaches which take a broader set of considerations into account
 - T. Wyatt: Community-based initiatives for wildlife protection and management
 - R. Walters, *Eco-crime and green activism*: Local activists role in detecting and uncovering crimes and other non-criminal, yet threatening activities to env security & creating public awareness and support, as well as educating
 - Bottom-up approach through providing incentives for voluntary initiatives from industry (Razzaque; Dan Jacobs)

Exploring synergies: refining remedies



- Expanding victims? =exploring possibilities of including environmental values among the beneficiaries of the criminal justice systems
- Expanding the range of responses for environmental law enforcement
 - exploring perspectives for restorative justice = the Enforcement Undertaking in the UK Regulatory Enforcement and Sanctions Act



THANK YOU

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