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Environmental Victims: A Challenge to Criminal Law and a Challenge to Criminology

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“The nature and extent of victimization is not adequately understood across the world. Millions of people throughout the world suffer harm as a result of crime, the abuse of power, terrorism and other stark misfortunes. Their rights and needs as victims of this harm have not been adequately recognized”

(World Society of Victimology, 2006)

Types of 'victimology'

- **POSITIVIST VICTIMOLOGY:** Emphasises scientific methodology and objectivity in identifying the factors which lead to non-random patterns of victimisation, with a particular focus on inter-personal violence (usually focused on crime that goes on in 'public' – burglary, robbery etc.)
- **RADICAL VICTIMOLOGY:** Concerned with the role of the state alongside the law in producing victimisation. Economic, cultural or physical harm or exploitation.
- **FEMINIST VICTIMOLOGY:** Emphasise the link between gender and crime.
- **CRITICAL VICTIMOLOGY:** Problematises the labelling of 'victims'.

Why should criminologists and victimologists be interested in 'environmental harms' against individuals and groups?

- Victimologists were originally concerned with groups far more diverse than just victims of crime.
- The development (and general acceptance) of 'radical victimology', encompassing "real, complex, contradictory and often politically inconvenient victims" (Kearon and Godey, 2007: p.31).
- Increasingly 'victims' are defined (in the literature and in national and international policy documents) by reference to the *harms* they endure and their *suffering*, as opposed to formalised, legalistic categories.
- Includes activities that are not 'crimes' or are **legally ambiguous**. Also includes '**mass crimes**' and 'mass victimisations', which mainstream criminology and victimology have always struggled with

Situation in the Democratic Republic of the Congo in the case of The Prosecutor v Thomas Lubanga Dyilo (ICC-01/04-01/06):

“Therefore, being the obligation upon the Court to protect victims formulated in general terms in article 68(1) of the Rome Statute, such obligation cannot be interpreted as limited to certain categories of individuals. This interpretation is supported by the analysis of the provisions of the founding texts of the Court which refers to the term ‘victims’ *tout court*” (Para 27).

'Environmental Justice'

- **Often also encapsulates the notion of intergenerational justice. The idea that ultimate harm of environmentally destructive activities falls on future generations, and that present generation owes them a duty to minimise this.**

‘Environmental Justice’ – Criticisms from Williams (1996)

- **Environmental justice is too reliant on subjective definitions of ‘victimhood’ – meaning no certainty for the CJS.**
- **Environmental justice based on activism, not suitable for a legal system or ‘proper’ academic discipline.**
- **Environmental justice tends to be based around the stereotypes of relations, group identities, gender, class and ethnic structures found in mainstream criminology – argues rich, powerful people can be ‘environmental victims’ too.**

'Environmental Justice' – Criticisms from White (2008)

- Environmental justice is too anthropocentric, 'environmental harm' goes beyond humans.
- Environmental justice itself ignores the wider issues of *ecological* justice (acknowledging that humans are just one part of a complex ecosystem) and also *animal* and *species* justice.

White's (2008) 'Dimensions of Environmental Harm'

- Identifying the full range of (human and non-human) victims
- Geographical, encapsulating the fact that environmental harm is often a regional, national, international or even global problem – a need to work with international lawyers?
- Temporal considerations, meaning that the impact of environmental damage may be short, medium or long term and may have immediate and/or lasting social impacts.

White's (2008) 'Dimensions of Environmental Harm'

- Calls for a move from *defining* harm onto *debating* harm, because it is only the latter which leads to real-life, operational developments:

“Defining harm is ultimately about philosophical frameworks as informed by scientific evidence and traditional knowledges; debating harm is about processes of deliberation in the ‘real world’ and of conflicts over rights and the making of difficult decisions’ (p.24).

Williams (1996) cites the UN 1985 Declaration as a good starting place for the establishment of a ‘green victimology’.

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

Kauzlarich et al. (2001) have drawn on this to develop a framework ‘victimology of the state’, which includes ‘International-International Governmental Crime’, or crime which occurs outside a state’s geographic jurisdiction against international law or human rights.

Such an understanding would encompass victimisation not only by one’s *home* state, but by other states as well.

Nature of Environmental Victimisation

- **Physical/Health Impacts**

- **The UK department of Health (1998) has estimated that at least 24,000 deaths can be attributed to air pollution each year.**
- **Globally, the World Health Organisation (2008) has estimated the same annual figure at around 2 million premature deaths.**
- **Harm to ‘health’ is only the start....**

Nature of Environmental Victimisation

- **Physical/Health Impacts**
- **Economic Impacts**
- **Social and Cultural Impacts.**
- **Victims of Reduced Security (Food security, human trafficking)**
- **Victims as offenders, offenders as victims**
- **Inequality of Impact (by race, gender, ethnicity, nationality...)**

What kinds of questions should we be asking?

- **How to police and regulate environmentally destructive activities?**
- **Identifying ‘the limits of law’?**
- **How to deal with environmental degradation in a world without borders.**
- **How to prevent environmental crime/harm?**
- **How to compensate/restore environmental victims**



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Green Criminology and Protection of Environment -
Epistemology, Research, Policy Making and Action

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