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# Green victimology and Restorative Justice as an emancipatory framework

Victimología verde y justicia restaurativa como marco  
emancipador

Robert Peacock

Full Professor: Department of Criminology  
University of the Free State  
Republic of South Africa

## Abstract

This paper brings the discussion on the need for an understanding of the environment not only in material terms, but within an eco-philosophical, restorative and critical Indigenous framework to re-centre an Indigenous ontology, epistemology and axiology abundant in its cultural, and relational values to ultimately enhance environmental protection and justice beyond the orthodoxy of western criminal law architecture or the hegemony of western concepts of development and science.

## Key words

Green victimology, restorative justice, emancipation, decolonial perspectives

## Resumen

Este artículo plantea la necesidad de comprender el medio ambiente no solo en términos materiales, sino también dentro de un marco indígena ecofilosófico, restaurador y crítico, con el fin de recentrar una ontología, epistemología y axiología indígenas ricas en valores culturales y relacionales, para mejorar, en última instancia, la protección y la justicia medioambientales más allá de la ortodoxia de la arquitectura del derecho penal occidental o la hegemonía de los conceptos occidentales de desarrollo y ciencia.

## Palabras clave

Victimología verde, justicia restaurativa, emancipación, perspectivas decoloniales



## 1. Introduction<sup>1</sup>

The emerging field of Green Victimology is considered a useful lens to understand the complexities of victimisation resulting from environmental harm particularly in the context of colonisation, western development paradigms and epistemic privilege, as well as enduring scientific colonialism. This discipline area expands traditional victimology by recognizing that victims of environmental crimes are not limited to human beings but also include non-human entities, such as animals, plants, and ecosystems (Goyes, & South, 2019). This broader perspective challenges the anthropocentric focus of mainstream victimology, which has largely overlooked the environmental dimensions of victimisation albeit essential in addressing the multifaceted and intersectional nature of environmental victimisation and access to justice. This shift is particularly relevant on the colonial-postcolonial continuum where Indigenous populations have historically faced both social and environmental injustices due to colonial exploitation or the ‘resource curse’, and the imposition of western development ideologies that prioritize economic growth over ecological sustainability. Karl Marx (1867) observed in his critique of the political economy how the emergence of capitalist production in Europe is deeply tied to colonialism and the extraction and exploitation of resources and labour from Africa, Asia, and the Americas (Morrison, 2005). In similar vein, Blaustein, Pino, Fitz-Gibbon, and White (2018) are of the opinion that numerous development policies and practices are entrenched in a colonial mindset, wherein ‘non-Europeans’ or Indigenous communities, along with colonial subjects, were perceived as being ensnared in ‘primitive’ traditions and regarded merely as obstacles to ‘progress’. This moral devaluation of colonial subjects has been fuelled by the exploitation of natural resources and labour that ultimately amplified inequalities between the colonial masters and settler countries as well as within the colonies themselves and established long-lasting relations on the colonial postcolonial continuum of economic dependency, reinforcing the ‘underdeveloped’ label (Peacock, 2023).

The following discussion will show the need for an understanding of the environment not only in material terms, but within an eco-philosophical, restorative and critical Indigenous framework to re-centre an Indigenous ontology, epistemology and axiology abundant in its cultural, and relational values to ultimately enhance environmental protection and justice beyond the

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1 Véase una versión preliminar de este texto en Varona, G. (Ed.). (2025). *Criminología verde: alternativas a la impunidad y al punitivismo ante los daños bio-socio-ecológicos/Green criminology: alternatives to impunity and punitivism facing bio-socio-ecological harms*. Dykinson.



orthodoxy of western criminal law architecture or the hegemony of western concepts of development and science.

## 2. From the margins to the centre

The Colombian-American anthropologist Arturo Escobar's critique of capitalism, as expressed in his 1995 work *Encountering Development: The Making and Unmaking of the Third World*, highlights the inherent contradictions within the capitalist system, particularly, its detrimental effects on environmental and social conditions. His argument is rooted in political ecology and postcolonial critique, emphasising how capitalism both depends on and simultaneously undermines the very foundations that sustain it. Escobar (1995) encapsulates this fundamental critique of capitalist systems and its inherent contradictions as:

...it has become clear not only that capitalism impairs or destroys the social and environmental conditions on which it relies (including nature and labor) but also that capitalist restructuring increasingly takes place at the expense of those conditions (p. 200).

Escobar's statement underscores a fundamental paradox of the destructive forces of capitalism. Capitalism requires stable environmental and social conditions for its survival but systematically erodes them through relentless expansion and exploitation. Rather than fostering environmental sustainability, the capitalist modes of production prioritize short-term profit and economic growth, frequently leading to ecological degradation and the marginalization of vulnerable communities. This aligns with broader critiques from pioneering scholars such as Karl Polanyi (1944) who argued that the commodification of the environment and exploitation of labour lead to social disintegration, and David Harvey (2004), who described how neoliberal capitalism reshapes geography through accumulation by dispossession.

Capitalist restructuring is not just a response to economic crises but serves as an active strategy to extract more value from dwindling natural resources and exploit marginalized populations. Further examples include structural adjustment programs imposed by international financial institutions, which have led to deforestation, land grabs, and the displacement of Indigenous communities, particularly in the Global South (Harvey, 2004; Moore, 2015).

Mitigating the detrimental impacts of capitalism, a system that inherently undermines its own foundational conditions in the pursuit of profit, necessitates a departure from the conventional predatory economic growth models. Instead, it requires the adoption of alternative frameworks that prioritize ecological sustainability and social equity. Delinking from the dominant



capitalist paradigm would entail adopting approaches such as degrowth, repositioning Indigenous knowledge systems at the core of social, economic and environmental justice and the fostering of localized economies as viable and sustainable alternatives to the dominant capitalist paradigm. Delinking should not necessarily refer to total disengagement from the global economy but rather to serve as a balancing act of economic independence and strategic autonomy within the realities of an interconnected world through selective engagement and the protection of the natural environment as a key sector.

In capitalist postcolonial contexts, the need for delinking extends also to ‘Crime Science’ which has historically functioned as a strategic tool used by imperial powers and colonial administrators to define, control, and regulate “the Other” from the perspective of the colonial masters. Crime science functioned as a nodal point in the construction of colonial authority, legitimizing surveillance, control, and punitive measures against colonised populations (Aliverti, Carvalho, Sozzo, and Chamberlen, 2021). By framing Indigenous communities and societies as ‘criminogenic’ or inherently ‘deviant’, colonial regimes justified resource exploitation, social regulation, and legal subjugation. This linkage underscores how capitalist expansion was reinforced through the imported western criminal justice system that pathologized resistance, structured racial hierarchies, and sustained imperial domination.

The foregoing shows the importance of recognizing the hegemonic interconnectedness of law and criminal justice with the historical, geopolitical, cultural, and economic dimensions of society and to transcend narrow and restricted constitutional and legal frameworks when engaging with societal and environmental injustices. Within this context it is imperative to acknowledge that prisons, as total institutions, were introduced alongside colonial policing in the global South, to play a crucial role in colonial governance by subjugating and regulating the behavior of colonised populations while simultaneously exploiting their labour and land. These institutions remain integral to the ongoing construction of capitalist domination and a culture of control inherent in colonial modernity. This aligns with Reiman’s (2004) assertion that ‘The rich get richer and the poor get prison.’

Similar to colonial-era laws and regulations in Southern Africa, which were deliberately crafted to criminalise poaching – despite hunting and fishing being long-standing subsistence practices for Indigenous communities – while allowing colonial settlers to continue hunting (Dore, Hübschle & Batley, 2022), contemporary Critical Criminologists (Roth & Kauzlarich, 2014) demonstrated how political elites continue to uphold their privilege, status and interests by not only by defining crimes but also shaping criminal justice responses to it. The Apartheid regime in South Africa serves as a good example. At the core



of the massive violations of human rights lied the need for cheap and a readily supply of labour to ensure the continued exploitation of the country's great mineral wealth by the white elite (Peacock, 2011).

The contested nature of environmental law on the colonial-postcolonial continuum is profoundly influenced by Indigenous cultural practices and the legal frameworks that govern them. Indigenous rights, particularly in relation to environmental governance, are often marginalized within contemporary legal systems. Although the Inter-American Court of Human Rights, the African Court of Human Rights and the Colombian Constitutional Court have gradually recognised the scope of the collective rights of Indigenous peoples to self-determination and to land and natural resources, Izquierdo and Viaene (2018) are of the opinion that despite this important progress, the hegemony of human rights remains since it has not yet dealt with the divisive challenges many Indigenous peoples are confronted with in their experiences of the world as non-dual, interrelated and interdependent with no separation between the material, the cultural and the spiritual. Not only are human beings considered sacred but also hills, caves, water, houses, plants and animals have agency (Peacock, 2023).

The intersection of colonial legacies and modern environmental law creates thus a complex landscape where Indigenous peoples strive for recognition of self-determination, identity and justice. In Australia, for instance, the legal recognition of indigenous water rights remains fraught with challenges. Jackson and Palmer (2015) highlight that the formal legal status of environmental water often equates it to consumptive rights, a perspective that Indigenous communities contest as they seek equitable treatment in a system characterized by intense competition for water resources. This demonstrates the broader trend where Indigenous claims to environmental resources are often sidelined by prevailing legal frameworks that prioritize state interests over Indigenous rights (Goyes & South, 2019). This struggle for water justice is emblematic of the larger contest for recognition of Indigenous governance structures and cultural protocols, which are essential for the effective management of natural resources (Jackson, & Barber. 2013). The situation is similarly complex in Indonesia, where the *ulayat* rights of Indigenous peoples are inadequately addressed in the legal system. The transition to regional autonomy has not necessarily translated into improved environmental governance for Indigenous communities; instead, it has often resulted in a transfer of environmental liabilities from central to local governments without adequate support for Indigenous rights. Kindly remove italics to read as: (Halkis & Amri, 2019).

This foregoing highlights a critical gap in the legal recognition of Indigenous environmental practices, which are often dismissed in favor of state-led



development initiatives that disregard traditional ecological knowledge (Datta & Marion, 2021). Globally, the emergence of Indigenous movements has begun to reshape the discourse around environmental governance. Indigenous groups are increasingly asserting their rights within the context of global environmentalism, challenging historical patterns of exclusion from conservation efforts. This shift is significant, as it disrupts the said traditional narratives that have often portrayed Indigenous peoples as obstacles to development rather than as vital stewards of the environment. The recognition of Indigenous knowledge and practices is crucial for achieving sustainable environmental outcomes, as evidenced by the growing body of literature advocating for the integration of Indigenous (and gender) perspectives into environmental policy (Goyes & South, 2019; McGregor, 2004; Milne *et al.* 2023).

However, the legal frameworks that govern environmental protection often fail to adequately incorporate Indigenous rights. For example, the principles of Free, Prior, and Informed Consent (FPIC) are frequently inadequately implemented, leading to continued exploitation of Indigenous lands and resources (Rahail *et al.*, 2018). The failure to uphold these principles not only undermines Indigenous sovereignty and agency but also perpetuates environmental injustices that disproportionately affect marginalised communities (McGregor, 2004; Whyte, 2017).

In addition to the afore-mentioned omissions, the failures of the metaphysical notion of retribution and the theological concepts of expiation and atonement inherent to the archaic and anathematic western institution of control and punishment remains widespread today – both in the global North and South – despite advances made in our scientific understanding of conflict and problematic situations (Fattah, 2020; 2025). Not surprising, the pilot study of Dore, Hübschle and Batley (2022) demonstrated likewise, the failures of traditional criminal justice responses to address effectively the tide against wildlife trafficking in South Africa, despite morphing into a quasi-military undertaking reminiscent of the law-and-order ideology of the Apartheid regime, constitutional barriers notwithstanding. Contestations of the imported western prescripts of ‘illegality’, regulatory loopholes, state-corporate crime and the negation of cultural practices under the fortress conservation paradigm that grants exclusionary access rights to powerful actors such as tourists whereas the original inhabitants of the area are labeled as intruders, are amongst the variety of factors contributing to the unabated nature of wildlife hunting, trade and trafficking as a low risk and high reward undertaking. Moving beyond metaphysics, solid empirical research has shaken the intuitive faith in the deterrent effect of punishment, whether in transgressions against the environment, violence, or other types of conflict (Fattah, 2020).



A critical restorative justice framework would be instrumental in re-centring Indigenous peoples' worldviews, experiences, needs, and cultural contexts as primary, rather than privileging Eurocentric understandings and responses to Indigenous victimisation and environmental harm. Such a framework needs to account for local realities and the uniqueness of specific contexts while still engaging with global perspectives in a postcolonial, globalised world marked by transnational injustices. By anchoring itself in a dynamic Indigenous centre, it can foster the accumulation of traditional knowledge practices within a culturally rooted framework.

The relational values of restorative justice encourage a shift away from individualism and the commodification of environmental resources – including the super exploitation of labour – toward recognising global interdependence and valuing communities and their cultural heritage. However, it is essential not to conflate Indigenous justice with restorative justice, as Indigenous communities are highly diverse, comprising over 476 million people across 90 countries, each maintaining distinct knowledge systems, cultural beliefs, values, and socio-political, legal, and economic structures (Cunneen, 2018; Peacock, 2023). Failing to acknowledge this diversity, variability and differentiation, risks framing restorative justice as another wave of colonisation, reinforcing the dominance of an imported Eurocentric justice system rather than affirming and recognising custom-based alternatives. Without due regard to these complexities, restorative justice initiatives may inadvertently simply function as a mechanism of social control rather than a means of advancing genuine environmental and social justice.

The pioneering project of Dore, Hübschle and Batley (2022) towards environmental restorative justice adopted a conceptual framework to make the criminal justice system more effective and responsive, together with the formation of institutional alliances, the development of strong localised practice and creating mechanisms for collaboration that drive transformation of the system as a whole (see also Hübschle, Dore & Davies-Mostert, 2022). Although laudable to address harm reduction or the misconception that environmental harm (and wildlife crime offences, specifically) are victimless, Fattah (2006) warns of net-widening of social control when restorative principles are introduced to reform the criminal justice system as a measure to correct its deficits or as a remedy to its failings but with the contradictory punitive philosophy intact that underscores, permeates and defeats every attempt at criminal justice reform. It is also widely accepted today that increasing the power of the criminal justice system can be counter-productive when it comes to addressing the underlying structural causes of crime, inequality and victimisation. There is also a risk that any proactive policing strategy may be used to disproportionately target marginalised communities. See for instance the research of Chris



Cunneen (2007) and Harry Blagg (2008) on aboriginal victimisation in Australia or discriminatory police practices in the U.S. (Siegler & Admussen, 2021).

Louk Hulsman's (1986) health warning on the crucial need to transcend comparative and at times absorbing criminal justice conceptualisations in relation to victimisation and access to justice is equally relevant here, if not, to risk being caught up in a network of supporting oppositions of the criminal justice model rather than to truly challenge the ideologies of social defense, thereby resulting in more pain and more problematic situations.

### 3. Green victimology as an emancipatory framework

The decolonisation of science is considered a critical discourse that needs to challenge and dismantle the entrenched colonial legacies that have historically shaped scientific inquiry and knowledge production. It is considered a vital response to the historical injustices and epistemic violence that have marginalized Indigenous knowledge systems and perspectives in the settler states. Central to this discourse within Green Victimology would be the concepts of western epistemic privilege and ontological injustice, each of which plays a significant role in understanding the complexities of knowledge production in relation to the interconnectedness between social and environmental injustice. Critical Indigenous approaches would recognise the incongruity between Indigenous and western grasps of ontological understandings of the self. The western approach understands the nature of self in an individualised, autonomous context, while the focus with Indigenous groups is primarily on communality and interconnectedness. For instance, the African philosophy of *ubuntu* speaks to the very essence of being human and predicates that one's humanity is inextricably bound up in the sharing of a greater whole, in particular as it relates to the environment, deeply intertwined with concepts of interconnectedness and relationality which are foundational to many African cultures (Peacock, 2019). This interconnectedness is often articulated through Indigenous knowledge systems that emphasize the intrinsic value of the environment and the agency of non-human entities. This philosophy fosters a comprehensive understanding of existence, wherein humans, animals, plants, and the larger ecological system are perceived as components of a cohesive whole. However, this relational bond is weakened and diminished through environmental degradation, and when communities are oppressed and treated as if they are less worthy than others (Tutu, 1999). The emphasis on belonging and harmony in African eco-philosophy has profound implications for environmental ethics and sustainability.

Ontological injustice refers thus to the ways in which certain groups are denied the recognition of their identity, existence and the legitimacy of





their experiences due to dominant epistemic frameworks or ‘ways of knowing’. Within the context of restorative justice but in positivist tradition, Lode Walgrave (2024) is for example of the opinion:

Good science is essential to achieve *common knowledge* (emphasis added). Science seeks *general facts* (emphasis added) and dynamics behind unique experiences and processes. It tries to draw lessons that transcend the *subjective intuitions* (emphasis added) and convictions of the individual researcher, so that scientific conclusions may be acceptable for as many as possible others (p. 30).

In a celebration of an ‘objective’ or ‘grand truth’ Indigenous knowledge systems are considered ‘wisdom’ and ‘intuitive’ in contrast to the ‘rational’ and ‘analytical’ nature of science. Also, “Scientific generalization is indispensable to construct platforms of agreement on which further common reflection and action can be based” but “Indigenous knowledge addresses local communities, and it is more ‘conservative’, based on past local experiences and traditions. Consequently, its diffusion is more limited” whereas “Scientific knowledge building seeks to reach a kind of universalism” (Walgrave, 2024: 33).

This form of injustice is particularly relevant in the context of environmental degradation, where Indigenous communities often bear the brunt of ecological harm while their knowledge systems or so-called ‘wisdom’ and experiences are systematically overlooked (Robinson, *et al*, 2021). The colonial legacy of dispossession and marginalization has resulted in a profound disconnect between these communities and their environments, further exacerbating the impacts of environmental degradation. The intersection of ontological injustice and environmental harm is evident in the experiences of marginalized communities, who often face disproportionate environmental risks and a lack of access to justice. For instance, McCreary and Milligan (2018) highlight how the structures of settler colonialism and racial capitalism continue to normalize dispossession and burden marginalized communities with environmental harms, despite increasing institutional recognition of their concerns. This ongoing marginalization due to cognitive injustice underscores the need for a decolonial approach that recognizes the interconnectedness of social and environmental injustices. By critically engaging with the historical and ongoing impact of colonisation, we may better understand the complexities of Indigenous identity and the ways in which agency is expressed in the face of and *despite* adversity. A more nuanced understanding is thus vital for fostering genuine partnerships with Indigenous-led initiatives that honors identity, sovereignty and cultural heritage.

To challenge what could be perceived as enduring scientific colonialism in the global South, or the dominance of Eurocentric structures and epistemic privilege (or ways of knowing) within global North-South relations-



hips (Refaei, 2020), it remains vital not to outright dismiss non-Indigenous researchers and their bodies of work; instead, we should critically engage with western epistemic privilege and status by decolonizing dominant narratives surrounding Indigenous victimisation and criminalisation. Failing to do so risks merely replacing one sterile hegemonic understanding of conflict, victimisation or problematic situation with another resulting in foreclosure or singularity of perspectives and experiences (Peacock, 2023). Cunneen (2018) refers for instance to some similarity between emancipatory Indigenous approaches and the political principles of Marxist, Peacemaking, Critical Race theory and Radical Feminism of the global North. Also, Foucault's assertion that knowledge is inextricably linked to power structures (Bevir, 1999), allows for a critical examination of how western epistemologies have historically marginalized Indigenous knowledge systems and aligns with the broader decolonial project that seeks to dismantle the hegemonic structures that perpetuate coloniality in knowledge production.

Foucault's exploration of power, knowledge and subjectivity would be particularly relevant when analyzing the colonial legacies that continue to shape scientific practices and epistemologies since Foucault's concept of power is not merely repressive but is also productive, shaping knowledge, subjectivities and practice in profound ways. By also applying Foucault's views to the discourse on decolonisation, the complexities of knowledge construction and the necessity of integrating diverse perspectives would align with Foucault's critique against singular narratives to emphasize the need for a more pluralistic approach to knowledge production within a Green Restorative framework, but also to reject the dislocations perpetuated by the colonial gaze.

Expropriation and exploitation of the environment left enduring imprints on colonial settler societies, whether they happen to be in the North or the South. The toxicity of the industrialised nations, and its environmental impact on the already ravaged colonized global South but now also with universal consequences, demonstrates how the global world also presents as a dynamic multiplicity (Peacock, 2023). By placing that Southern legacy of atrocities in the foreground, the South becomes evident also within the global North through amongst others, climate change. According to Walklate and Fitz-Gibbon (2018) it is in these complex meeting points and abrasions between the global North and South where invaluable insights could be gained into the nature of our contemporary world order. But also, of the conflicted relationship between anti-colonial struggles and a postcolonial re-centring of identity and social and environmental justice. Marginalised and neglected spaces often afford opportunities for innovation in restorative justice strategy and for the rethinking of received concepts in relation to Green Victimology.



## 4. Conclusion

By examining the underlying assumptions that inform science, legal definitions and criminal justice practices, scholars and activists can work towards dismantling the systems of oppression that persist in contemporary society. This requires a nuanced and concerted effort to amplify and re-centre the voices of those who have been historically marginalized and to advocate for reforms that prioritize social and environmental justice and equity. Green Victimology thus emerges as a critical lens through which to examine these multifaceted issues, recognizing the intersectionality of environmental rights and the cultural dimensions of victimisation. By situating environmental harm within the broader context of colonial and postcolonial dynamics, this field not only seeks to illuminate the experiences of those who suffer as a result of ecological degradation but also to advocate for a more inclusive understanding of victimisation that encompasses both human and non-human entities. This shift is essential for developing effective restorative responses to environmental harm and for fostering a more equitable and sustainable approach to environmental justice. The implications of this analysis extend beyond the confines of the Global South, as similar dynamics can be observed in various contexts around the world. The global capitalist system is characterized by profound inequalities that are often exacerbated by punitive legal frameworks and criminal justice practices. As such, a critical examination of these issues is essential for understanding the broader implications of law and criminal justice in perpetuating social injustices and environmental degradation. The legacy of colonialism and the ongoing influence of political elites serve to reinforce existing power dynamics and perpetuate systemic inequalities. By critically engaging with these issues, Green Victimology scholars can contribute to the development of more just and equitable frameworks that address the needs, identity and agency of marginalized communities and challenge the various structures of oppression, scientific, legal and otherwise, that continue to desecrate and shape our natural world.

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