ENvironmental crime and justice

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WHILST it is relatively easy to keep out ordinary, predatory criminals from farms and rural locations and thus control crime it is less easy to prevent insider type environmental crimes. The idea of the farmer as an environmental criminal is a relatively recent concept and a new addition in the typology of rural criminals: it remains a hidden category of rural criminality. Work in an Australian and U.S. context (see Barclay et al., 2007) documents and describes farm and farmer based environmental crimes, many of which are location specific and have cultural elements in their commission. Until recently, environmental crime was an overlooked and under researched category of criminological theory and research. Farmers as a group were treated with an elevated level of societal respect in line with the ‘rural idyll’ because of their position in the community (Somerville, Smith, and McElwee, 2015). The farmer simply did not fit the accepted social construct (nor the stereotype) of the urban based marauding criminal fraternity. Consequentially, awareness of the stereotype of the ‘bad’ farmer is not widespread. Environmental crime, particularly small scale instances of it were not always reported in the press, or other media, because it was not considered newsworthy.

However, in recent years there has been a rise in public interest and concern relating to ethical aspects of farming and rural life such as for example the ban on hunts and concerns over badger culls. Books such as Farmageddon (Lymbery, 2014) have raised public awareness of the potential cruelty of factory farming, and there is increased scrutiny from political and environmental activists through websites such as Vermin Patrol that name and shame individuals (including farmers) found guilty of animal cruelty and/or environmental crimes. Moreover, the work conducted by bodies such as SEPA and the Food Standards Agency has led to an increase in environmental surveillance. As a result, farmers are no longer immune from criticism, nor from prosecution and are part of an emerging typology of environmental criminals.

Towards a working typology of rural environmental criminals

This article reports on preliminary findings of an ongoing study, which, using documentary sources, aims to compile a data base of crimes, crime and criminal types and build a working typology of environmental criminals. It develops my previous research into rogue and criminal farmers in the UK (Smith and McElwee, 2013). As a result of initial readings it is possible to identify a number of obvious crimes, crime types and criminal types which fall into the environmental crime category including the disposal of waste, pollution and pest control methods.

Robert Smith gives a Scottish perspective
The commission of environmental crimes may be entered into deliberately, or wilfully, by farmers for example, by releasing slurry, waste, or effluent into a waterway or recklessly spreading it on already saturated land. There may be pressure upon them to do this when a slurry tank is full and there is no other immediate solution. It may result from what insurance companies often refer to as an ‘act of God’ such as flash flooding, or even by mere accident. Irrespective of motive, or intention, the consequences can be disastrous for wildlife, and fauna. These different motivations and modus operandi are reflected in a working typology which would be helpful to the authorities in the investigation of such crime. To date, there are four obvious types that emerge from the literature:

- **The corporate offender**: This category pertains to farmers and owners of farm businesses or agricultural companies who manage their farms’ pollution and environmental portfolios. Creating a corporate umbrella shields the farmer from personal liability as convictions accrue against the corporate body. There is no evidence from the initial reading that this category of offender is any more prolific, or careless, in relation to environmental crimes than private offenders. Lymbery (2014) reports on the existence of corporations in the developing world that deliberately flout environmental laws and routinely commit serious environmental crimes. These corporations hire security staff to keep the public and journalists at bay. Again we see cultural norms in play.

- **The private offender**: This category pertains to farmers who own, or rent their farms and operate as private individuals. They may be personally liable for any acts of deliberate, or reckless, acts in relation to environmental crime.

- **The trusted employee**: This category relates to managers, factors, farm labourers, ghillies, game-keepers, contractors, or wardens accused of committing environmental crime. Importantly, they act on behalf of the farmer or land owner during the course of their employment, and not of their own volition. There is often a vicarious responsibility on the part of the land-owner. Employees may act out of ignorance of the law, or on the basis of custom and repute. In some instances, they may not be aware of potential violations.

- **The urban marauder**: This category consists of an outsider type person—usually an organised criminal or business owner who targets rural areas and farm land for the purposes of dumping industrial and household waste (known as fly-tipping) because it is easier and cheaper to dispose of it illegally than pay land-fill charges. In extreme cases this may also be toxic or chemical waste. The category also includes amateur and commercial egg collectors.

This diversity of crime type and modus operandi makes it difficult to accommodate environmental crimes under one rubric. Only those in category four are stereotypical criminals and it is often difficult for investigators to ‘get their heads around’ treating the other categories as criminal. Men in Suits and/or Wellington Boots simply do not conform to our socially constructed expectations of criminality.

Having considered the main types of person who commit environmental crimes it is necessary to consider types of crime encountered in a Scottish and UK context. The categories may sometimes be inter-related.

- **Fly tipping**: Is usually committed by the householder, or a third-party contracted to remove the waste material / items. In the latter case, the third-party offender will have been paid a low price (usually cash in hand) to dispose of the refuse which may or may not be party to the payment of a land fill tax. A high profile case in July 2014 reported by SEPA related to a large quantity of illegal building waste being dumped at a disused farm near Edinburgh Airport disguised as silage bales. It saved the criminals £60,000 in landfill charges.

- **Illegal dumping of toxic waste**: The disposal of such waste is heavily regulated and to reduce costs organized criminals, or unscrupulous businessmen, may contract to dispose of the waste in quarries or illegal landfill sites. Every 90 minutes of the working day in Scotland an illegal dumping is detected.

- **Poisoning wildlife / setting illegal traps**: This is normally committed by a farmer or employee to control / trap wildlife and in particular birds of prey (see Ian Thomson’s article in this SJM). Again it can result from carelessness.

- **Destruction of nesting sites and hedgerows**: Involving birds, bats and other wildlife. Illegal hunting parties as a commercial activity are also prevalent. A high profile case in June, 2013 related to the destruction of White Tailed Eagle nest near Montrose.

One of the major issues to emerge from the research is that from an investigative perspective environmental crime in the UK or Scotland does not have a high profile, nor is it a high priority. There has been an erosion of rural policing skills and rural and environmental crimes are no longer routinely taught to an increasingly urbanised police service. This attitude needs to change. Nevertheless, despite the creeping withdrawal of policing services from the countryside (see Smith and Somerville, 2013) due to cost cutting exercises, the UK is still well served by Police Wildlife Liaison Officers in most areas. There is a pressing need to retain (and retrain for) endangered rural policing skills. A special illegal waste task force has also been set up (see article by Gayle Howard in this issue). Whilst this research is ongoing, when completed it will be of help to the authorities, the police and to other bodies tasked with enforcing rural and environmental crime.

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