

Slaughtering the Bison, Controlling Native Americans: A State Crime and Green Criminology Synthesis

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Abstract We demonstrate the usefulness and importance of achieving descriptive and explanatory synthesis between the fields of state crime and green criminology when analyzing events that embody both state and “green” crime elements. Utilizing the case of the nineteenth century North American bison slaughter (1865–1890), we present an analysis that attends to the state and green crime elements present in this singular event and show that the bison slaughter exemplifies the type of case that benefits from a synthesis of the state and green criminology perspectives. That is, we can best understand the bison slaughter and other similar events when drawing jointly upon the resources offered by the state and green criminology fields. We conclude this paper with an explanation of the bison slaughter that utilizes a political-economic framework and the complementary concepts of structural contradictions and hegemony, showing, among other things, that political economy is one vital approach that meets the explanatory goals of both state crime and green criminology, aiding our understanding of cases like the bison slaughter. As the world moves forward into a future defined by various ecological, political and economic insecurities, scholars from both disciplines will increasingly encounter events that are impossible to fully understand without engaging with each other. This paper is thus an attempt to motivate the sowing of cross-disciplinary seeds of heightened collaboration between state crime scholars and green criminologists.

Introduction

The fields of state crime and green criminology have much to offer each other substantively and theoretically. It is possible, indeed even beneficial, to strive for descriptive and

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explanatory synthesis between the two fields when analyzing events that embody state and environmental, also known as “green”, crime/harm issues. Moving forward into a future defined by various ecological, political and economic insecurities, scholars from both fields will encounter events that are impossible to fully understand without meaningfully engaging with each other. This paper, thus, represents an attempt to motivate the sowing of cross-disciplinary seeds of heightened collaboration between state crime scholars and green criminologists.

Clarification on several points is necessary before proceeding. The bison slaughter is a rich narrative. It is the type of case that could be analyzed from a variety of disciplines and perspectives. Depending on the approach, issues of development, colonialism, and the law could all be given first billing—and justifiably so. Moreover, the bison slaughter could be studied solely as a state crime, especially as a state–corporate crime, and it could be examined as a “green” crime considering its clear linkages with issues of speciesism and animal abuse.

However, we specifically approach this event from a dual perspective, intentionally joining the state and green criminology fields. In the process, we highlight how the bison slaughter is fundamentally a state crime of omission and “green” crime of species destruction. More importantly, the bison slaughter exemplifies the type of case that can best be understood from a combined state and green criminological analysis. In a sense, we are engaging in “horizon scanning” as advocated by White (2013). Thus, encouraging green criminologists and state crime scholars to combine their resources and perspectives when analyzing and explaining certain environmental harms stemming from state actions or inactions is not only timely, but beneficial in a substantive sense for each discipline, and in a practical sense for the societies we are embedded within.

Finally, we frame the bison slaughter in terms of a broader, harms-based conception of criminality. From this standpoint, we identify two distinct victim populations reflecting our position that the bison slaughter is both a state and environmental crime. Those victim populations were: (1) the bison species, and (2) dozens of “bison-dependent” American Indian tribes. In the latter instance, those tribal groups suffered dual losses as a result of the bison slaughter, on the one hand by losing a resource crucial to their survival and autonomy and on the other by witnessing the destruction of an integral component of their cultural and spiritual identities. Given the clear eco-justice perspective that underpins our analysis (White 2013), it is worth noting that our state and green criminological orientations are highly critical ones that push the boundaries of what is considered “acceptable” within the field of mainstream criminology.

The Bison Slaughter in Historical Perspective: Victims

Conservative estimates indicate there were 15 million bison, or buffalo, in the United States in the mid-1850s and into the early 1860s (Lott 2002; Lueck 2002; Roe 1970). Danz’s (1997: 16) quote of one Western traveler’s observation that “when the buffalo stampede, it is like the continuous roll of distant thunder” vividly captures the vitality of the Bison herds prior to the end of the American Civil war. By 1890—within the span of roughly one generation (1865–1890)—the population of bison had declined to around a thousand animals (Hornaday 2002; Isenberg 2000; Lott 2002).

The primary geographic range and habitat of the bison corresponded to a vast land area encompassing nearly all of the central United States (Lueck 2002). Often referred to as the Great Plains, this area was also home to dozens of what we term “bison-dependent”

American Indian tribes, e.g., the Arapaho, Cheyenne, Kiowa, Pawnee, Sioux (Danz 1997; McHugh 1972). Survival and autonomy for these tribal groups was predicated on the presence of the Bison—a crucial resource providing everything from food to clothing and tools. In addition, because these tribal communities coexisted with the bison for hundred of years, the bison took on great symbolic importance and were integrated into the cultural practices and spiritual beliefs of these tribes, becoming spirits that were prayed to and the foci of various “dances, superstitions, taboos...visions...cures” and ceremonies (Fagan 2011; McHugh 1972: 110).

Evaluating the extent of the consequences stemming from the bison slaughter from a harm or injury standpoint there were two distinct groups of victims: (1) the bison, and (2) the bison-dependent American Indian tribes. Conceptualizing the bison as distinct group of victims extends rights to the species commonly reserved only for humans, but is very much in line with a green criminological perspective, especially strains of green criminology that emphasize ecological and species justice principles (Sollund 2013; White 2008). Declaring that the bison-dependent American Indian tribes were a second distinct victim population aligns with a state crime perspective. The bison slaughter deprived those tribes of a crucial resource contributing to their self-sufficiency and autonomy as well as an integral component to their cultural identities, representing a distinct social harm and form of victimization.

Causes, Elements and Scope of the Bison Slaughter

In the 1850s, leather tanners in the eastern United States perfected a process of tanning bison hide leather so as to make it strong enough for manufacturing and industrial use—predominantly as leather for industrial machine belts (Cook 1938; Isenberg 2000; Sandoz 1954). The American Civil War and flourishing of manufacturing and industry, especially in the northeastern and mid-Atlantic regions of the United States ensured demand for bison hide leather and encouraged the development of a “hide market”. Entrepreneurs and commercial “hide men” seeking to capitalize on this economic opportunity moved into the bison range in increasing numbers following the Civil War in 1865. Coincidentally, the end of the Civil War also marked the beginning of a prolonged period of extensive settlement and development within the American west (in fact, the building of several railroads through the bison range split the range into Northern and Southern sections during this time).

Market demand drove predominantly white, Euro-American bison hunters far afield where they encountered bison by the millions. The killing was easy and egregious. Historical accounts relate instances where lone hunters leisurely killed dozens of bison from a single position since the bison would not flee unless they could see or smell the threat (Danz 1997; Haines 1995; Hornaday 2002). Sandoz (1954) also describes how some bison upon being killed were found to have multiple, scarred-over bullet wounds from prior shootings that failed to kill them (Danz 1997; Isenberg 1992, 2000). The slaughter was so easy it became a sporting adventure for some and a casual activity for others, for example when bison were shot and killed through the windows of passenger trains (Danz 1997; Moloney 2011; Rister 1929). One of America’s notable historical figures, William Cody, earned his nickname “Buffalo Bill” by killing thousands of bison as an employee of the Kansas Pacific Railroad Company and allegedly won a bet with another bison hunter by killing 69 of the species in a single day (Danz 1997).

The rate of the bison slaughter exceeded a million per year throughout most of the 1870s and early 1880s—far outpacing the ability of the bison to sustain their population through natural reproduction (Lott 2002). In just 1872, for example, an estimated 1–1.5 million bison were killed for their hides (Hanner 1981; Roe 1970: 490). Bison bones quickly found their own market niche as a component in the sugar refining and fertilizer creation processes (Lott 2002). With no efficient means of transportation or storage, however, the vast majority of the bison meat was wasted.

The U.S. Army and the Bison Slaughter

Rapid development and settlement of the bison range during the bison slaughter was accompanied by a growing U.S. military presence there, with the U.S. Army acting as the de facto police force and representative of the federal government throughout most of the bison range. The ignominious track record the U.S. Army during this time, especially with respect to their treatment of American Indians requires no elaboration here. With regard to the bison, historians relate examples of U.S. Army units outfitting and escorting foreign dignitaries, including the Russian Grand Duke Alexis, on bison hunts (Cook 1938; Danz 1997; Dobak 1995; Isenberg 2000; Lott 2002; Rister 1929; Sandoz 1954; Smits 1994, 1995; Wooster 1988; Utley 1973). Army units also allegedly provisioned some commercial hide hunters and may have utilized bison herds for marksmanship practice (Smits 1994).

The Bison Slaughter and Growing Conflicts

The bison slaughter can be seen as both the impetus for some conflicts during the 1865–1890 period and the end product of others. Increasingly, the effect of the bison slaughter was to cause the remaining bison herds to move further from areas associated with hunting activities (Isenberg 2000). Consequently, the bison vacated many traditional American Indian hunting grounds posing significant problems for these tribal groups. Conflicts between white hunters, white settlers and American Indians intensified as a direct result of the bison hunting activities of the former groups, motivating some Indian attacks against whites and retaliation by whites against their attackers, e.g., the Battle of Adobe Walls in 1874 (Gwyne 2010). Conversely, the bison slaughter was also the end product of broader conflicts between, for example, (1) development goals and the conservation of the natural environment and animal species and (2) development and American Indian rights.

Notably, the bison were at the root of conflicts connected to basic relations between American Indians and the federal government. The Medicine Lodge Treaties (1867) and the Treaty of Fort Laramie (1868) moved many bison-dependent American Indian tribes onto reservations (especially within Oklahoma territory), requiring that those tribes desist in their legal challenges to white settlement and development projects (Robyn 2006). Importantly, these treaties also included provisions stipulating that non-Indians should not “enter upon” Indian reservations (Treaty of Fort Laramie 1868, Article II) and that the signatory tribes should be protected against “depredations” committed by non-Indians (Treaty of Fort Laramie 1851, Article III). However, whites frequently entered upon reservation lands to commit depredations like slaughtering bison and were rarely, if ever, arrested or prosecuted for their (Gwyne 2010; Haines 1995; Smits 1994). More importantly, the federal government violated its own treaties on many occasions. For instance, in 1874, when gold was discovered in the Black Hills of North Dakota—an area protected for

the Sioux Indian nation via treaty—the federal government did nothing to halt or discourage white encroachment there, and, in fact, benefitted from the extraction of gold and other minerals.

Importantly, these treaties extended bison hunting rights to the signatory tribes, allowing them to hunt bison outside their reservations. These concessions were intended to ease the transition to reservation life, placate the tribes, and assure them that their ability to remain self-sufficient would continue, if only in a small way. However, the specific wording of the treaties reveals that hunting *outside* reservations would be permitted, “only so long as the bison may range...in numbers sufficient to justify the chase” (Treaty of Medicine Lodge, Article 11, 1867; Treaty of Fort Laramie, Article 11, 1868). The federal government, of course, was the entity with the authority to determine what constituted “sufficient” numbers of bison to justify hunting by bison-dependent American Indian tribes. In just a few years, the bison slaughter essentially voided this privilege. For example, between 1874 and 1880 the bison were almost completely driven from Oklahoma and Texas by hunting activities. In practice, the “significant to justify” clause made it easier to exercise various controls over Indians who left their reservations to hunt. Those who “strayed” were often denied the meager rations afforded by the Federal government, causing various strains and additional conflicts, including rifts and divisions within the tribes themselves.

Legislative Responses to the Bison Slaughter

State and Territorial Responses

Concerns about the wasteful destruction of the bison species motivated the creation of protective legislation at the state and territorial level of governance. Game hunting laws with specific restrictions on Bison hunting and laws penalizing wasteful Bison hunting practices by white hide hunters were, generally, attempts to ease conflicts between white settlers, State and Territorial governments and the bison-dependent Indian populations living within their borders.

Idaho (1864) was the first state to establish a closed bison hunting season and impose fines for violators; however, the bison population was never heavily concentrated within the state’s borders. Wyoming followed with a closed bison hunting season in 1871. In 1872, Colorado became the first state to impose fees for wasteful bison hunting practices, graduating to a closed hunting season and the imposition of fines for shipping bison hides, meat and other products out of state with amendments passed in 1874 and 1876. Nebraska and the Dakota Territories followed a similar track in 1875, with each passing amendments to further strengthen their laws in 1879 and 1881, respectively. New Mexico Territory was the last non-federal government entity to enact any bison hunting restrictions when, in 1880, they established a closed hunting season.

Overwhelmingly, the bison hunting regulations developed and adopted by states and territories were ineffective. Lacking the financial and personnel resources to effectively enforce the new game laws, or prosecute offenders, proved to be insurmountable obstacles. Even if a state or territorial government met the necessary condition of having the resources to enforce its bison-specific game laws, this alone was insufficient to affect the trajectory or scale of the bison slaughter for the bison were a nomadic species and state/territorial protections were not uniform. That is, noticeably absent from any list of states or territories taking action to protect the bison from overhunting were Kansas, Iowa,

Oklahoma Territory and Texas—four places with the highest concentrations of bison and bison hunting American Indian populations.

Federal Responses

Interestingly, a legal precedent was set at the Federal level of governance for protecting wild game species and regulating the hunting of them in 1868. After purchasing the Alaskan Islands of St. Paul and St. George in 1867, Congress quickly acted to institute protective legislation to regulate the hunting of Fur Seals, whose primary breeding grounds were on the two Islands and whose fur was highly valued by garment manufacturers in England, France and the eastern United States (Brown 1894; Roppel and Davey 1965; NOAA 2011). In just 17 months, between 1867 and 1868, the U.S. Congress proposed ten different bills to protect the fur seals and regulate fur seal hunting, with one of those bills signed into law in 1868. The result was a sustainable, highly regulated and profitable fur seal hunting industry. Under this new legislation, the profits from fur seal hunting accrued to both the hunters selling the hides on the market *and* the federal government, thanks to revenues generated from leasing exclusive hunting rights on the two Islands and the imposition of a “pelt-tax” amounting, in toto, to several million dollars annually (Roppel and Davey 1965).

Shortly after the fur seal was protected, Congress began considering protective legislation for the bison, which, some proponents argued, were clearly facing a similarly dire future as that faced by the fur seals. More generally, however, proponents of federally protecting and regulating bison hunting cited economic, political and/or religious/humanitarian rationales. First, these individuals noted that bison hunting could prove as profitable for the federal government as fur seal hunting and could be managed and taxed similarly. Second, some proponents of protective legislation argued—correctly—that bison hunting was only exacerbating conflicts and heightening the grievances between bison-dependent American Indians and the U.S. Army/federal government. Finally, some of these proponents cited religious or humanitarian rationales, noting in one form or another, the obligation they believed the federal government and their fellow men had to take care of, and “civilize”, the “heathen” Indians into a more peaceful way of life. Conversely, those resisting protective legislation exhibited a rationale that overwhelmingly saw the bison slaughter as an important method of more expediently *resolving* the extant conflicts between bison dependent American Indians and white settler communities, the U.S. Army and the federal government. Moreover, religious and humanitarian arguments seemed to hold little appeal to members of this faction, who in many ways saw the bison-dependent American Indian tribes as undeserving of humane treatment. In other words, the general sentiment appeared to be that those tribes needed to get with the program, or face the consequences.

Between 1871 and 1876, six Congressional bills,¹ many borrowing language or elements from the fur seal legislation, were proposed for the bison. Five were sent to sub-committees and never emerged and one—H.R. 921—passed narrowly following debates in the House and Senate in 1874. The legislation, which would have prohibited the killing of any female bison

¹ Congressional Globe, 42nd Congress, 1st Session, Pt. 1, at 80 (1871)

Congressional Globe, 42nd Congress, 2nd Session, Pt. 2, at 1063 (1872)

2 Congressional Record, 43rd Congress, 1st Session, Pt. 1, at 371 (1874)

2 Congressional Record, 43rd Congress, 1st Session, Pt. 2, at 1123 (1874)

4 Congressional Record, 44th Congress, 1st Session, Pt. 1, at 773 (1876)

4 Congressional Record, 44th Congress, 1st Session, Pt. 2, at 1813 (1876).

by non-Indians on public lands, required a final signature before becoming law. It arrived at famed Civil War General, and then President, Ulysses S. Grant's desk, but he did not sign it. Historian E. Douglas Branch, surmised (orig. 1929; Branch 1997: (183–84) that perhaps President Grant “put the document into a pigeonhole for its India ink to become rich brown before it was seen again...or, perhaps he touched the bill to his lamp and lighted a cigar with it.” The year 1876 marked the last until the late 1890s that federal protection or regulation for the bison was considered when two additional House bills failed to gain any traction.

Framing the Bison Slaughter: State Crime and Green Criminology

Defining “Crime”

The slaughter of the North American bison in the nineteenth century exemplifies the type of case that can be better understood by drawing together various developments in the sociological study of state and “green” crimes. Unification of the goals and resources of state and green criminology is useful for developing a deeper understanding of the bison slaughter as well as contemporary and future events of a similar nature. Striving to achieve the sort of synthesis argued for here is also natural when considering the commonalities between state and green criminology. As White (2013: 22) observed: “The green criminology perspective...tends to begin with a strong sensitivity toward crimes of the powerful and to be infused with issues pertaining to power, justice, inequality, and democracy.”

We characterize the bison slaughter as a state crime of omission and a green/environmental crime. Our starting point is the definition of “crime” suggested by Mullins and Kauzlarich (2000: 267), in which crime is:

...an illegal or demonstrably socially injurious act, process, or policy of omission or commission by an individual or group of individuals in an institution of legitimate governance...(emphasis added).

Under this definition, the bison slaughter represents a state crime of omission due to its socially harmful or injurious consequences for dozens of indigenous American Indian tribal groups. The Mullins and Kauzlarich definition, however, emphasizes “social” injury or harm. Slight modification of their definition makes it more applicable to the bison slaughter, which produced injury and harm not just for people (i.e. “social” actors), but animals (non-social actors) as well. Referring only to “social” harms and injuries can imply that the only victims and harms worthy of study are those involving or effecting people. The risk is that the term “social” may distract from the other harms/injuries—to ecosystems, plants and non-human animal species—that are equally significant and deserving of recognition. In short, the victims of harms—including those produced by acts of state commission and omission—are not always solely from the social sphere of human life. Victims can be, and often are, other animals and aspects of the natural environment. Thus, we refer to a “harm/injury” based approach to conceptualizing crime to avoid insinuating that the only victims, or the most important ones, were social actors residing within the human realm. In any case, regardless of whether one begins from a state crime or green criminology perspective, the bison slaughter produced consequences for people and nature that rival those of any legally defined crime. An important unifying element and commonality between both the state crime and green criminology perspectives is, therefore, a harm/injury based conceptualization of criminality.

Harm and Injury, State Crime, and Green Criminology

There is a long history within criminology beginning with Marx and progressing through Sutherland (1924, 1949)² and beyond of drawing attention to the problem of conceptualizing “crime” strictly in terms of what the law says is criminal. Since the 1960s and 1970s, when a decidedly critical orientation toward the study of crime emerged and gained prominence, the critique about what exactly “crime” means and what criminologists should study has gained more traction. This intellectual shift has culminated in research by scholars from both disciplines that transcends the traditional “nuts, sluts, perverts and drug addicts” foci of criminology and continues to push its boundaries in new directions (Beirne and South 2007; Chambliss et al. 2010; Green and Ward 2004a; Hall and Winlow 2012; Halsey and White 1998; Lynch and Stretesky 2003; Michalowski and Kramer 2006; Potter 2012; Rothe 2009; Rothe and Mullins 2011; South 2006; South and Brisman 2012; White 2003, 2008; Yar 2012).

Criminologists working under the state crime and green criminology perspectives have been at the forefront advocating for this expansion of criminological inquiry. Scholars from both fields recognize that the legal definition of crime is, fundamentally, a political process that does not generate sociologically homogeneous categories of events (Chambliss and Zatz 1993; Halsey and White 1998; South and Brisman 2012). Not surprisingly, the adoption and articulation of a harm/injury perspective has been important to the development of state crime research (Rothe 2009; Rothe and Mullins 2011) as well as “green criminology”, with the latter succinctly defined by Potter (2012) as the “meeting point of criminology” and criminological concerns with “environmental issues” (Beirne and South 2007; Halsey and White 1998; Lynch 1990; Lynch and Stretesky 2003; Potter 2012; South 2006; South and Brisman 2012; White 2003, 2007, 2008). The position of green criminology on this point is eloquently stated by White (2013: 22), who writes, “...what actually constitutes crime...demands more encompassing definitions than that offered by mainstream law and traditional criminology.” Michalowski (2010: 16), working from a state crime perspective, adds that:

...the content of criminology’s portfolio should be determined by the substantive outcome of actions rather than their legal status...The... [harm/injury] approach...enables us to identify actions that are analogous in their consequences to acts defined as illegal or deviant, including those that are not (yet) the target of either legal control or widespread social approbation (emphasis added).

The need to incorporate events like genocides and environmental issues into theory and research on crime has demonstrated the value of a harm or injury based definition of crime (Chambliss et al. 2010; Cohen 1993; Hillyard et al. 2004; Hillyard and Tombs 2007; Kramer and Michalowski 2005; Michalowski and Kramer 2006; Mullins et al. 2004; Lasslett 2010; Pemberton 2007; Rothe and Mullins 2007, 2011; Rothe et al. 2008). Yet, an important critique of the harm/injury approach to conceptualizing criminality is that it is flawed by the subjectivity inherent in determining what constitutes “harm” in the first place (Cohen 1993; Pemberton 2007; Rothe 2009). The argument is that if anything and everything can be considered harmful, then anything and everything can be considered criminal. This argument results in a critique of the harm/injury definition of crime. Specifically, the critique states that harm/injury conceptions of crime dilute the impact, and

² We wish to thank one of the anonymous reviewers at *Critical Criminology* for encouraging us to reference the early contributions that Marx and Sutherland made to this now popular critique.

reduce the credibility, of crime research—in a sense turning those utilizing such approaches into little more than “social activists” and “claims makers” in the eyes of others (Michalowski 2010: 16).

Working on behalf of positive interventions and social change are not goals criminologists or sociologists should avoid, which is why state crime scholars and green criminologists have widely embraced harm/injury perspectives in their research, enabling them to engage in a more “public”, socially conscious form of critical criminological analysis (Michalowski 2010: 16). Certainly, harm and injury—whether they are couched in specifically social or broader ecological terms—are conceptual starting points vulnerable to a variety of subjective interpretations, posing the problem that utilizing them may do little besides infinitely expand the scope of studies on crime, while adding little theoretical, conceptual or empirical value to that endeavor.

In response to this potential problem, authors like Beirne and South (2007), Chambliss et al. (2010) and Hillyard et al. (2004), have argued that adopting specific criteria of “seriousness” aid the application of harm/injury approaches to studying crime. Factors like death, serious bodily injury, significant economic and/or cultural loss, severe emotional or psychological distress, species destruction, and environmental devastation provide scholars with measuring sticks to assess the seriousness of harms that have escaped recognition under the criminal law, yet which have clearly produced “analogously” detrimental consequences in comparison to legally defined crimes.

State Crime, Green Criminology and Political Economy

Political economy is an important foundational or orienting perspective for both the state crime and green criminology fields, and, interestingly, has been used by scholars from both disciplines independent of another as an explanatory framework to increase our understanding of state and green crimes.³ Our understanding of political economy aligns with that expressed by Lynch (2013: 138) who notes that, fundamentally, political economy “establishes a connection between the economic system and the social sphere” highlighting the “influences of economic relations on social relations and institutions.” We might add to this the simple observation that political economy influences relations with the natural environment as well.

In terms of an explanatory framework, political economy locates explanations for crimes and harms—social, environmental, or some combination—in terms of the capitalist mode of production and its powerful influence on every other facet of social life (Green and Ward 2004a, b; Lynch 2013; Stretesky et al. 2013). This Marxist orientation toward explaining crimes is obvious within critical green criminological studies that emphasize the interrelationship between the exploitation of humans and the exploitation of nature, and in variety of state crime studies as witnessed, for example, by the abundant analyses of state–corporate crimes and human rights violations in developing nations.

The political economic foundations of many state and green crime studies—and the significant topical overlap that exists between the fields—are evident even if political economy is not expressly utilized as an explanatory framework. For example, Cruciotti and Matthews (2006) framed their analysis of the Exxon-Valdez oil spill as a state–corporate

³ We wish to thank one of the anonymous reviewers at *Critical Criminology* for urging us to expand upon this point.

crime, e.g., a criminally harmful act caused by state and corporate collusion and/or negligence (Michalowski and Kramer 2006). Green criminologists could have easily analyzed this same event as a significant “green” crime. In any case, the global political economy and its relation to energy production and transshipment, as well as the interrelationship between the economic and political forces driving the consumption of crude oil in America and around the world are fundamental elements at the root of any state or green criminology analysis.

Additionally, Croall (2007/2012) analyzed “food” crimes and Walters (2007) investigated the regulation of radioactive waste in the U.K. In each of those studies, the authors framed the issues as green crimes, not explicitly as state crimes, even though harmful state actions and/or inactions were prominent aspects to both narratives. Generally, whether the issue is the labeling and regulation of consumer food products or energy byproducts like radioactive waste the point could—and should—be made that the functioning of the capitalist political-economic system (and all that entails) are fundamental to fully understanding how and why corporations and regulatory bodies fail to protect citizens from harmful—though not necessarily criminalized—events.

Synthesizing State Crime and Green Criminology with the Bison Slaughter

The bison slaughter was never officially labeled a crime. Nevertheless, the argument put forth in this paper has been that the social and environmental consequences stemming from the bison slaughter are analogous in their severity to many acts that are considered criminal. That is, assessing the bison slaughter from a harm/injury conception of criminality demonstrates that the event produced massive, significant environmental and social harms impacting multiple victim populations, including the Bison, the Great Plains environment and the numerous indigenous, bison-dependent Native American communities of the Central United States. The bison slaughter therefore serves as one example of an event that is simultaneously a state and green crime and exemplifies the type of case that benefits from a synthesis of the state crime and green criminology paradigms.

Identifying the Crimes

State Crimes

As state crime scholar Greg Barak (1991: 183) wrote in *Crimes by the Capitalist* “state crimes of omission come in many forms and varieties.” The case of the bison slaughter certainly bears witness to the fundamental truth of that statement. State failure—equated here with the actions of the federal government—to regulate bison hunting and mitigate its harmful effects on bison-dependent American Indian tribes produced consequences on par with some of the worst forms of criminalized and condemned violence. The fact that the federal government was in open conflict with many of those tribes during the time of the bison slaughter, along with the knowledge that protective legislation for other game-species had been successfully crafted and implemented prior to the bison slaughter, only further illuminates the criminal nature of the State’s failure to act to halt the occurrence of a grievous social harm.

Green Crimes

Many green criminological studies examine acts that are “arguably harmful, but not covered by criminal law” (Potter 2012) as well as those that “represent normal social practice” (Halsey and White 1998: 346). It is exactly because of the fact that “many conventional, and legal, forms of human production and interaction do far worse things to the natural environment than...activities deemed illegal” (White 2008: 11) that green criminologists utilize notions of harm and injury to identify events that should be characterized as crimes in the first place. The bison slaughter, even though it never received the official label of “crime”, represents the nearly complete destruction of an animal species due to intentional human actions and is certainly a green crime.

Explaining the Bison Slaughter

Political Economy

Good critical explanations demonstrate how structural processes flow through institutions and everyday life (see: Kauzlarich and Kramer 1998; Kramer and Michalowski 1990; Mullins and Kauzlarich 2000; Mullins and Rothe 2008; Rothe 2006, 2009; Rothe and Mullins 2006a, 2007, 2008, 2009). Political economy provides a powerful framework by which to accomplish that goal. One reason political economy is such a useful framework by which to better understand state and environmental crimes—and meet the explanatory goals of each—is noted by Lynch (2013: 142–43): “[political economic explanations of crime]...[are] concerned with the general behavioral tendencies structural conditions impose on collective behavior in a population.” Lynch (2013) also advocates for criminologists to pay greater attention to the explanatory power wielded by political economic explanations of crime noting that many forms of criminality can be traced in varying ways to the underlying political-economic structural context. Recently, Stretesky et al. (2013) coupled political economy with treadmill of production theory to explain the occurrence and persistence of environmental harms and crimes. The bison slaughter and many other state and green crimes cannot be fully understood if divorced from the political economic context within which they transpired. Indeed, the ruthless, brutal, criminogenic slaughter of the North American bison is another example that demonstrates how serious harms perpetrated against people, the natural environment, plants and animals species are likely to escape criminal sanction due to their intimate connections with “political economy and...different forms and types of social power” (White 2008: 11).

One of the basic principles of capitalism is the need for constant profit, or the constant expansion of production, and this need is translated into the fabric of capitalist societies—effecting how those societies are organized socially and politically, impacting their dominant cultural values and attitudes and even the scope and implementation of their criminal and civil laws. The political economic context surrounding the bison slaughter produced structural conditions favoring development and progress above nearly all other concerns. One result was the development of a market need for cheap leather to fuel the expansion of capitalist production in the eastern U.S. The clear use-value of bison hide leather to meet this need led to the commodification, and subsequent exploitation, of the species—the bison were slaughtered ostensibly to supply leather that supported the continuing growth of American capitalism.

The slaughter was so extensive, however, that it eventually produced an oversupply of bison hides, especially toward the end of the 1880s, which negatively affected the market, reducing both the price bison hides could command and the total profits that could accrue from their sale. The slaughter also depleted the number of bison to such an extreme degree that bison hide leather ceased to be a viable commodity. Paradoxically, then, the unregulated bison hide market destroyed itself in two ways: (1) by oversupplying the market with hides and by (2) decimating the bison herds. Of course, the downfall of the bison hide market pales in comparison to the harmful social and environmental consequences that resulted from it.

Finally, the political-economic context surrounding the bison slaughter contributed to the formation of a political and cultural environment wherein development and progress became goals to be realized not just for the benefit of the State, but for “Americans” more generally, helping to justify and legitimize the social and environmental consequences accompanying the pursuit of those goals within the bison range. For example, the concerted actions of the State to realize its development goals during the 25 years (1865–1890) of the Bison slaughter is evident in the fact that 430 million acres of land in the Western United States was settled by non-Indian peoples between the 1860–1890, while 400,000+ non-indigenous peoples received land allotments under the 1862 Homestead Act (Mintz and McNeil 2013). We draw further insight into the processes contributing to the bison slaughter by drawing upon the concepts of structural contradictions and hegemony, each of which is complementary to a broader political-economic understanding of the event.

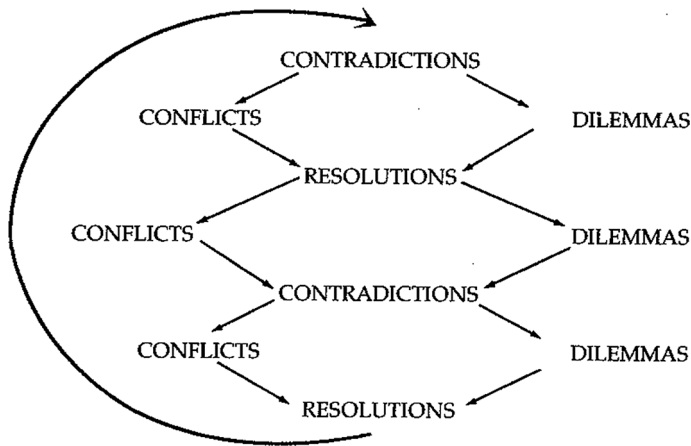
Structural Contradictions Theory and the Bison Slaughter

The starting point for structural contradictions theory is Marx’s observation that the fundamental contradiction in capitalism is that the producers (i.e. the laboring class) do not own the products they produce: that privilege belongs to the capitalists (i.e. the owners of the means of production). As a consequence of this contradiction, a conflict is inherent in the political economy of capitalism as workers and owners struggle to enhance their control over, and profit derived from, whatever the workers produce and the capitalist owns.

More generally, we suggest, embedded within every political economy and every organization are fundamental contradictions that help us understand why decisions take the form they do. Thus, in every era, political and economic structures manifest fundamental contradictions that cannot be resolved without destroying some or all of the extant social, political and economic relations that are fundamental to the political economy of a given society. A contradiction exists within a particular time-period when:

Established economic, ideological, political or social relationships function to maintain the status quo, but simultaneously create the conditions to transform it...that is, when conforming to one set of demands, goals or institutionalized processes creates situations fundamentally antagonistic to extant social relations (Chambliss 1989: 300, 1993a: 9).

Structural contradictions inevitably lead to conflicts, especially among classes within society, placing the state into a dilemma: how to resolve the conflicts without fundamentally altering established social, political and economic relations, which essentially form the foundations upon which society is built? In responding to the



conflicts and the dilemma, state actors create resolutions, sometimes in the form of laws and sometimes not, regardless of the fact that these resolutions often produce serious harms and, therefore, additional contradictions and conflicts (see Fig. 1).

the types...amount of...and the distribution of crime in a particular historical period and society depend upon the nature of the existing contradictions, the conflicts that develop as people respond to the contradictions, and the mechanisms institutionalized for handling the conflicts and dilemmas produced by the contradictions (Chambliss 1988: 301).

In American criminal law, an omission to act where the individual has a responsibility to act is a crime. The same logic applies to the behavior of the State when there is an omission to act when there is a clear need for state action to avoid serious harms to individuals, groups, communities, or the environment (see: Aulette and Michalowski 1993; Farson 1991; Faust and Kauzlarich 2008; Gerkin et al. 2010; Henry 1991; Hinch 1991; Wildeman 1991). The bison slaughter continued unabated due to the failure of the State to act.

From a structural contradictions perspective, state inaction to protect the bison relates directly to various conflicts and dilemmas rooted in the basic contradictions of the burgeoning form of capitalism within the U.S. at the time: in order for the nation to maximize economic growth and development, the *sine qua non* of capitalist logic, new lands, areas for settlement and resources needed to be acquired and internal threats to this economic growth and development had to be eliminated.

While there was not just one resolution to the conflicts, especially those forcing bison-dependent American Indian tribes into an adversarial relationship with the State, the resolution chosen was essentially to allow the bison slaughter to proceed unhindered by regulation or policy. The ascendance of the Bison hide market and rapid slaughter of the Bison ensured the weakening of bison dependent American Indian communities via the interruption of their economic base: in this case, their dependence on the Bison for food, clothing and shelter. The Bison were of little intrinsic or symbolic value to white communities, and while the hide market could have been taxed and proven profitable to federal, state and territorial governments, the systematic and unchecked destruction of the Bison was ultimately an easier and more beneficent solution to the long-term conflicts between Indians and the State. Allowing the destruction of the Bison therefore became an ingenious resolution to the State's problems.

Hegemony and the Bison Slaughter

Finally, the concept of hegemony provides another useful theoretical tool from which the bison slaughter can be understood within a political economic framework. We adopt and slightly modify the definition of hegemony used by Green and Ward (2004a, b: 3), where hegemony is a: "process by which...beliefs that support the [political economic] status quo are instilled in the population at large so that they appear as matters of consensus and common sense." Defining hegemony in this way draws attention to the fact that it is also a process of class-related ideological and material domination leading to the perception that the "specific interests of the dominant class" are the "universal interests" of all classes (Green and Ward 2004a, b: 4).

The hegemonic process that sustained the bison slaughter during the period 1865–1890 included beliefs that supported the extant political economic formation and, ultimately, the interests of the political and economic elite. In turn, those beliefs became widely accepted by the general public, which enabled racism, speciesism and violence to flourish and be mobilized in support of the hegemonic interests those beliefs represented, including the general "colonizing" process of American Indians, with grave consequences for both bison and bison-dependent American Indian tribes.

Importantly, the hegemonic process does not occur in a bubble, nor are the beliefs supporting the hegemonic domination of certain interests or the status quo simply forced upon people who are helpless to resist them. Resistance, in fact, is intrinsic to the hegemonic process and is evident within the case of the bison slaughter by the support expressed by some Congressman for legislation protecting the bison and regulating bison hunting on humanitarian and moral grounds. Likewise, the discrete ideological elements present in beliefs, expressed or not, that support hegemonic class interests, are not free floating or simply the top-down expressions of state power. Generally, an environment conducive to the acceptance of beliefs supporting the status quo exists, as does a willingness on the part of society at large to accept those beliefs and their outcomes. Indeed, the hegemonic process that contributed to the bison slaughter actually began prior to that event.

The phrase “manifest destiny” captures the hegemonic class interests—e.g., development, economic growth, settlement—prevalent in America before and during the bison slaughter. Realizing that manifest destiny was both an ideological position and goal to be worked toward is important for understanding how the bison slaughter was justified and sustained. The maltreatment and exploitation of American Indian tribes began with the arrival of European colonists in North America. In the decades following the American Revolution, however, this maltreatment became ingrained in the functioning of the State. The devaluing of American Indians thus began well before the bison slaughter, finding its expression via state policies and actions, which ostensibly were directed toward realizing the nation’s “manifest destiny”. For example, in 1830, the Indian Removal Act effected the forced removal of 100,000 American Indians from the eastern U.S., resettling these tribes in areas in the western United States, especially Oklahoma territory, in the interests of State settlement and development goals in the eastern U.S. Thus, prior to the bison slaughter an environment had already been established wherein harms and injustices against American Indians were committed and accepted as normal practice.

The Civil War directly preceded the bison slaughter and also contributed to the formation of an environment that was generally supportive of the hegemonic process. Specifically, the Civil War produced a host of divisions within society. Unification of the nation and the elimination of threats to that goal both internal and external became a defining feature of America in the aftermath of the war. A key aspect of unification and rebuilding the nation lay in promoting beliefs amongst all Americans that the goals of economic growth and development—which stood to benefit some vastly more than others—were beneficial to all Americans and that any consequences attributable to the realization of those goals were simply the natural price to be paid for increasing the well-being of the population as a whole.

Thus, the Bison and bison-dependent American Indian tribes were easily framed against this backdrop as obstructions to the realization of “American” developmental goals, progress, prosperity and security. Within the broader political and cultural environments in America, both bison and Indians were analogously defined as impediments to progress and, therefore, generally undeserving of humane treatment. The distribution of support and condemnation for the bison slaughter in the media reports of the event shows that public condemnation arose only after the bison were nearly extinct (Moloney 2011).

The following excerpts from (1) an 1883 editorial published in Kansas’ *Atchison-Globe* and (2) 1882 article from the *St. Louis Globe-Democrat* are representative of how hegemonic class interests were embodied in broader American cultural attitudes toward both bison and bison-dependent American Indian tribes, reflecting the adoption of beliefs about the inferiority of both bison and Indians, but also acceptance of the necessity of the larger civilizing mission that was part and parcel of the grander hegemonic colonizing process crucial to the political-economic development of the American state:

1. The *Globe* cannot see the slightest objection to the extermination of these animals...People and buffalo cannot inhabit the same country, and a race of men is more important than a preserve of buffalo. It is said that they feed the Indians; we have always believed that the Indians and the buffalo should go together, for both are more ornamental than useful (October 19, 1883).
2. ...A good fat ox is a...more valuable animal any day than the biggest buffalo...The pastures which now support...buffalo will support an equal number of cattle, which, as better friends of man, have a better right to them than the ugly wild beast that has little to give us worth having besides its skin...Let the buffalo go—the faster the better—

and let the grassy hills and plains...be covered with herds of good, honest, civilized cattle. When the buffalo disappears Indian savagery will disappear... the Indian will have to lay down the rifle and take up the plow. He will never work as long as he can hunt and draw government rations. If he is ever to advance in civilization he must have the same incentive to work that impels white men—the love of property and comfort and the dread of starvation (June 9, 1882).

The discrete ideological elements apparent in the expressed beliefs of certain influential military and political leaders can also be seen via the concept of hegemony as manifestations of the underlying political-economic relations and interests extant during the time of the bison slaughter. For example, in his personal correspondence, Army General Phillip Sheridan wrote,

If I could learn that every Buffalo in the northern herd were killed I would be glad. The destruction of this herd would do more to keep Indians quiet than anything else that could happen, except the death of all the Indians (Smits 1994: 337; also see Sheridan Papers, Microfilm, U.S. Library of Congress).

Later, Army General William T. Sherman recalled in his memoirs that, "...another potent agency in producing the result we enjoy today" [e.g., the productive farmland of the Great Plains] resulted from

...having, in so short a time, replaced the wild buffaloes with more numerous herds of tame cattle, and...substituting for the useless Indians the intelligent owners of productive farms and cattle ranches (Smits 1994: 337; also see Sherman 1886: 413–14).

In both his 1873 and 1874 Annual Reports to Congress, Secretary of the Department of the Interior Columbus Delano expressed his support for the bison slaughter. In 1873, Delano wrote publicly that "the rapid disappearance of game" (e.g., bison) from the "former hunting-grounds" of the Indian tribes "must operate largely in favor of our efforts to confine the Indians to smaller areas, and compel them to abandon their nomadic customs" (iii–ix). And, in his 1874 report to Congress, Delano declared:

The buffalo are disappearing rapidly, but not faster than I desire. I regard the destruction of such game as Indians subsist upon as facilitating the policy of the Government, of destroying their hunting habits, coercing them on reservations, and compelling them to begin to adopt the habits of civilization (Delano 1874: 99).

Of course, 1874 also marked the year that the only bison legislation to pass the House and Senate was vetoed by President Ulysses S. Grant. Notably, President Grant was a compatriot of Gen. Phillip Sheridan and Gen. William T. Sherman, all of whom served together in the Civil War on the side of the Union Army.

Conclusion

Synthesizing the state crime and green criminology perspectives offers an invaluable analytical and explanatory tool for understanding events that could easily be classified as both state crimes or "green" crimes, but which deserve to be studied jointly. In our analysis of the nineteenth century North American bison slaughter (1865–1890) we have demonstrated the usefulness of integrating the state and green criminology fields by (1)

using a harm/social injury conceptualization of crime that is amenable to the goals, interests and shared topical concerns of the two disciplines and (2) showing that political–economy—and the related concepts of structural contradictions and hegemony—provides the explanatory framework that serves the interests and explanatory goals of both state crime and green criminology.

We urge scholars to continue the efforts begun here to unify and synthesize the fields of state crime and green criminology since these fields are more similar than dissimilar. Furthermore, synthesizing the two fields aids the wider goal of producing more useful analyses of the harms of the powerful. State crime and green criminology have much more to offer the worlds inside and outside of academia by speaking to each other, rather than around each other. Regardless of politics, significant ecological problems lay on the horizon that most certainly will involve states directly—either as progenitors of the problems or as key players in developing workable solutions to them. Both state crime scholars and green criminologists will undoubtedly encounter a plethora of topics to analyze and explore moving forward and collaboration will be, and should be, emphasized. When the two fields speak to each other, this only increases our collective knowledge about the sorts of criminal and harmful events that transcend state and green criminological concerns, aid our ability to respond to, and mitigate, these violent, destructive acts of ecological and social harm in the future.

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