

Environmental Criminology and Sydney Water

In recent years there has been a growing recognition within criminological circles that there are pressing issues surrounding the environment, warranting much greater attention than has hitherto been the case (See for example, South 1998; Halsey & White 1998; Williams 1996). It has also been acknowledged that investigation of environmental harm requires analysis which is wide-ranging and multi-disciplinary, and which is sensitive to the inter-connectedness of social and ecological phenomena. In the light of renewed interest in this area, it is not surprising that what is happening in the lives of city dwellers, and the environmental conditions of their life, has begun to feature more prominently in recent work.

It is possible, however, to discern a number of different approaches and perspectives associated with the study of environmental harm. These vary greatly in focus, philosophical orientation and strategic implications. They range from analyses which primarily focus on the law, as either a means of regulation or facilitation of environmental harm, through to those which challenge prevailing conceptions and definitions of 'harm', often through reference to some notion of human or ecological rights (for example, Halsey 1997; del Frate & Norberry 1993; Nickel & Viola 1994). There are also different emphases placed upon investigation of specific incidents or events, and attempts to theorise the broader patterns of global environmental use and destruction.

The aim of this paper is not, however, to explicate the variations in conceptual and empirical work being undertaken in the study of environmental harm. Rather, my intention is to indicate an important line of inquiry within the broad field, and to demonstrate its applicability through reference to the situation facing Sydney water users. In particular, the discussions to follow are based upon a political economy of environmental harm – that is, an appreciation of the economic and political relationships which shape the way in which human beings interrelate with the natural world, including water.

The paper is premised on the idea that adequate study of environmental harm must proceed from sustained analysis of the basic institutions and structures of late capitalism. The central question at the core of environmental issues, therefore, is the organisation of human subsistence and the relationship of this to nature. Accordingly, it is the dynamics of production and consumption relations as these are presently structured in and through the dominant mode of production (i.e., capitalism as generalised commodity production), and the role of the nation-state in relation to the global political economy, which should inform analysis of specific instances of harm. In this regard, the present comment is part of a much larger project which is attempting to conceptualise the nature of society and environment through critical analysis of the relations of production (e.g., exploitation, alienation, capital accumulation) and relations of consumption (e.g., consumerism, commodification, privatisation) in late capitalist society.

The relevance of this kind of approach and perspective can be illustrated by briefly reviewing recent events surrounding Sydney water. The discussions below are exploratory in nature. They are intended to raise questions and to highlight issues, rather than to provide a definitive analysis of the water crisis. My intention therefore is twofold: first, to demonstrate the importance of political economy in the study of environmental harm; and secondly, to indicate areas for further analysis and evaluation in the specific case of Sydney

water. The discussions are organised around three broad thematic areas: ownership and control; consumption and maintenance issues; and the regulatory environment.

Ownership and Control

Water is a basic essential of life. What happens to water then is of fundamental importance to the well-being of human beings. Yet more than 3 million Sydney residents have been forced to boil their water before drinking it on three separate occasions this year. This was because the parasitic protozoa, cryptosporidium and giardia, had been detected in the water on these occasions, to levels which constituted a health hazard to whomever drank it. This is clearly a matter of some public concern. It should also be of considerable interest to criminologists concerned with the study of environmental harm.

The Sydney Water Board was corporatised by the New South Wales government in 1995. As a profit-oriented company, the Water Board has provided large dividends to the government since that time, including \$250 million in 1997. The goals and priorities of the newly corporatised Water Board are indicated in the following passage, taken from Sydney Water's web site:

The Corporate Direction is our key to business success...it opens the door to a productive future for Sydney Water and its customers. Our action will be working to meet our key targets...To provide a commercial rate of return that meets our shareholders' expectations. To add value to the business. To lead in a competitive market. Commercial rate of return achieved on all new investments. Diversification of revenue stream by 5% of total income by the year 2001. Economic value added to the business trend to improve by 10% by the year 2002. Underlying operating costs per property reduced by 45% from 1992-1993 to 2000-2001 (Quoted in Francis & Hicks 1998:14).

The corporatisation of Sydney water has also included the 'out-sourcing' of four water treatment plants. The first case of contamination was associated with the Prospect water treatment plant. This is the largest drinking water production plant in the world, supplying nearly 85 per cent of the inhabitants of Sydney and its region. It is operated under contract by Australian Water Services (AWS) which involves Lend Lease and the French-owned Lyonnaise des Eaux. The latter is the largest water transnational in the world. It is joined in the Australian context by Generale des Eaux which runs the water treatment plants at Illawara and Woronora, and United Water, a joint subsidiary of Generale and the UK company Thames Water, which provides water for Adelaide. The French, and to a lesser extent, the British, water companies are found in all continents where privatisation of water or public services is happening, and while there are nine internationally active water companies in the world market, effectively only four or five control the bulk of the water contracts (Public Services Privatisation Research Unit 1996)

According to recent reports, the track record of these transnational water companies is less than impressive (Public Services Privatisation Research Unit 1996; Vassilopoulos 1998:13).

For example, Lyonnaise des Eaux has been directly implicated in corruption convictions over a water contract with the city of Grenoble in France. In addition to bribes as a means to gain water contracts, it is notable that in this city there had been a three-fold increase in water prices in the six year period after privatisation. Meanwhile, Generale was successfully prosecuted in July 1994 for supplying poor quality water to the inhabitants of Tregoux, France.

The primary concern of the water transnationals is not with use-values [usefulness of water], but with exchange-values [its sale as a commodity]. That is, the rationale for their involvement is private profit, not the meeting of immediate human needs. Water is a basic requirement of human life. As such, there will always be a need, and hence, a market, for it.

The selling of water as a commodity means that it is first and foremost treated as a source of profit. Surplus value is created through the exploitation of workers who 'produce' the commodity. The rate of profit is contingent upon the producing company minimising expenses associated with fixed capital (e.g., equipment, plant infrastructure, technology) and variable capital (e.g., human labour) in commodity production, and maximising the realisation of surplus value through exchange of the commodity on the marketplace (e.g., consumer demand, presence or absence of competitors).

In real terms this has meant loss of jobs and increases in prices. This is precisely what has happened in the case of the corporatisation of Sydney Water.

When the Sydney Water Board was corporatised, thousands of jobs were lost. Household water prices went up from 65 cents a kilolitre in 1994 to 85 cents in 1998. It will reach almost \$1 a kilolitre in 2000. Water bills for big business have dropped by an average of 45% in real terms since 1993. Operating costs have been cut by 25% in real terms since 1993 (Vassilopoulos 1998).

Thus, the shift in service orientation of the major provider of water (toward commercial interests) coupled with the privatisation of specific functions (again, involving commercial consideration) has immediate ramifications on the nature of the service or good being produced.

Consumption and Maintenance Issues

Where there is a private monopoly situation, in which the producer has exclusive rights to produce the commodity (as in the case of long-term contracts of supply), there is less pressure on companies to provide a product that exceeds bare minimum quality and safety requirements. Simultaneously, efforts will be made to reduce costs associated with production. This can be achieved by such measures as not investing in new equipment or plant technology (e.g., replacing water mains), and/or by reducing the overall labour force while continuing to supply the same quantity of product (e.g., through employment of fewer maintenance workers).

Another dimension to issues surrounding water supply is that of the relationship of alternative markets to the main water market. For instance, a water crisis may engender the shift among a proportion of the captive market to pursue alternative sources of clean water. For those who have the capacity to pay, it is possible to buy bottled water, another form of water commodity which is itself a source of profit for the companies involved. Even in relatively advantaged market circumstances, therefore, it is possible that a segment of the buying population will turn away from the main provider. The demand in this case is fostered by the lack of apparent quality of the mass-provided commodity. It also hinges upon the ability, and perceived necessity, of a substantial number of people to purchase their commodity (which they buy for its use-value) via other means. It would be interesting in regard to this to examine closely the relationship of water transnationals to the bottled water producers.

In the end, the 'consumer' loses out on at least two fronts. First, given the profit motive behind water supply and treatment, there is every likelihood that cost-cutting pressures at the point of production will lead to poorer quality in the commodity made available. The point of commodity production is not to produce a good, useful or quality product; it is to

sell the commodity at a profit. Competition is not the issue (especially given the actual, rather than presumed, relationship between transnational 'competitors'). The key issue is whether water is effectively in the hands of private interests, rather than under public, democratic control. Wherever there exists a 'captive market' for the commodity within a profit-making framework, there will be little or no impetus to improve the quality of the product.

Secondly, there may be an increase in prices for the supplied commodity (perhaps justified in terms of the necessity to put more money into new technology, etc.), but pricing controls are driven by the profit considerations of the company, rather than actual costs of production per se. Notions of 'best practice' and more 'efficient' production methods are in essence a cover for the underlying rationale – which is to make money for the private provider (and its shareholders). Another dimension to questions of price, is that concerns about the quality of the main product also opens the way for increased sale of alternative sources of water, a process which further penalises consumers generally on the basis of capacity to pay.

Regulatory Framework

The political economy of water basically revolves around questions of ownership and control. Key issues here include accountability, and the regulatory environment within which water supply and treatment is undertaken. It has been suggested that the 'water crisis' in Sydney is partly explainable in terms of the deployment of new testing methods which simply highlight what has already been present prior to the advance in technology and techniques. Be this as it may, questions still need to be asked as to how the monitoring of water quality is organised and carried out, and how the results of any testing are dealt with by both private corporate provider and government departments (e.g., time of determination of problem in relation to notice to the consuming public).

Industry regulation is generally a matter of some concern. It involves issues relating to the 'watchdog' role of government in production processes, and the resources provided for enforcing baseline standards and quality control. It relates to how companies monitor their activities through use of in-house experts, and the professional autonomy of such experts in the context of corporate imperatives. Questions of available expertise are also relevant to consider, in so far as water treatment specialists are required in order to carry out independent testing. Yet the source of such expertise may be threatened by the downsizing of regulatory agencies within government, the concern to cut costs and soften self-regulation criteria within companies, and the funding crisis affecting the direction and political sensitivities of research undertaken within academic institutions.

Once a problem has been identified, as in the case of the Sydney water crisis, then the conditions of privatisation themselves may serve to deflect action away from dealing adequately with the sources of the problem. This may occur in the first instance through appeals to 'commercial confidentiality' as a means to evade close public scrutiny of operational practices and financial arrangements. How do we ensure independent monitoring when such clauses appear to preclude outside intervention and ongoing evaluation? Further to this, the specific contract conditions may open the door to protracted litigation over who is responsible for which facet of the production process, and who is responsible for the overall maintenance and improvement in water quality (versus those who simply operate the installations). The notion of 'privileged information' can hide a multitude of sins, as well as distorting the fundamental moral issues pertaining to responsibility.

The contractual nature of the relationship between government and private provider thus lends itself to all sorts of legalism. For instance, legal argument about contracts and damages can be protracted, as each side argues over who is responsible for what, and what the terms of the contract actually mean for government or private service provider. The lines of responsibility and accountability can thus be confused and complicated, with the court being the arbiter. If governments press too hard they may be threatened with counter-suits by companies concerned about their 'commercial reputation' and perceived (narrow) obligations as dictated by specified contract performance indicators.

The construction of social and environmental problems as legal issues means that the determination of cases rests upon a combination of political and jurisprudential considerations. Politically, governments which are materially and ideologically supportive of corporatisation and privatisation will tend to not want to undermine such processes by appearing to intervene too heavily in private corporate affairs. Neo-liberalism is precisely oriented toward less, rather than more, government regulation of corporate activity. This is accelerated under conditions of economic globalisation in that governments are trying to attract and be on good terms with international capital generally, ostensibly as a means to boost local investment and commodity production.

From the point of view of the legal system, the main crux of capitalist law is that of defence of private property. Where capital (with its enormous resources, including expert legal counsel) is forced into the courtroom, this is strategically where it is most advantaged by the system of law generally, due to the costs associated with litigation and prosecution, and the complexity of legal matters. It is where capital is most at home: 'Structurally and procedurally, capitalist criminality is pursued in relation to a system of rules that operates on their behalf, serves their interests, and grants them an advantaged position – all of which facilitate their successful pursuit of criminal activity' (White & van der Velden 1995).

The prosecution of selected individuals and corporations on specific offences tends to be the exception that makes the rule. Specific instances of environmental harm, as with water quality issues, are subject to a myriad of legal considerations relating to commercial contracts through to criminal responsibility. Under such circumstances, one cannot rely on the court outcomes to address adequately the structural underpinnings of the originating problem.

Concluding Remarks

There are numerous questions associated with the Sydney water fiasco. From the point of view of environmental criminology, a number of tasks suggest themselves. One is to explicate the way in which the phenomenon is being defined as an environmental and criminological issue, and how 'harm' is being construed in philosophical and legal terms. Another is to explore the limitations of existing regulatory machinery, which encompasses corporate, administrative and environmental legal dimensions, among others. We may wish also to delve further into issues pertaining to investigation and punishment in the context of a complex, transnational corporate environment (e.g., evidence of cartels and collusion, prosecution strategies) (Public Services Privatisation Research Unit 1996).

In the end, discussion of the Sydney water incident highlights the need for concerted action and analysis on issues such as ownership and control, public accountability, standards of performance and competence of management, financial arrangements and agency capture, risk assessment and responsibility, and the contradiction between profit-making and

the meeting of social needs. The privatisation of utilities (e.g., water, gas, power), public services (e.g., health care, prisons) and support services (e.g., cleaning, finance, security) has and will continue to profoundly affect general quality of life, democratic participation and living environments. A political economy of social and environmental issues is essential in better understanding - and acting upon - precisely these concerns.

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