



Sally M. Edwards, Terry D. Edwards and Charles B. Fields *Environmental Crime and Criminality: Theoretical and Practical Issues*

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*"Hurt not the Earth,
Neither the sea, Nor
The trees..."
Revelation 7:3*

Crimes against nature are far-reaching, dangerous and complex crimes that destroy the environment and consequently affect our society and world. These crimes may directly affect our health today as well as hurt future generations. Therefore, efforts to detect and deter environmental crimes should be effective and culminate in prosecution to the fullest extent permitted. To achieve this, measurable data, records, information, case studies and surveys, and useful suggestions formed on the basis of obtained results are important. Sally M. Edwards¹, Terry D. Edwards² and Charles B. Fields³, editors of the book *Environmental Crime and Criminality: Theoretical and Practical Issues*, agree with the existing need for the reliable survey

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results and applicable solutions, therefore they decided to collect some of the significant papers that discuss these important environmental issues.

In the last few years, academic research concerning environmental criminality and its derived issues is growing although still in its infancy. In the 1970s, the world witnessed a so called explosion of environmental laws and regulations. One of the reasons for this were some highly sensational cases, such as the Bhopal case in India, the Persian Gulf incident, the case of Exxon Valdez in Alaskan waters, and the Kepone case in Virginia. Still, the utilization of criminal penalties in the enforcement of the environmental laws was more exception as something normal and expected. In the 1980s and 1990s the criminal prosecution of environmental violations increased, although corporate offenders simply viewed civil penalties as merely another cost of doing business (it was and still is much cheaper to pay the civil fine and pass these 'expenses' on the costumers, than to incur the significantly higher costs of preventing the violations).

Despite the increased activities in the criminal justice system, the editors of the present book established that, first of all, there has been little academic research concerning this form of criminality. Secondly, the research is often focused on the sensational or extraordinary cases, when on the other side general academic research on the state or federal level were rare. Furthermore, they exposed some general issues concerning the study of environmental crime:

- only little inquiry into the necessity of calling environmental violations 'crimes' or specifically defining an 'environmental crime' is done;
- a dichotomy within the research regarding environmental crimes exists (theoretical, philosophical, and practical questions concerning the human relationship with nature);
- philosophical questions concerning human's relationship with nature in general;
- theoretical questions delve into what constitutes an environmental crime and why it is committed;
- practical questions concern the difficulties investigators and prosecutors encounter when engaged in the investigation or prosecution of environmental crimes.

All of the issues raised questions above regarding the fragmented research in the field of environmental violation produced the idea for the preparation of this collection of scientific papers about environmental crime and criminality. The editors miss a coherent focus and an open discussion of what exactly is known and where researchers and practitioners need to go in the future. The assimilation of existing knowledge for future research provides the foundation of the present book. In the eleven chapters of the book the leading research of fourteen well known international criminologists and researchers⁴ in the field of criminal justice on environmental criminality is accumulated. The book is not divided into specific categories because environmental crime topics and subject matter sometimes can

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and often do overlap. Only rough, 'sections' concerning the theoretical, practical, philosophical, and future issues of environmental crime are outlined.

Concerning the theoretical environmental crime issues, waste management and environmental protection are essential for survival. This fact was taken into consideration already in the discussion of prehistoric man. Although it seems extraordinary, the paleolithic man took to drinking water upstream, bathing midstream, and disposing of waste downstream. In the book, an analysis of the offenses against the environment and efforts at their prevention from an international perspective is made. Thereby ten basic problems, which make it difficult to deal with environmental questions and concern by invocation of criminal laws, were discovered:

- problem of qualification (Traditional crimes are recognized, characterized and classified upon different factors and the public recognizes them immediately. Crimes against the environment are untraditional, unknown, unrecognized by the public and hard to be grouped by the harm they create or by some other condition.);
- problem of quantification (It refers to different definitions on environmental criminality and regulation.);
- problem of strict liability (American criminal legislation on environmental offences extended *mens rea principle* to all offences, other countries deal with these crimes differently.);
- problem of vicarious liability (vicarious liability is the imposition of liability for the act of another, and in criminal law it is a variant of strict criminal liability. This liability, for example, applies to corporate officials for the act of their corporations and vice versa.);
- problem of corporate crime liability (Most of major polluting activities are carried on by private corporations or municipalities or other governmental agencies, therefore the question of corporate criminal liability requires consideration in any scheme intended to control pollution. Furthermore, the problem of determining which officer in the 'corporate' hierarchy had the decision-making power and abused it for the creation of environmental violations, because the blame for white-collar environmental crime is passed downwards.);
- problem of proof (Difficulty in establishing the quantum of proof of environmental damage that justifies legislative penal intervention – the establishment of the causal connection between the act and the harm.);
- problem of the abuse of power (Corporations, presenting whole industry, are connected with the government, that seeks to regulate them. This relationship is a semi-contractual, where legislation results from a process in which the views of both sides are considered and standards are negotiated.);
- problem of inadequate enforcement (The environmental protection legislation differentiates from one country to another, therefore the cooperation is more difficult.);
- problem of changing priorities (Governments are changing priorities concerning environmental protection when it comes to crisis situation or when business interests interfere.);



- problem of the countervailing trend towards decriminalization (Methods of criminalization of environmental harm are different in different countries; in some places serious criminal acts are only light offences or just socially unacceptable acts.);
- problem of countervailing penalization policies (Nothing short of punishment can demonstrate the seriousness of the ecological situation but prison sentences are very rare and penalties represent a minimum burden for corporate offenders.).

All these above addressed issues present difficult question for the environmental protection experts and criminologists that often cannot be answered easily. People today also have to be aware of the growing involvement of organized crime in the disposal of waste especially hazardous waste (e.g., the case of New York in 1980s and the case of Napoli in 2000s); of the problem when deliberately caused environmental criminal disasters are not treated as such and the perpetrators are not held accountable for their actions (as in the case of toxic chemical emissions in Bhopal in India, nuclear contamination in the Chernobyl in Ukraine, and the oil spill in the Exxon Valdez in Alaskan waters), although there is evidence of embezzlement, bribery, corruption and extortions. Furthermore, people also have to pay attention to cases of terrorists' acts that can cause catastrophic environmental pollution (example of vast oil spill in the Persian Gulf).

Organized environmental crime is often reviewed through the prism of three groups of criminal activity: 1) depletion of scarce environmental resources; 2) the destruction or degradation of the environment; and 3) damaging or the threat of damaging the environment for political purposes. We are facing increasing globalization of environmental crime where organized crime penetrates into all possible levels and environmental areas. The most problematic forms are illegal waste disposal, increasing 'trash for cash' schemes in the Third World, trafficking in endangered species and materials, and environmental terrorism.

Environmental criminality does not respect international boundaries; therefore it is argued in the book that environmental crimes are calling for the invocation of principles of international comparative criminology for its study and principles of international criminal legislation for environmental crime control. Furthermore, it is important to state that lack of theory in the field of environmental criminality is equally glaring in environment-specific crime research.

It is emphasized by Seis that: *'recognizing a problem is the first step in creating solutions'* and in the relation with this is stressed that it is necessary to change the way people perceive their relation to nature and to restructure their legislation in the sense of the environmental protection if they want to prevent the environmental crime. Therefore, the basics for doing that exist in the Native American (green) criminology of bioregionalism, which was grounded on the knowledge that human beings are a part of nature and hence dependent upon its health. The role to prevent environmentally harmful activities is attached to criminology, because it was criminology that realized humans cannot conquer nor control nature. Furthermore, people are much better off constructing our lives within ecological constraints. Therefore, criminology is called 'proactive green criminology'. In this respect it is emphasized that the solution of contemporary environmental problems does not



lie in more restricted environmental protective legislation. It lies in redefining our relationship to nature in general, and to particular bioregions. Unfortunately our culture, values, and perceptions towards nature need to be reexamined.

Second, the proposed solutions outlined in the text for environmental crime issues are situational crime prevention methods. Both the rational choice theory and the routine activities theory are important for the development of crime-control policy and of situational crime prevention in the field of environmental criminality. Transferring situational crime prevention techniques to crimes against the environment involves the basic situational crime prevention principle: reduce the commission of crime by designing models that eliminate the crime opportunities (e.g. redesigning enforcement strategies to cut off industry-specific criminal opportunities; improvement of enforcement effectiveness with the emerging knowledge of the offender's characteristics and with the increase of technical training etc.). It is certainly true that strengthening the guardianship of the environment also depends on the relationship of regulator and regulatee.

The book tells us that situational crime prevention offers solutions that more traditional methods did not manage to achieve. Furthermore, prevention planning needs to take into account new industrial development, economic trends and existence of financial problems in specific corporations and conform to them. Although situational crime prevention does not necessarily involve more enforcement, it does involve more creative strategies.

All at this criminological study, enforcement of international criminal legislation, and situational crime prevention methods are necessary to prevent cases, such as the big 'Toxic Tragedy in Mexico' when illegal hazardous waste was dumped in Mexico, committed by well known and successful American companies, caused severe health injuries to several thousands of people. In one of the investigations more than 2000 'mequiladoras' – dump fields were discovered. Although these crimes belong under the strict restrictions of the Basel agreement, the established sentences are still not high enough and do not scare the corporations.

Another problem exposed in the book, is the recognition that environmental crime represents relatively new police enforcement issues and also a relatively new research program for academics. Such programs are important for development of research and higher education programs, since they offer the knowledge based responses to emerging issues. The review showed a movement toward utilizing the criminal provisions of environmental statutes for enforcement and compliance in some federal states of America. Conducted research showed that there exists a real need to determine the difficulties prosecutors encounter when shifting from civil to criminal environmental enforcement. Furthermore, we need to ascertain the deterrent factor of the utilization of environmental crimes and relationship between public demand and activity concerning the investigation and prosecution of environmental crimes, since environmental policy represents one of those policy topics, almost totally driven by public demand and participation in democratic system. It is concluded that the most important issue remains the determination of the precise and proper definition of the environmental crime. This remains the most critical task when it comes to assessing the investigatory and prosecution efforts by the state.



Criminological research in the area of environmental pollution and environmental crime is almost as new to criminologists as penal sanctions for environmental crimes are to criminal lawyers. When they enter the sphere of environmental criminality, researchers indeed come to an unfamiliar territory.

In considering present situation of environmental destruction and degradation all over the world the presented book is still very much relevant. It is recommendable reading for criminologists that are occupied with one of the above exposed problems or they wish to establish if situational crime prevention methods could be used in their country. Furthermore, the book contains useful suggestions for the field of police enforcement and prosecution, where lots of problems can be mitigated. Last but not least the book represent a somewhat pretentious but definitely very interesting reading for those, who are interested in the proactive green criminology and are aware that changing of our relationship towards nature in light of respect and protection is crucial for the survival of future generations.

Although almost 15 years has passed since the book *Environmental Crime and Criminality: Theoretical and Practical Issues* has been published, the situation of environmental issues has not improved much. Presented environmental destruction examples and offered solutions for the preservation of the natural biotopes and prevention of the environmental violations are still topical and in the same manner useful as they were more than decade ago. Therefore the present book and its' collected knowledge are as valuable today as they were in the past, maybe even more so.

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