Logging and Legality: Environmental Crime, Civil Society, and the State

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This article considers how criminologists can best analyze the crime and harm involved in the destruction of forests around the world. Although "illegal logging" as conventionally defined is undoubtedly a major form of transnational organized crime, the boundary between "legal" and "illegal" logging is ambiguous and conceptually unsatisfactory. We illustrate this point with a number of examples, focusing in particular on the highly destructive but generally lawful practices of the timber industry in Tasmania. Drawing on recent work on state crime, we argue for a definition of crime as behavior that is both deviant, in the sense that it is subject to, and significantly affected by, social processes of censure and sanction, and "criminal" in the sense that it violates normative standards that we as criminologists endorse. We argue that in some situations (such as the Tasmanian case) the role of civil society in defining, censuring, and sanctioning deviant behavior is more significant than that of the state; however, the role of civil society in defining and censuring "illegal logging" must itself be subject to critical scrutiny.

Illegal Logging as a Major Transnational Crime

A significant part of the timber trade involves a world market in what are effectively illegal and stolen goods, worth up to $15 billion a year, for which the E.U. (including the U.K.), the U.S. and Japan are the main markets (House of Commons Environmental Audit Committee, 2006: 10).

The evasion of laws and regulations designed to protect the natural environment—"environmental crime"—is nothing new. Illegal trade in endangered species, illegal, unregulated, and unreported fishing and whaling, illegal dumping of hazardous waste, much of the aquaculture industry in Latin America, and the smuggling of ozone-depleting substances flourish around the globe. Illegal logging and the illegal trade in timber and timber products are almost certainly the...
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most economically significant international environmental crime. As an illegal trade, precise quantification remains illusive, but a U.N. report (UNECE and FAO, 2005: 13–15), citing a study commissioned by the U.S. paper industry, estimates that eight to 10% of global production and a similar proportion of trade is illegal, with the total value of "suspicious" timber products at up to $23 billion per annum.2 The World Bank has estimated that in the tropical forests alone, 5,000 square kilometers of forests—an area the size of the island of Bali—were being illegally logged each year during the early 1990s (Callister, 1999). Figures from a range of NGOs and environmental research institutes suggest that over 50% of all logging in certain vulnerable regions is illegal. A World Bank-commissioned study (Contreras-Hermosilla, 2001) reported that 80% of logging in Brazil was illegal in the late 1990s, as was 80 to 90% of forest clearance in Bolivia and 94% of logging in Cambodia (there is now a ban on all log exports, ITTO, 2005: 45). The Indonesian government:

estimates that approximately 2.8 million ha [one hectare (ha) equals 2.47 acres] of forests are being cut down and the resulting logs and forest products smuggled each year. It also predicts that at such a rate the country would lose all of its forests in the next 20 years (ITTO, 2005: 45).

In Russia, levels of illegal logging are believed to vary widely between regions, with suggestions that as much as 70% in the far east and 100% in the Caucasus is illegal (Ottisch et al., 2005). The International Tropical Timber Organisation (ITTO, 2004) estimates the trade in stolen timber between East and Southeast Asian countries is worth U.S.$2.5 billion annually.3 China is now the world’s largest consumer of illegal timber, with Indonesia the largest tropical supplier (Telepak and EIA, 2005).

The consequences can be devastating: illegal and unsustainable legal logging contributes to deforestation (directly and by opening forests up to other destructive activities), destroying the world’s greatest reservoirs of biodiversity, threatening species such as the great apes in equatorial Africa and orangutans in Borneo, and hastening climate change (Barraclough and Ghimire, 1995; Dudley et al., 1995). It is directly implicated in "natural" disasters such as landslides (e.g., the recent devastating landslides in the Philippines) and flooding. Recent floods and landslides in Indonesia and Thailand (Independent, May 28, 2006) have been widely blamed on illegal logging. Producer countries lose legitimate tax revenue, estimated by the World Bank (2002: 14) to be $15 billion annually. These practices also fuel and fund civil wars.4

Problematizing Illegality

The exploitation of forests is subject to a wide variety of laws: customary laws; international laws relating to trade, human rights, the environment (notably
CITES, the Convention on the International Trade in Endangered Species; national and local laws relating to land tenure, human rights, exports, conservation, wildlife and forestry; and the terms of licenses or concessions for the logging of specific areas. There are, however, serious problems in accepting "legality" as a criterion of criminality, or as a basis for measures to curb the damaging aspects of the timber trade.

Most tropical forests are owned by states, and logging is legal when it conforms to the terms of concessions granted to logging companies; but these legally defined property rights are based on the expropriation of land from its indigenous inhabitants (Ginting, 2005; Colchester, 2006). As Nancy Lee Peluso (1991: 11) writes with reference to Indonesia:

The law defines and determines the boundaries of criminality, but customary laws, practices, and beliefs, or unfavorable material conditions often confound the enforcement of contradictory state laws. Under such circumstances, the enforcement of the state's law becomes a crime in the eyes of the people, an impingement either on...their "moral economy"... or simply on the perceptions people have of what is right....

Not only is the legitimacy of state law often contested, but contradictory laws may also exist within the same state. For example, the regulation of forestry in Indonesia was decentralized after the fall of Suharto, and now involves a complex combination of national laws, regulations, and licenses issued by local authorities, and legally recognized customary land rights that entitle peasant communities to royalties on timber felled (Smith et al., 2003).

Further ambiguities arise from forest laws, some of which are "poorly written and confusing" (Brack et al., 2002: 15), while others are "difficult to obtain [and] difficult to analyse" (quoted in Ibid.: 55). Ambiguous legislation makes the identification and quantification of illegal activities particularly difficult.

Lack of effective enforcement also compounds ambiguity. In Papua New Guinea (PNG), for example, most logging is licensed, and thus claimed by the government and industry advocates to be legal (ITS Global, 2006). However, a recent report found that virtually all PNG logging was unlawful, primarily because companies fail to obtain "informed consent" from the indigenous owners of forests or to ensure a sustainable timber yield. As the major Indonesian environmental NGO WALHI (Friends of the Earth Indonesia) argues:

illegal logging is connected to, and dependent upon, "legal logging." This is so because of the misuse of the permits which are issued by government officers, bribed police and military officers, usually with support of economically and politically powerful interests. A technical focus on "illegal logging" fails to target the real criminals, those behind the operations. Instead it risks targeting poor people who have no financial
alternative, and are often forced to participate in the logging operations (WALHI, 2003).

Smith et al.'s (2003) research in Kalimantan (Indonesian Borneo) confirmed this relationship. Local officials authorized timber companies to fell far higher volumes of timber than could realistically be extracted from authorized areas, providing a cover for timber felled outside those areas. Moreover, legal logging provides the industrial facilities that illegal logging needs, and provides a means of "laundering" illegal timber (Ginting, 2005).

Finally, even unambiguous legality is no guarantee of sustainability. A recent report from an alliance of Dutch NGOs (Milieudefensie et al., 2006) provides many examples from around the world (including Tasmania, discussed below). In Russia, some logging permits positively require companies to carry out ecologically destructive logging—requirements that, ironically, are often flouted because compliance would be unprofitable (Ibid.: 28–29).

The international regulation of the timber trade—such as it is—predictably focuses on legality rather than sustainability. The E.U. Commission justifies this aspect of its FLEGT (Forest Law Enforcement, Governance, and Trade) scheme on the grounds that:

an immediate requirement for sustainability has proven not only difficult to define, but beyond the abilities of many forest owners and managers to meet. Legal compliance, which forms an essential component of many sustainable forestry definitions, should be a more achievable target... (E.U. Commission 2004: 1).

Though true enough, this ignores the almost equally ambiguous nature of legality (Savcor Indufor Oy, 2004). Under the FLEGT program (Council Reg. 2173/2005), imports of timber from countries that have entered into "partnership agreements" with the E.U. (no such agreements have yet been signed) are subject to licensing and independent third-party verification. The scheme is open to evasion by imports via third countries (for example, China, whose voluminous plywood exports to the E.U. commonly use illegally sourced veneers) (Stark and Sze, 2006).

**State Crime Theory and Environmental Harm**

The problems surrounding the concept of legality in the context of logging resonate with those encountered in the study of state crime. Since most serious crime (torture, war crimes, genocide, and corruption) is carried out—like much illegal or destructive logging—by or with the complicity of states, how can we use the criminals' own definition of "crime"? In a seminal article, Herman and Julia Schwendinger (1975) argued that criminologists should study not state-defined crimes, but violations of human rights, and based their definition on the underlying justification of human rights (i.e., to secure for all human beings the fulfillment of
certain basic needs), rather than the legal definitions articulated in various international instruments.

An enquiry into why millions of human beings are denied even the most basic rights to security and subsistence (Shue, 1996), though obviously important, takes us into realms that have little relation to conventional criminological subject matter. In an earlier contribution to this journal (Green and Ward, 2000), we proposed that state crimes, for criminological purposes, should be defined as actions by state agencies that not only violate human rights, but also violate norms with which the agency in question was under significant pressure to conform. These pressures need not take the form of institutional law enforcement, but could come from domestic civil society, international organizations, other states, or, in many cases, from transnational networks involving all these elements (Risse et al., 1999). State crime, in other words, is organizational deviance by state agencies that involves the violation of human rights.

If we extend this definition to environmentally harmful activities such as unsustainable logging, we can readily see, as our case study of Tasmania will illustrate, that some strictly legal forms of logging nevertheless violate norms to which there is significant pressure to conform, particularly from domestic and transnational civil society. The legality of such activities, far from rendering them innocent, can be seen as an indication of state collusion, thus bringing the activities of logging companies within the concept of "state-corporate crime" (Kramer, 1992). In this context, more problematic is the use of "human rights" as the normative element of a definition of "crime." In many instances, unsustainable logging entails catastrophic consequences for human rights, as when lives and livelihoods are swept away by landslides. A concern for human rights, however, does not capture why many Tasmanians (including one of the present authors) feel such outrage at the destruction of the island's forests. That outrage seems, rather, to reflect a sense that the forests have intrinsic value, not reducible to their utility for human beings.

When we say that forests have intrinsic value, we do not mean that such value resides, in some mysterious way, within the ecosystem independently of human perception. Rather, we mean that the perception of human beings of their environment is inherently value-laden. Certain perceptions of the environment constitute, in themselves, reasons to value aspects of that environment and to seek preservation of them. Clearly, not everyone perceives or values the natural environment in the same way. According to Halsey (2004: 839), for example, forest administrators generally perceive a newly felled coupe as a thing of great beauty, since it represents the opportunity for "new" forest structures to emerge (where each stand of trees will be incessantly managed to maintain the same height, age, and density).

The administrator's perception, shaped by a particular economic practice, gives
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salience and value to the land cleared for planting rather than the destruction of old
trees that dismays the environmentalist or tourist.

As Halsey (2004) argues, these differences in the ways in which forests are
perceived (or, as Halsey prefers, discursively constructed) raise important issues
about the ethical foundations of "green" criminology. We plan to discuss those issues
in a future paper. Here it is sufficient to say that while we do not align ourselves
with any particular strand of "green" politics, it is our perception of the intrinsic
value of old-growth forests, as well as concern for the human consequences of their
destruction, that leads us to perceive the destruction of such forests as a harmful
act potentially worthy of criminological investigation. What makes it a crime,
however, is not merely that perception, but that in many instances it is subject to
socially significant processes of censure and sanction. The focus of this article is
on those processes, and particularly the role of civil society, or more specifically,
of national and transnational nongovernmental organizations (NGOs).

Civil Society

Broadly speaking, we can categorize four primary operational roles that civil
society organizations adopt or undertake: norm-setting, transmitting information,
social action, and policing and enforcing norms. We shall focus briefly on policing
and enforcing here, first by providing examples of the type of work civil society or-
ganizations have done to police and enforce norms in relation to illegal logging.

At the most passive end of the spectrum, some organizations merely restate
existing norms, relying on other actors—usually a state—to actually do the enforce-
ment. For example, it is comparatively common for concordats or agreements to
be adopted that outline the commitment of parties to fighting illegal logging, but
fail to impose or outline concrete mechanisms for doing so, and certainly offer no
avenue for enforcement. "Memorandums of agreement" have been adopted recently
between NGOs and national governments in Cameroon (World Resources Institute,
2005; Post, 2005) and in Indonesia.

A more active form of engagement sees civil society taking action within
existing policing and enforcement structures. For example, one of the largest en-
vironmental NGOs in Indonesia, WALHI, has pursued a number of legal actions
to ensure enforcement of environmental norms, and also has successfully pursued
an amendment to the Indonesian Constitution to recognize the right to a healthy
environment as a basic human right.6 This constitutional amendment supplements
national legislation that also claims a healthy environment as a right and authorizes
NGOs as having sufficient standing to bring suit in protection of this right.7

A more proactive approach to policing and enforcement of the timber industry
is exemplified in the work of the Environmental Investigation Agency (EIA). The
EIA describes itself as "committed to investigating and exposing environmental
crimes" (www.eia-international.org) and works almost entirely outside conventional
structures. The EIA has employed hidden cameras and surveillance techniques to
access the information it releases through national or international media channels to pressure political actors to effect change. A “success story” on the organization’s website details the undercover techniques that elicited the evidence for a report identifying key “timber barons” in Indonesia.  

These methods are often very effective. For example, in 2002, the Malaysian Industry Minister stated publicly that the government was “forced to take action” to restrict timber imports by accusations by environmental watchdogs that Malaysia was operating as a laundering center (Agence France Presse, 2003). Such successes have created an increasingly prominent space for academic analysis to explore civil society roles and activities.

Without detracting from the achievements and potential of the non-state sector, we would suggest that the prevailing perception of civil society as a positive transformative force is founded on a set of assumptions that require critical interrogation. For example, the work of EIA, just described, raises some serious questions about the legitimacy and authority of surveillance by unelected and unaccountable private actors. Even a cursory exploration of NGO materials and publicity reveals that most organizations seek to effect change through existing political and legal structures. NGO engagement with governments can produce extremely ambiguous relationships. EIA/Telepak, for example, seems to have benefited to some extent from the conflict between central and local government in Indonesia. According to Brown and Luttrell (2004: 10), they have good relations with the central government’s Ministry of Forests, which finds them a useful source of information about what is going on at the local level.

Tensions between different aspects of the NGOs’ work are most evident when they are contracted by governments and aid donors to act as “Independent Forest Monitors.” A U.K.-based NGO, Global Witness (GW), formerly played this role in Cambodia and Cameroon, being partly funded in both cases by the U.K.’s Department for International Development (DFID). The donor states and institutions clearly hoped to channel the campaigning energies of GW into assisting the regulation of timber companies and into disciplining the state agencies that were supposedly regulating them (Assembe Mvondo, 2004; Brown and Luttrell, 2004). The result in both cases was a very tense relationship between the monitors, the government, and the industry. After a period of “very profound conflict and hostility,” the Cambodian government terminated GW’s contract in 2003, subsequently appointing a private-sector firm, SGS, as an independent monitor (Brown and Luttrell 2004: 8). In Cameroon, GW was replaced by another NGO (REM, Resources Extraction Monitoring) after it decided not to bid for a further contract in view of the revised terms of reference laid down by the government (Global Witness, 2005). A report prepared for DFID (Brown and Luttrell, 2004) discerned a tension between GW’s advocacy and monitoring roles, concluding that the negative tone of GW’s reports did not encourage “progressive” approaches to logging. Whatever the merits of these criticisms, they indicate the likely pressures donors will place on NGOs
undertaking similar work in the future. The report also points out that the leverage GW possessed was largely dependent on conditionalities imposed as part of Structural Adjustment Programs and that such coercive pressures from donors are not favored under current poverty-reduction strategies (Ibid.: 30).

**State Organizational Goals**

Illegal or unsustainable logging can be seen as a form of state-corporate crime to the extent that it arises "from a mutually reinforcing interaction" between state agencies and corporations, each of which is pursuing its organizational goals (Kramer and Michalowski, 2000: 28). As Ascher (1999) shows in a series of case studies of developing countries, the contribution of deforestation to state organizational goals is complex and varied. Policies of reckless deforestation (and other forms of natural resource wastage) serve a variety of state goals, including raising revenue, the distribution of patronage and subsidies in exchange for political support, and financing industrial development. Ascher (Ibid.: 257) identifies three important clusters of political motives in most of his case studies: competition between different state agencies to control natural resources and spending; "the creation of rent-seeking opportunities that permit government officials to gain political support and policy cooperation of key actors outside of government"; and the evasion of accountability through circuitous financial maneuvers beyond the ken of the general population.

We would argue that an analysis of deforestation as an outcome of state crime can be applied to the developing countries studied by Ascher and to advanced democracies. To illustrate this, we now turn to a case study of the Australian state of Tasmania.

**Logging in Tasmania**

For over 30 years, Tasmania has pursued a policy of eradication in respect of its greatest natural resource: the exotic old-growth forests of eucalyptus, myrtle, sassafras, leatherwood, and celery-top pine. The destruction of these unique rainforests through clear-felling and napalm—first removing all saleable timber, and then destroying the remainder to make way for short-rotation tree crops—in the interest of corporate profit has been carried out with the enthusiastic complicity of successive Tasmanian governments, both Labor and Liberal (the current Labor Premier of Tasmania, Paul Lennon, is a member of the industry-funded Forest Protection Society). The billion-dollar forestry industry manages one-third of Tasmania’s landmass, but employs fewer than 8,000 people.

The corporate wealth of logging giant Gunns Ltd. (which controls over 85% of the state’s logging, is the world’s largest hardwood woodchip exporter, and is worth over one billion dollars) has not trickled down into the state’s economy. Tasmania remains the poorest of Australia’s eight states and territories. The rise of Tasmania’s
forestry industry has been called a “dark tale of corporate greed and government connivance” (Flanagan, 2004). Two current directors of Gunns were involved in a 1989 scandal in which another director attempted to bribe a Labor Member of Parliament (MP) to cross the floor to avert a Labor-Green Senate majority. When the Liberals regained power in 1991, they introduced punitive laws that criminalized environmental protests. Extraordinarily, these were later repealed because they were said to infringe on National Competition Policy by unfairly advantaging Tasmania’s forest industries (Pritchett, 2001). Gunns is also the Tasmanian Labor Party’s biggest financial donor.

Over 90% of Tasmanian hardwood timber is turned into woodchips each year—that is, five million tons of Tasmanian native forest—and then sold to paper mills in Japan, South Korea, and China. The Wilderness Society (an important Tasmanian NGO) has estimated that this figure represents over 70% of Australia’s total woodchip exports (Wilderness Society, 2001). Between 1996 and 2000, the forestry industry replaced 62,831 ha of native forest with plantations and farmland (86% on plantations). In the year up to June 2005, Tasmania’s native forest estate was reduced by 8,000 ha (representing a 3.1% loss of native forest area since 1996) (FPB, 2005). This amounts to one of the highest rates of land clearing in the developed world (Milieudefensie et al., 2006: 10).

**Regulation or Regulatory Capture**

The logging industry in Tasmania is almost wholly self-regulated. According to the Forest Practices Authority (formerly Forest Practices Board),

The Tasmanian forest practices system is based on a co-regulatory approach, involving responsible self-management by the industry, with independent monitoring and enforcement by the FPA. Self-management is delivered by Forest Practices Officers (FPOs), who are employed within the industry to plan, supervise, and monitor forest practices (Forest Practices Authority, 2006).

Of 152 FPOs, only two work for the FPA; the other 150 FPOs are employed by either Gunns or Forestry Tasmania—the very industry they are employed to police. As for the “independent” FPA, in 2005 its five-member board included the director of Private Forests Tasmania, the director of Forestry Tasmania, a local mayor (a former forester and investor in the forest industry) whose brother sits on the tribunal hearing complaints about forestry practice and whose son-in-law was a former employee of Gunns.

Anyone wishing to log in Tasmania has to complete a Forest Practices Plan, but under self-regulation an employee of a timber company is able to draw up the plan, certify it, and then be responsible for ensuring that their logging complies with the rules of the Forest Practices Code. Of 149 reports of alleged forest law
breaches in 2004–2005 (an average of less than one notice per FPO per year), there were no prosecutions and only 22 fines (totaling a mere $75,750) (FPB, 2005). Tasmanian forester Bill Manning, testifying before a Senate committee in 2003, described the culture of the industry as one of “bullying, cronism, secrecy and lies” and suggested an industry in “regulatory freefall” (Senate, 2003: 501). Manning was the only FPO, apart from the Chief FPO employed by the FPB between 1990 and 1999. He issued 100 tickets for breaches of the Forest Practices Code; none resulted in prosecution. Forestry Tasmania was exempt from prosecution for the first 10 years of the Forest Practices Act (i.e., until 1995).

I have witnessed the most appalling deterioration in management of Tasmania’s forests, especially state-owned forests. This has been driven by the forest industry’s professional foresters through their total dominance of representation on the Forest Practices Board and the Forest Practices Advisory Council. This domination of the regulatory bodies has led to the Forest Practices Board being simply a rubber stamp to be used by industry and government and for it to be doubly abused as the mouthpiece for defending the most appalling forest practices (Senate, 2003: 501).

Manning faced a campaign of intimidation and harassment by the regulatory authority; in fact, his authority to issue notices was removed immediately following his first notice against Forestry Tasmania.

State Organizational Deviance

In pursuit of its organizational goals of protecting the profit-making and employment capacity of the forestry industry and the financial support that Gunns provides to Tasmania’s Australian Labor Party, the Tasmanian government has not only sanctioned the regulatory capture of the Forest Practices Board/Authority and squandered Tasmania’s greatest natural resource, but is has also fostered a set of explicitly deviant practices that (when labeled by civil society) have resulted in concealment, denial, and redefinitions. Evidence of state organizational deviance includes the following:

- The industry’s aggressive methods of clear-felling and logging of old-growth and rain forests, though consistently supported by Tasmania’s Labor government, is opposed by a majority of the public.11
- Tasmania violates standards accepted by other Australian states. No other state permits industry to rely almost entirely on logging native forest (old growth, re-growth, and rainforest).12
- Tasmania is the only state in Australia that offered its corporatized forestry department—Forestry Tasmania—exemption from a raft of regulations and laws. These include: the Freedom of Information
Act (lifted in 2006), the Threatened Species Act, the Environmental Protection and Biodiversity Conservation Act, and Tasmania’s own Resource Management and Planning System.

- Business confidentiality demands made by Gunns have resulted in the suppression (from 2001) of figures relating to the volume of wood chipped. The last figures published by the Australian Bureau of Statistics in 2000 revealed the highest volume of wood ever chipped in Tasmania (almost 5.5 million tons) (Macken and Chenowith, 2001).

- The Tasmanian government has sanctioned killing of endangered and protected species such as the wombat and ring-tailed possum (Flanagan, 2004).

- A systematic practice within the forest industry is the failure to map forest types that are rare and endangered because it complicates decision-making in the forest practices system. In 2003, this led to the “accidental destruction” of Australia’s largest tree (Wilderness Society, 2003).

- The government and industry ignore scientific advice, e.g., by drastically reducing the streamside reserves recognized by their own forest practice code (Finlayson, 2002).

- Between 1985 and 1995, Forestry Tasmania was able to breach the FPA with impunity in the knowledge that it was exempt from prosecution.

Civil Society Policing the Tasmanian Forest Industry

In this regulatory vacuum, civil society (the Wilderness Society, Greenpeace, etc.) has mounted vigorous campaigns to publicize environmental destruction, to regulate the industry, and to preserve Tasmania’s environmental heritage. The power of NGOs has been particularly visible in Tasmania, where mass campaigns, public protest, rallies, and other actions have transformed an ostensibly local issue into a national and international one. A notable success has been the ability to influence international markets. In June 2005, after a sustained mass e-mailing campaign, Mitsubishi Paper Mills—a huge Japanese corporation—informed Greenpeace of its intention to purchase only woodchips sourced from “second growth forests of environmentally benign and reclaimed wood.” The Nippon Paper Group (2005) soon followed suit, calling for public comment to assist in formulating their philosophy and policy on raw materials procurement.

Gunns Versus Civil Society

In December 2004, Gunns Ltd. sued The Wilderness Society, five of its staff, and 14 other conservation groups and individuals, including two Green MPs. The writ alleged that the defendants had unlawfully conspired to interfere with Gunns’ business and claimed A$6.3 million in damages. These supposedly unlawful ac-
tivities included media statements, the lobbying of shareholders, customers, and governments, and protest actions. After two versions of the statement of claim were struck out, a third version was lodged in August 2005, in which the damages claimed rose to $6.9 million (Ogle, 2005: 7; White, 2005: 6). This, too, has now been struck out (The Age, August 28, 2006). It remains to be seen whether Gunns will make a fourth attempt to sue.

While the chilling effect of this “SLAPP” (Strategic Litigation Against Public Participation) on free speech is worrying, it is something of a backhanded compliment to the NGOs that the amount claimed by Gunns is more than 90 times the annual fines for unlawful forest practices leveled by FPA. In other words, even assuming that Gunns’ claim may be considerably inflated, the informal sanctions imposed by civil society are vastly more significant than any formal sanctions imposed by the state.

Logging in Tasmania thus presents an excellent example of contested definitions of deviance. From the perspective of Gunns, and its allies in Tasmanian civil society, such as the Forest Protection Society and Timber Communities Australia, the deviants are the Wilderness Society and other campaigners, whose activities the Federal Minister of Forestry has labeled “akin to treason” (Clark, 2005). From the perspective of the environmentalists, Gunns and the Tasmanian government are violating widely accepted environmental norms. In situations like this, what counts as “crime” depends upon the standpoint that criminologists choose to adopt (Cain, 1990). We make no apology for adopting an environmentalist standpoint.

Conclusion

Illegal logging presents a range of important, theoretical, epistemological, and methodological questions for criminology, particularly for those interested in state and state-corporate crime. There can be little doubt that NGOs have made significant gains in the “fight against forest crime.” Tasmania clearly challenges Gorm Rye Olsen’s (1995) thesis that “environmental NGOs have outplayed their role as pressure groups in relation to the states of the rich countries.”

Yet successes, particularly in countries such as Indonesia and Malaysia, generally take the form of promoting stricter enforcement of existing rules, or in modest reforms to existing legal structures (e.g., upgrading of big-leafed mahogany and ramin under the Convention on International Trade in Endangered Species of Wild Fauna, and the Flora and Forest Law Enforcement, Governance and Trade proposals). What they have yet to do is to articulate a clear set of alternative norms of sustainability and environmental justice (see Lynch and Stretsky, 2003; White, 2003). Labeling illegal loggers as “criminals” and shaming governments into doing something about it essentially depends on accepting existing definitions, even while recognizing their inadequacy (in terms of wider questions related to sustainability and environmental protection). Some of the most recent NGO literature (Ginting, 2005; Colchester, 2006; Milieudefensie et al., 2006) shows a clear awareness of
the need to move beyond legal definitions. The boundary between deviant and legitimate forest practices remains ill defined and contested, but that only adds to its criminological interest.

NOTES

1. We would like thank Arturo Laurent for his excellent research assistance, and the Royal Institute of International Affairs for their invaluable website (www.illegal-logging.info) through which many of the documents cited here can be obtained.

2. This is “an upper-bound estimate,” arrived at by using trade values for products that are mostly consumed in their countries of origin where prices are lower (Seneca Creek Associates and Wood Resources International, 2004: 21).

3. Subsequently, however, ITTO (2005: vii) reported rising prices for Asian timber due to a “crackdown” on illegal logging.


5. This interdependence of perception and value is a key theme in the philosophy of John McDowell (1998). We are indebted to Kathleen Lennon for her exegesis of McDowell’s work (Lennon, 2007).

6. See www.eng.walhi.or.id/ttgkami/prof_walhi_eng/#Achievements (accessed July 8, 2006); Indonesian Constitution Article 28(H): “Every person shall have the right...to enjoy a good and healthy environment”: unofficial translation at www.us-asean.org/Indonesia/constitution.htm (accessed July 8, 2006).

7. Environmental Management Act Article 5(1): “every person has the same right to an environment which is good and healthy.”


9. Forestry Tasmania is a “Government Business Enterprise” that manages Tasmania’s one million hectares of state forest and produces about three million tons of timber a year (www.forestrytas.com.au).


11. Over 65% of the Australian population (and 69% of Tasmanians) want an end to the clear-felling of old-growth forests (Wilderness Society, 2001).

12. Rather than encouraging diversification in forest products, Tasmania is almost entirely dependent on woodchip exports.

13. One effective protest saw four environmentalists abseiling from the lower deck of the The Spirit of Tasmania III on its maiden voyage out of Sydney Harbor. They carried a banner, “Woodchipping the Spirit of Tasmania,” which neatly, and with identical lettering, covered the ship’s name (Bonyhady, 2004).

14. SLAPP is a term used by White (2005) and was originally coined by two U.S. authors, George Pring and Penelope Canan (cited by Ogle, 2005: 10, who notes that one Australian NGO was sued for applying the term to litigation against it).
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