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Green and Grey: Water Justice, Privatization, and Resistance

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GREEN AND GREY: WATER JUSTICE, CRIMINALIZATION, AND
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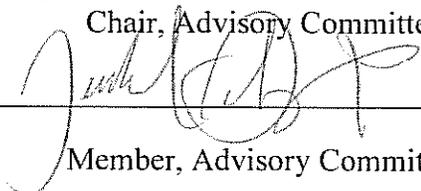
By

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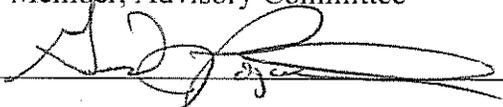
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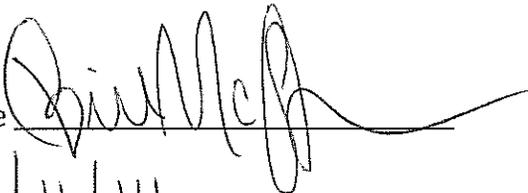


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GREEN AND GREY: WATER JUSTICE, CRIMINALIZATION, AND RESISTANCE

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ABSTRACT

Since its initial proposal in the 1990s, 'green criminology' has focused on environmental crimes and harms affecting non-human and human life, ecosystems, and the planet as a whole. Describing global trends toward privatization of water supply systems and the criminalization of several water conservation activities and tactics, this paper employs theoretical perspectives offered by green, cultural, and critical criminologies, focusing on overt resistance to water privatization and oppressive regulations governing rainwater storage and residential water recycling. Taking a critical theoretical perspective, this paper examines water access and autonomy, individuals and groups openly resisting the criminalization of household water reuse and storage, and the cultural significance of water. This paper concludes with an exploration of the potential benefits of a green cultural criminology.

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CHAPTER I

Introduction

In 1998, the government of Bolivia, under the supervision of the World Bank, passed laws that effectively privatized the water supply system of Cochabamba, a region that over one million Bolivians call home, 60 percent of them indigenous. Concessions to manage—and profit from—the water system were granted to Bechtel, a multi-billion dollar global engineering and construction corporation. Bechtel, upon taking control of the Cochabamba water supply, immediately tripled prices and cut off water services to those unable to pay, going so far as to charge for rainwater gathered in homemade and traditional catchment systems. In response, La Coordinadora de Defensa del Agua y de la Vida (the Coalition in Defense of Life and Water) formed, quickly organizing a referendum that demanded the cancellation of all Bolivian water contracts with Bechtel. When the Bolivian authorities refused to back down, protestors took to the streets and were met with repressive violence from the state military, leaving dozens wounded and one seventeen-year-old protestor dead. The Bolivian government eventually capitulated, severing all contracts with Bechtel (Barlow 2008, pp. 102-106).

The 1998 battle against Bechtel was not, however, Bolivia's first experience with conflicts over water management. Prior to the 1998 agreement between Bechtel and the Bolivian state, Bolivian authorities had granted water concessions to other international interests. In 1997, again under pressure from the World Bank, the water supply system of La Paz, a major city and governmental hub of more than 2 million residents, was sold off to multinational, France-based water giant, Suez. Suez immediately violated its agreement

with Bolivia, drastically overcharging for water connections and use, providing selectively to the wealthy and urbane residents of La Paz, and failing to improve infrastructure and water quality. Throughout the El Alto region—the hilly landscape surrounding metropolitan La Paz, home to the bulk of the region’s indigenous peoples—a fierce resistance to Suez’s control of water broke out. General strikes in January of 2005 crippled the cities of El Alto and ground business to a halt, eventually leading to the ousting of two presidents, Gonzalo Sanchez de Lozada and Carlos Mesa. Their successor, Evo Morales, handily became the first indigenous leader in Bolivia’s history. In January of 2007, Morales and Bolivia celebrated the final removal of Suez and the return of public water to El Alto and La Paz. Morales defined the issue of the day with these simple words: “Water cannot be turned over to a private business” (Quoted in Shiva 2002).

Following the successful rejection of privatized water by Bolivian resisters Argentina, Australia, Chile, Ecuador, India, Mexico, Namibia, Nicaragua, India, The Philippines, South Africa, Thailand and many more countries saw the rise of fierce and coordinated resistance to water privatization and water injustice. The majority of these resistance movements arose to confront Suez, Bechtel, or their countless subsidiaries. Nearly each of the nations facing these conflicts had been pressured into granting concessions to multinational water interests by international financial institutions like the World Bank, International Monetary Fund, and World Trade organization.

Meanwhile, in the United States, a different form of resistance to water injustice was on the rise. Concerned about the environmentally deleterious effects of an ecologically irrational American water habitus, green-minded North American water warriors advocated changes in technology and practice that aimed to correct harmful errors in

human interactions with the water cycle. Promoting reuse systems such as greywater¹ recycling, catchment and storage systems such as homemade, do-it-yourself cisterns and holding ponds, as well as ecologically-friendly and beneficial systems like the composting toilet and the rain barrel, the water warriors of the United States faced their own challenges from a political and regulatory system that favored state-corporate management of water. While the water justice movements of the Global South and those of the Global North are very different, they each highlight the fundamental importance of water as essential to not only all life, but as a powerful, vital and meaningful part of culture.

Conflicts over the essential elements required for life on Earth are hardly a new phenomenon. Human history has been characterized by the often-violent clashes that result from differential access to natural resources, divergent notions of equitable resource distribution, and conflicting ideologies that favor either the public or private ownership of resources (Lee 2009). While many historical and contemporary conflicts are waged over geographic borders, land and mineral access, a great number of military, social, cultural and economic battles have been fought over the control and distribution of another element essential to life: water.

This paper attempts to contextualize conflicts over water distribution and control within the theoretical framework provided by green criminology. Focusing primarily on the

¹ A concern in constructing this work is over the spelling of “greywater.” As will become clear from the literature, there are many ways to “correctly” spell greywater, but no decidedly correct single spelling exists. Indeed, many of the instructional manuals and materials consulted note explicitly that there are many options—greywater, grey water, graywater, and gray water each make an appearance. Because the “greywater” spelling seems to dominate the American literature most referenced here, it is the spelling I have used. It should be noted, though, that differences in spelling do not indicate a difference in method: the “gray water” systems of London are, essentially, no different than the “greywater” systems of Oakland.

regulation of water within a domestic North American context, I begin by attempting to describe and consider concerns over the growing trend towards neoliberal globalization, and the impact that regulatory policies designed to further the primitive accumulation necessary for capitalist expansion and the transfer of public goods into private hands has on water access, water autonomy, and water justice. Next, I attempt to situate water access and autonomy as an essential requirement for the attainment of environmental, ecological, and social justice through an examination of a small sampling of the literature produced in the academic disciplines of criminology, political ecology, and political economy. From here, I move to contextualize domestic struggles for water autonomy within the context of increased neoliberal regulation and control, drawing on relevant literature originating across several academic disciplines and sub-disciplines. Having established the social and environmental importance of water autonomy, as well as the obstacles to that autonomy presented by the effects of neoliberal globalization and an all-encompassing culture of juridical and social regulation and control, I turn my attention to the methods, motivations, and goals of various cultures of resistance to regulatory schemes that function to further the commodification of water, and to the question of how resistance to the privatization of water and other basic necessities has the ability to forge unlikely activist connections. Finally, I argue for the deployment of some oft-marginalized methods of inquiry and engagement by criminologists in order to more fully understand and problematize issues of environmental harm and crime, as well as those who resist the mechanisms of a commoditizing global neoliberalism. This work contends that, if those criminologists concerned with environmental harm, environmental crime, and social, ecological and environmental justice hope to create a compelling and true account, it is essential that both

researchers and theorists engage in a deep examination of the characters, cultures and motivations within resistance movements

CHAPTER II

Green Criminology: A Brief Overview

Since its initial proposal in the 1990s (Lynch, 1990; South, 1998), green criminology has focused the criminological gaze on a wide array of harms and crimes affecting humans, animals other than humans, ecological systems, and the planet as a whole. The scholarship of those working within green criminology has not only expanded our understanding of the effects, scope, and meaning of ecological harms, but has also broadened the space of criminology and criminological theory to include an examination of the ways in which humans interact with the broader natural world, often to the detriment of the latter.

Like all criminological fields, green criminology encompasses various and divergent approaches to the study of harm. While much work within green criminology focuses attention on those harms that arise from expressly illegal actions, such as pollution resulting from the illegal and transnational dumping of waste (White 2008, 2009), the impact of criminal cartel practices on the environment (Block 2002, Ruggiero 2002), and illegal wildlife poaching and its impact on ecosystems (Tailby & Gant 2002; McMullan & Perrier 2002; Sollund 2008, 2013; Wyatt 2012, 2013), others working within the field focus instead on human actions that are harmful (or potentially harmful) to various ecological systems, yet may not be officially proscribed by criminal laws. Work that reflects this broader conceptualization of “harm” (White 2009, pp. 64-65) looks outside of codified criminal law, resulting in a widened area of study and scholarship. Those working with this broadened concept of harm have produced work that examines human relationships with animals other than humans (Beirne, 2009; Sollund 2013; Wyatt 2013), environmental

harms driven by capitalist expansion that do not run afoul of any criminal laws (Mol, 2013; White, 2002), and social discourses relating to the environment (Halsey, 2009).

Within these two conceptualizations of environmental crime and harm—one strictly legal, the other accounting for social perceptions of harm regardless of legality—there are many available analytical approaches available to criminologists. While some choose to contextualize environmental crime and harm as primarily the result of regulatory failures (Akella & Cannon 2009; Stretesky 2009), there are others who attempt to instead examine the environmental harms caused by the consumptive capitalist systems that dominate the global landscape (Brisman and South, 2013; Ferrell 2013, p. 351; White 2002, 2013). The tendency of those adopting broad conceptualizations of harm that extend beyond criminal law to critically examine the social effects of ecological harm is reflected in work focusing on the differential effects of environmental harm suffered by marginalized human populations. Work in this arena may explore the effect environmental harms have on women (Sollund 2013; Wachholz 2007), children (Stephens 2009), and racial and ethnic minorities (Pinderhughes 2009; Brook 2009).

While much of the research and literature has focused on the failure of legal systems to protect the environment, little work has been done that focuses instead on the criminalization of environmentally beneficial activities (but see: Brisman 2009). This paper focuses on criminalized ‘greywater’ systems designed and implemented to facilitate the reuse of household wastewater, and other instances of criminalized water practices designed to minimize ecological harm and attain water autonomy and self-reliance. By locating politicized do-it-yourself (D.I.Y.) water reuse and catchment technology within the larger contexts of water scarcity, neoliberal water privatization, and the global search for

individual and community autonomy and self-reliance in an increasingly globalized world, I hope to illustrate how involvement in household water activism has the ability—a unique ability, I believe—to create activists and activist alliances out of urban gardeners, rural farmers, disenchanted plumbers, and indigenous peoples around the world. Each of these discrete groups faces the pressures presented by water privatization, the search for autonomy, and the decline of the commons in innovative and often challenging ways. Furthermore, because of the biotic and social vitality of water, resistant engagement by those alienated in the processes of capitalist accumulation and resource management made evident by capitalist water regulation has the potential to enhance and develop critiques of broader—and, frequently, less visible and viscerally-felt—capitalist logics.

CHAPTER III

Water Privatization and Neoliberal Globalization

There is, to be sure, cause for concern when it comes to the intersections of justice and water management in a globalized world. The WorldWatch Institute has called water scarcity “the most underappreciated global environmental challenge of our time” (World Watch Institute 2013), while Bill McKibben writes that “clean water is the bottom line of all bottom lines.” Ismail Serageldin, a former World Bank vice president, has claimed that “if the wars of this century have been fought over oil, the wars of the next century will be fought over water” (Serageldin 2012). Similarly, *The New York Times* has dubbed water the “liquid gold” of the 21st Century (Larocca 2007). The selection of the above quotations serves two distinct purposes: First is to illustrate the seriousness and severity of the growing water crisis. The second, perhaps less-obviously, is to lay plain the common neoliberal conceptualization of water as a resource to be used, sold, traded, and commoditized with little regard for public health, social justice, and ecological health and sustainability. Exploring the logic of trends towards water privatization, White (2009, p. 66) notes the change in how the value of water is conceptualized, tracing the establishment of an “exchange value” that overcomes the “use value” of water. Similarly, activist and author Vandana Shiva (2002, p. 19) writes that “the globalized economy is shifting the definition of water from common property to private good, to be extracted and traded freely”. This tendency to value water—or any other essential resource—as a commodity rather than a “useful” necessity is both indicative and illustrative of the neoliberal imagination behind the globalized economy at work.

In order to understand the impact of neoliberalization and the rise of a global economy, a brief overview of the values and approaches of neoliberalism is in order. While there are numerous definitions and descriptions of neoliberalism, Jasmin Hristov's conceptualization is particularly appropriate here. Hristov, a criminologist studying issues of state crime and neoliberal globalization in Latin America (an area particularly impacted by the rise of the globalized economy and neoliberalism), defines neoliberalism as "a system of policies that promotes the market and cuts back on state activities that do not immediately favor business. Its essential components are trade liberalization, privatization, and deregulation. Trade liberalization refers to free trade or the removal of trade barriers, such as tariffs and quotas. Privatization requires the sale of public enterprises and assets to private owners" (2005, p. 91).

When applied to water, the neoliberal model of privatized control and commoditization suggests the consolidation of access to water into the hands of privileged corporate interests who will work to promote water as a marketable good, thereby promoting the market while subverting traditional social conceptualizations and treatment of water as a common good and asset distributed through public enterprise. Prior to the supremacy of the neoliberal logic, water distribution and access were governed primarily by complex conservation and sharing systems that "ensured sustainability and accessibility to all" (Shiva 2002, p. 54)². Because these systems were controlled solely by the communities they served, water was managed locally as a resource belonging to the commons. In the American West, early communal systems of water management were

² Here, Shiva paints a picture of historic water management practices that is highly romanticized. While "sustainability and accessibility to all" may well have been among the goals of earlier management systems, it is unlikely that those systems "ensured" those outcomes.

nullified by state power, which took over control of water resources, “collaborating with private entrepreneurs to acquire water rights” (Shiva 2002, p. 56). In the developing world of the Global South, communal water management and distribution was eroded by the structural adjustments mandated by global financial institutions, such as the World Bank and International Monetary Fund, in exchange for massive water-project loans. As noted by Halebsky and Harris (1995), the nations of the Global South are often under intense pressure to service massive external debts, allowing for a situation in which international lending institutions can offer loans that come with caveats requiring the structural adjustments mandated by neoliberal lending institutions, including the privatization of traditionally public systems.

In addition to raising issues of equitable access to water, privatization can result in reduced water quality. Corporatization of state agencies—the processes by which agencies are managed as corporate, profit-seeking entities—has led to serious issues of water quality in the developing world. Either by mismanagement of treatment operations in the pursuit of profits, or in the denial of safe water to impoverished populations unable to afford the high costs of privatized water, as many as 5 million people—primarily children—die each year from illnesses caused by poor-quality drinking water or reduced access to affordable clean water (White 2009, pp. 68-69). The vulnerability of poverty-stricken youth in the developing world to illnesses caused by differential access to clean water should make the case for serious criminological inquiry into the effects of water privatization.

While the rise of neoliberal economic thought has certainly had an impact on the global trend towards the privatization of water systems, the control of water is driven by other logics that are less economic in nature. Garland (2001, p. 194), noting that while the

“desire for security, orderliness, and control, for the management of risk and the taming of chance is, to be sure, an underlying theme in any culture”, makes the claim that “control is now being re-emphasized in every area of social life”³(2001, p. 95); because water is essential not only to biotic ecological life, but also human social life, it can be understood as a key site of corporeal social control enacted through what Lehmkuhl (2008, p. 338) describes as “hybrid regulatory constellations involving public and private actors” alike. The power of the state to control water access is manifested in the turning over of public supply systems to private ownership, the rise of profits for sellers of potable water, and most particularly in the power of the neoliberal state to criminalize practices designed to maintain autonomous community control of water. The criminalization of water reuse—and other methods of water conservation that constitute resistance to privatization—illustrates the reach of the tendrils of control detailed in the Foucauldian framework.

³ While Garland’s assessment is useful when applied to the control of water, it is problematic in that it gives supremacy to the concept of “order” as constructed by the Global North. It should be noted, then, that Garland likely overreaches in his insistence that “desire for security, orderliness, and control, for the management of risk” is present in “any” culture.

CHAPTER IV

Components of Social, Environmental, and Ecological Justice

The myriad global movements resisting the privatization of water systems fit comfortably under the umbrella of social justice, with a primary focus on environmental justice, and a secondary focus on ecological justice. Social justice can be understood broadly as “a protean concept” that includes “the ideal of substantive equality” and at least some aspects of individual liberty (e.g., autonomy), as well as some values reflective of communitarian liberty (Institute for Social Justice 2012). Because social justice is fluid in nature—it will not always mean the same thing, in the same place or time, nor will social justice be attained in a constant manner using constant means—it is difficult to define what actions or inactions will be proscribed or prescribed by a system seeking social justice. What is most important in the use of a social justice perspective in the examination of neoliberal water privatization (and resistance to same), though, is the fundamental goal of equality that characterizes social justice and social justice movements. In the search for water justice, this equality can be understood in terms of equitable access to clean water, equitable distribution of clean water, and equal opportunity to seek and attain water autonomy.

Closely related to the concept of social justice is environmental justice. Like social justice, the concerns of environmental justice rest on equality. In the perspective offered by environmental justice, harms to the environment are constructed primarily in the language of harm to human populations (White, 2007; 2013, pp. 44-45), making it a decidedly

anthropocentric perspective (Halsey & White 1998; White, 2013)⁴. As it relates to water management, an environmental justice perspective problematizes the ecological harm done by wasteful and reckless water policies as posing a risk primarily to human populations, habits, cultures, and institutions. As such, while the cause of environmental justice is a noble one, it fails to take into account the quieter cost to nonhuman elements of global ecology.

In contrast to the anthropocentric ecophilosophy reflected in environmental justice approaches, the ideal of ecological justice is rooted in an ecocentric philosophical position (Halsey & White 1998) that includes concerns relating to the health of the biosphere, and more specifically, the plants and creatures other than humans that also inhabit the biosphere (White 2007, pp. 38-39; White 2013). Because issues of water management, water privatization, and resistance are somewhat inherently anthropocentric concerns, the environmental justice viewpoint is adopted by and reflected in most of the relevant literature. Green criminology, in particular, has been “slow to respond” to calls for the adoption of an ecocentric theoretical framework (Beirne 2009, p. 3). Nevertheless, the

⁴ In this paper, I use terminology that reflects the intention of the writers and actors to whom I make reference, while accounting—where possible—for some of the concerns raised by previous work. I rely, for example, on the use of the terms “human,” “animal,” and “animal other than human” in categorizing living things. There is reason, to be sure, for green criminologists to pay careful consideration to the language used in their work; speciesism is a real and valid concern, or should be, and as such it has real consequences. In the establishment of a green criminological discourse, efforts should be made in earnest to avoid the ‘othering’ of nonhuman animals (Beirne 2007, p. 62; Beirne 2009; Cazaux 2007). Because this work focuses primarily on human responses to water injustice, it is inherently reflective of an anthropocentric ecophilosophical perspective, rather than the more inclusive ecocentric and biocentric philosophical perspectives, and consequently it is written in the language of anthropocentrism. Similarly, throughout this work I have used language that may serve to separate humanity from broader dimensions and conceptualizations of nature. There is, however, a body of literature that rightly problematizes this tendency. My intention is not to reify problematic divides in human conceptualizations of nature, but rather to maintain a focus on human management of (and relationships with) water.

dominant conceptualizations of water justice are driven by anthropocentric concerns, a fact reflected in the literature surrounding water issues and justice.

CHAPTER V

Resistance to Water Privatization

In *Blue Covenant*, Maude Barlow (2008, p. 68) writes that “a fierce resistance to the corporate takeover of water has grown in every corner of the globe, giving rise to a coordinated and, given the powers it is up against, surprisingly successful water justice movement.”. Resistance movements have popped up across Latin America, Africa, and Southeast Asia, most often taking the form of sustained occupation of public land and sites of privatized water system development (World Watch Institute 2013). While these resistance efforts are, of course, a fascinating glimpse into the water justice movement, I have chosen instead to focus on the water warriors of the United States, who are resisting the wasteful and ecologically unstable practices of privatized city and municipal water systems.

Americans have one of the most sophisticated water supply systems in the world. At great expense—both financial and ecological—we filter, chlorinate, fluoridate, process and endlessly test the water piped into our homes. Half of that ultra-processed water gets diverted to landscaping. Three quarters of the water used in the home would make perfectly good landscaping water, yet it is required to be dumped down the drain by current laws. In response to these laws and regulations, which are designed and justified using the logics of public health and safety, but serve ultimately to protect the profits of privatized water providers, groups and individuals building, operating, and advocating water reuse systems—some openly, some covertly—have emerged.

Systems designed to facilitate the reuse of household water—commonly known as “greywater” or “graywater” systems—are systems that divert, filter, store, or otherwise manage household wastewater so that it may be reused in a variety of applications. Most greywater systems are built in the spirit of the D.I.Y. ethic, a position that “states that [participants] should not be content with being consumers and spectators but instead should become active participants in creating culture” (Roberts & Moore 2009). Owing in part to greywater’s association with the cultural movement identified by a politicized adherence to the D.I.Y. ethic⁵, greywater recycling is immediately placed in opposition to the goals of consumer capitalism, a positional distinction that also places it at odds with the logic of neoliberal globalization, making efforts to criminalize many forms of greywater use arguably inevitable.

Other forms of D.I.Y. reuse such as “dumpster diving” for food and scavenging for discarded building materials have been criminalized (Brisman 2009), and those who engage in such practices are increasingly socially marginalized as their lifestyles bump up against the demands made by consumer culture (Ferrell 2006). The tendency of the capitalist state to work to protect the interests of capital by criminalizing many of the activities under the connected umbrellas of D.I.Y., conservation, and reuse (examples of which include, but are not limited to: the raising of urban livestock, the urban keeping of apiaries and other forms of urban beekeeping, hitchhiking, line-drying of laundry, and unauthorized efforts to

⁵ There are at least two distinct conceptualizations of the D.I.Y. ethic. Recently, the D.I.Y. moniker has been adopted by an ethic that employs D.I.Y. practices as primarily an economic tool rather than a form of political resistance. This depoliticized form of D.I.Y. is inherently capitalistic, and is made most visible by the emergence of the D.I.Y. Network, a cable channel dedicated to showing homeowners potential cheap fixes for household problems. The form of D.I.Y. that is discussed in this paper is a more overtly politicized form, an “ethic born in reaction against a dominant society that considers culture primarily in terms of a profit-generating, commercial enterprise” (Duncombe, 2008).

beautify blighted public space through the planting of public gardens) lays plain the capitalist state's perceived mandate to act as the protector of corporate interests.

Regulatory efforts to effectively criminalize greywater use take the form, most frequently, of a byzantine regulatory framework, with codes and regulations stretching across homeowner associations, municipalities, cities, counties, and states. According to a report authored by Art Ludwig (Ludwig 1995, p. 24) of California's Oasis Design, a group that designs commercial and residential greywater systems, "there are literally thousands of different greywater regulatory authorities—every state, county, and city—and no one knows how many of them are regulating greywater independently, or what exactly they're doing." This atmosphere of multi-level regulatory confusion makes it exceedingly difficult to untangle the web of regulatory controls placed on water reuse, not only for those wishing to implement reuse systems, but also for those attempting to study and map the regulatory history and landscape. It is clear, though, that anyone considering greywater implementation in the United States runs the risk of violating various regulatory codes, as evidenced by Ludwig's introductory warning to readers that "the design and use of greywater systems carry...legal consequences" (1995, Appendix i).

With water provision and management increasingly resting in the hands of corporate controllers—a 2012 report from leading international business law firm Pinsent Masons (2013) estimates that roughly 13 percent of the world's population receives household water from a wholly privatized provider—resistance to privatization and wasteful water practices is inevitable. What is of most interest from a criminological perspective, though, are the various forms resistance takes, the challenges resistance poses

to the state and the dominant neoliberal ideology, and the ways in which the state responds to resistance through criminalization, decriminalization, repression, and cooption.

Of particular importance in the domestic fight is the California group Greywater Guerillas. Formed in the late 1990s, the group advocated, designed, and installed greywater systems in what was often open defiance of municipal codes and regulations. Most compelling, within the context of green criminology, are the ideologies and logics that undergirded the quiet resistance of the greywater guerillas. Adopting a tongue-in-cheek militancy—reflected in the name “Greywater Guerillas” which was later changed to Greywater Action in an effort to stop the possible alienation of potential allies in regions where “guerilla” carries with it unpleasant implications of violence (Allen & Woelfe-Erskine 2013)—the group constructed a mythologizing image of the domestic water warrior, installing simple DIY greywater systems under the cover of darkness, armed with copper pipe, fittings, and plumbers putty. By giving new meaning to Edward Abbey’s radical “monkeywrenching” the Greywater Guerillas and similar “plumbing advocacy” groups situate politically resistant DIY water reuse and catchment systems within a larger context and history of ecologically-minded resistance to neoliberal privatization schemes.

The systems advocated by the Greywater Guerillas were simple, low-tech affairs designed to cleanly and simply control the flow of wastewater. In 2007’s *Dam Nation: Dispatches from the Water Underground*—a title that again reflects the alignment the group felt with other militant resistance groups—the group produced a text that is part polemic, part how-to manual. The specific systems detailed in the book are simple, mostly consisting of diversion valves installed in traditional runoff pipes that allow the user to divert the flow of wastewater to reuse it for gardening, cleaning, and myriad other household tasks that do

not require “clean” water. More interesting for this paper’s purposes though, are the expressly stated motivations that run throughout the book—ranging from economic concerns over unaffordable water bills (Allen & Woelfe-Erskine 2007, pp. 146-147) to agricultural concerns over water scarcity (del Moral 2007) —that underscore a commitment to a lifestyle that minimizes environmental harm.

Mitigating environmental harm is not, however, the only motivation for advocating and implementing greywater systems, as a chapter in 2002’s *Urban Wilds*—a collection of essays documenting “green resistance”—illustrates. Attributed to the authorial group Guerilla Graywater Girls (an early and gendered permutation of the Greywater Guerillas), the article explores greywater and rainwater catchment systems in a way that removes water reuse from its context as solely a response to environmental harm, situating it instead as a social and political act. In this reformulation of the activist greywater imperative, reuse is cast as fundamentally subversive to the “human-created water cycle” (Guerilla Graywater Girls 2002, p. 92). Here, the expressed motivation behind greywater activism changes: “the oceans are slowly dying. Meanwhile, millions of gallons of rainwater fall onto city roofs and streets and run off into the sewers. If we catch this water and use it in our homes and gardens, we step outside of the destructive cycle of dammed rivers and depleted aquifers” (Guerilla Graywater Girls 2002, p. 93). This logic points to the apparent concern of water activists with the alienation from natural cycles that communities and individuals face as a result of nonautonomous water management.⁶

⁶ As Marx described, the alienation from basic needs is a crucial step in the essential power of capital to accumulate and commoditize.

While the Greywater Guerillas and their compatriots construct greywater reuse as a response designed to mitigate wasteful and environmentally harmful practices and the processes of capitalism that alienate people from their basic needs, Curtis McLamb employs a logic of resource conservation in the face of certain scarcity. In *Graywater: The Next Wave*, primarily a design guide free of the explicitly political content that characterizes *Dam Nation* and other Greywater Guerilla projects, McLamb briefly expresses the motivations behind his own implementation of greywater reuse. Reflecting concerns over a coming global water shortage, McLamb urges the use of greywater systems to deal with “water shortages and restrictions...that can only get worse” (2004, p. 6).

The scarcity that McLamb warns of is certainly a problem, and one that should be faced head-on by both activists and criminologists. As Agnew and others have noted, rising global temperatures are likely to produce social conflict as resources are depleted and populations are forced to migrate to geographic zones that can support human societies (Agnew 2012, pp. 15-17; White 2011). These same concerns are unavoidable in an examination of the social impacts of water shortage and differential access. With “hot stains”—the preferred euphemism for those areas of the globe are critically low on potable water—spreading across large swaths of Africa and Asia, Northern China, the Middle East, Australia, sections of South America and Mexico, and the Midwestern United States, the potential for serious social conflicts over water access is very real (Barlow 2008, pp. 3-5).

If the greywater guerillas represent mindful and self-aware radical resistance in the name of environmental and ecological justice, and McLamb represents the concerns of scarcity and its effects on landowning human populations, Gary Harrington of Eagle Point, Oregon, represents the accidental water warrior. Harrington, then the 64-year-old owner of

170 acres of land in rural Eagle Point, constructed three ponds on his property designed to function as water catchments, holding a total of 13 million gallons of rainwater and snow runoff.⁷ In July of 2012, Harrington was sentenced to 30 days in jail and hefty fines. His crime, according to the courts, was illegal water collection and storage that violated a 1925 statute dictating that the city of Medford “holds all exclusive rights to ‘core sources of water’ in the Big Butte Creek watershed and its tributaries.” Harrington, though, had not collected 13 million gallons from the watershed; instead, it had come exclusively from rainwater and snow runoff. Harrington’s protracted legal battles over his right to collect and reuse water illustrated the logic of water privatization, a logic that considers rainwater the exclusive property of privatized water systems and municipal providers. If Harrington is guilty of theft, as courts claimed, what of the countless rain barrels in every county, city, and town in America? Do they, too, function as the tools of thievery?

The answer, somewhat surprisingly, is a resounding maybe. Because of the labyrinthine nature of water regulation alluded to earlier, rain barrel catchment can be illegal or legal, depending on various and complex factors. In 2009, *The New York Times* triumphantly declared in a headline that “It’s Now Legal to Catch a Raindrop in Colorado.” The article reported on the repeal of two Colorado state laws prohibiting the catchment of any rainfall. These laws, like the laws in Eagle Point that so confounded Harrington, constructed certain methods of water catchment as theft, owing to their adherence to water

⁷ Harrington’s case is particularly interesting when considering the various ways that it highlights his relationships with and conceptualizations of water, state power, and property. Harrington clearly operates on something akin to a neoliberal and capitalist-libertarian logic, insisting that the water he has collected is “his” by virtue of its presence on “his” property, giving him justification for diverting water from the commons. For Harrington, the state has exercised its power to supersede his property rights, and so his indignation flows forth from that perceived slight. In contrast, water activists that reject the neoliberal libertarian logics that imbue Harrington’s resistance would likely reject his claims of ownership, insisting instead that he allow water to flow to—and from—the commons.

rights that were assigned to private and municipal interests over one hundred years ago. A Colorado resident and gardener interviewed in the article, Tom Bartel, seems to share some of the activist enthusiasm of Harrington and the Greywater Guerillas in his insistence that he was “so willing to go to jail for catching water on [his] roof and watering [his] garden” (Johnson 2009).

CHAPTER VI

Cultural Intersections of Water and Resistance

In order for a criminological investigation of water privatization and resistance to reveal anything new about the issues arising from neoliberal globalization, it is essential that the cultures and methods that characterize that resistance be examined further, with an eye on the aesthetic, tactical, and political choices made by resistance groups and movements. Only by understanding *how* resistance occurs can we hope to understand *why* resistance occurs—an understanding that has the potential to reveal the untold undercurrents of harm inherent in neoliberal globalization and water injustice. With this in mind, I now offer both suggestions for future research and some criticism of the existing research and scholarship within green criminology.

Of particular value in future explorations of criminological issues relating to water justice is the perspective offered by cultural criminology. Because of the ability of cultural criminology to “capture through qualitative engagement the richness of crime and its control as a contested arena of symbolic representation” (Lanier & Henry 2010, p. 368), cultural criminology has the ability to distill and relate meaning from both symbolic and material resistance and criminalization. There has, to be clear, been some effort on the part of both green and cultural criminologies to find common ground; Brisman and South (2013; 2014), in their exploratory outline for a green cultural criminology, write of the potential benefits—for each approach—found in the “cross-fertilization” between green and cultural criminologies, while Ferrell frequently turns the curious eye of cultural criminology squarely to what are more commonly considered “green” issues—consumption, waste, and

quotidian ecological harm (see generally Ferrell 2001; 2006; 2013) (for another compelling call for an integrated green cultural criminology, see also Ruggiero and South, 2013). In order for green criminology to fully understand the ecological problems it examines, the interplay between culture and environment must be placed under the criminological gaze. Thankfully, the methods favored and developed by cultural criminologists provide green criminologists with an opportunity to do just that.

As Ferrell and Sanders note, cultural criminology draws on a wide range of “radical or progressive perspectives” including “anarchist, neo-Marxist, feminist, and other critiques of legal domination and social injustice” in order to establish and understand the intersections of crime and culture (1995, p. 301). This critical understanding of culture as crime and crime as culture offers the unique opportunity to contextualize resistance phenomena as a means of understanding the underlying meanings of crime and criminalization. This uncovering is important to developing an understanding of resistance to water injustice in the global community precisely because so much of that resistance is highly symbolic in nature; the occupation of land and facilities owned by private water suppliers in Thailand, the refusal of Gary Harrington to drain his catchments, and the aesthetic militancy of the Greywater Guerillas—while at least somewhat instrumental in their aims—are each primarily symbolic acts of resistance.

By making efforts to understand the importance of symbolic resistance to these groups and individuals, criminologists could perhaps uncover some of the motivating factors that make resistance to neoliberal water privatization and management so essential. Why would Harrington risk imprisonment if not for a worthy cause? Why would the Greywater Guerillas openly flaunt violations, if not for the perception of a genuine threat?

Why would Thai occupiers risk violent reprisals if they did not truly feel that water privatization posed a real risk to the social and environmental ecology of native lands and peoples? In order to answer these questions, it is necessary that criminologists studying movements that resist water injustice “get to know” resisters using the research approaches offered by cultural criminology and, more broadly, qualitative methods of research.

Such an ethnographic approach could also offer insight into the cultural vitality of water. Because it is an essential element for life, water—like land, air, and fire—crosses all socially and geographically constructed cultural boundaries: water is every bit as essential to the suburban residents of central California as it is to the subsistence farmer in rural Southeast Asia. This vitality—a somewhat unique trait that resonates across both cultural and geographic borders—allows for the potential of a truly global understanding of the importance of water justice, and forms the basis for the unlikely activist and resister connections discussed earlier. Because of the importance of water, regardless of cultural or spatial geographic placement, research into water justice movements provides the opportunity to explore water issues both globally and locally while maintaining the ability to link the two.

The global cultural and material importance of water also reveals opportunities to uncover its significance within cultural products traditionally outside the scope of criminology. As suggested by Ferrell and Sanders, the media plays an essential role in “shaping the intersections of culture and crime” (Ferrell & Sanders 1995, p. 14). Brisman and South, furthermore, note that understanding and acknowledging the cultural and material vitality and “symbolic power” of water is essential to criminological explorations of water (2013, p.

125). Media—be it traditional mainstream mass media, alternative media, or underground media—certainly plays a role in human relationships to water and the broader ecosystems we encounter, and can serve as a space for exploring the symbolic power and vitality of water. For evidence of the important role media and other artistic cultural productions play in human-water interactions, one must look no further than the traditions of pastoral poetry and naturalist literature. Ralph Waldo Emerson, in his poem *Two Rivers*, thoughtfully explores interactions between humans and water:

Thou in thy narrow banks art pent:

The stream I love unbounded goes

Through flood and sea and firmament;

Through light, through life, it forward flows.

Emerson's use of water as a sort of reflecting pool for humanity and history is indicative of a literary trend, at the time, to do just that. This tendency in the pastoral tradition exposes the age-old understanding of water as the most essential of all elements, unable to be uncoupled even slightly from conceptualizations of life. Irish poet Seamus Heaney continues in the pastoral tradition, deploying poetic exploration to convey the interconnectedness of humanity to the water cycle in the relevantly-titled *Gifts of Rain*:

The tawny guttural water

spells itself: Moyola

is its own score and consort,

bedding the locale

*in the utterance,
reed music, an old chanter
breathing its mists
through vowels and history.
A swollen river,
a mating call of sound
rises to pleasure me, Dives,
hoarder of common ground*

Here, Heaney explores various dimensions of the human-water relationship, not only through the titular conceptualization of water as a “gift,” but through his use of water as a marker for historical, cultural, and geographic relationships. For Heaney and other naturalist poets, water often serves as an anchor, mooring history, culture, and place within the natural water cycle (and vice versa). For a more contemporary look at water as a theme in literature and other artistic works—and, more relevantly, the potential ability that turning the analytical, criminological eye to those works has to both deepen and enliven an understanding of the importance of water—consider the following passage from Edward Abbey’s 1990 novel *Hayduke Lives!*, itself a screed supporting radical resistance in the name of ecological justice:

“The water here always tasted pretty doggone good, in Seldom’s opinion. He was not a connoisseur of arid-land springs, seeps, tinajas, potholes, waterpockets, log troughs, bogholes, frog ponds, stocktanks, irrigation ditches, mining flumes, hoofholes in a mudslide and such, like his old buddy the wilderness avenger, but he had tasted some H2O here and there, from time to time, when the absence of same would have meant uncomfortable death by leisurely degrees, and thought he knew the essential difference between drinking water and that peculiar solution of chlorine, nitrates, industrial solvents, herbicides and reprocessed sewage effluent that came when summoned from the taps.” (Abbey 1990, p. 177)

What Abbey illustrates here is the one of the fundamental points of the Greywater Guerillas: private, industrial management of water not only reduces the quality and purity of water, but serves to disconnect humans from their water supply, thereby disconnecting us from the natural water cycle and our greater environment. To Abbey—and many water warriors—the privatization and chemical overtreatment of water supply systems and water supplies serves as a tool to alienate humans from nature and the essential needs of humanity. Criminologically, an approach and method that engages with human characters—both real and fictional—can help to achieve what Rob Nixon calls essential to efforts to “bring home, and bring emotionally to life” the threats of environmental harm (2011, p. 14). As Nixon notes, the “imaginative challenges” presented by hard-to-see environmental harms necessitate an engagement with human characters—writers, activists, and victims—that compel the imagination (2011, p. 16).

By adopting a research approach that takes into account the traditional importance of water in art and culture, criminologists may be offered an endless supply of literature to

draw on and cultural traditions to examine, ideally leading to an expanded understanding of the meanings of resistance to water commoditization. Furthermore, as Lynch urges in his initial proposal for a green criminology, criminologists have a choice; “We can stand mute, or expand our vision, join our platform with popular, activist, progressive platforms and in doing so hopefully expand the scope and impact of criminology in developing a humanistic social orientation” (1990, p. 169). By engaging with resistance and resisters, expanding the scope of inquiry outside of the traditional boundaries of mainstream criminology, and forging empathic connections with activists and activist movements, a green criminology informed by the approaches favored by cultural criminologists can aspire to reveal the meanings behind not only movements seeking water justice, but countless resistance movements aiming to combat the spread of anthropocentric environmental harms in a globalized world. In doing so, green criminologists can not only study and document, but join the struggles for social, environmental, and ecological justice.

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