***Problem-oriented-policing of transnational environmental crimes: A social harms approach***

***Abstract***

*Since the publication of Herman Goldstein’s seminal article on Problem-Oriented Policing (POP) in 1979, criminologists have attempted to apply its proactive methodology, with a large body of police work concentrating on how operational policing can benefit from the methodologies of POP, and specifically how events are recognized, approached and resolved as policing problems. Even then, most of these works ascribe a non-existing ontological value to events, supposing a bad actor against whom the good actor intervenes. This atomized, state-centrist notion of criminality has been discredited by social harms theory, which emphasises a reading of crime that reaches beyond the bureaucratic abilities of state criminal justice agencies. This article is aimed at illustrating how both POP and a social harms approach to crime can enrich each other, especially with regard to environmental crimes.*

***Introduction***

The main focus of *Problem-Oriented Policing* (POP) is how to understand a particular social issue as a something policing can resolve, and how to measure the performance of policing practice before, during and after the problem has been resolved. The father of POP, Herman Goldstein, envisioned POP as an approach concerned with

“identifying problems in more precise terms, researching each problem, documenting the nature of the current police response, assessing the adequacy of existing authority and resources, engaging in a broad exploration of alternatives to present responses, weighing the merits of these alternatives, and choosing from among them” (Goldstein, 1979: p. 236).

Since the publication of Goldstein’s seminal work, police theorists and practitioners have attempted to apply its proactive methodology to differing problems of policing. Historical ethnographical analysis of POP has included studies on thefts and burglary (Eck and Spelman, 1987), street-level drug markets (Kennedy, 2006; Hope, 1994), violent crime hot spots (Braga, 2002; Braga et al., 1999), youth gun homicide (Braga et al., 2002) and so forth. These studies, mostly concentrated in the US have returned a mixed bag of POP’s failures and successes. Analysis of POP outside the US and Europe has not only been limited, but has not been stretched into how POP may be applied to transnational or international crimes, for example environmental or state crimes, or even the applicability of POP to crimes which are perpetrated in the global south in general. (But, even in the West, applications of POP have been limited to operational ‘police work’, in contrast to wider policing issues (Reiner, 2010).)

In general, unlike other methodologies of policing developed in the West, such as *intelligence-led policing*, there is dearth of research on how POP may intersect with transnational policing issues such as securitization, police powers, or even the logics of plural policing including the dominance of policing work by private security and transnational contractors (Reiner, 2010; Tilley, 2008). Apropos of these gaps in research, others (e.g., Eck, 2003; Eck et al., 2007; Tilley, 2008) have called for further development of POP, in regard to 3 key areas: (1) creation of a better classification system for problems, (2) improvement on the capacity of policing agencies- and not merely the police- to analyse data on problems, and (3) development of response guides that reveal the conditions that are necessary for interventions to be successful.

This article is a response to this critique, attempting to enrich the practice of POP by applying its methodology to environmental crimes, an area of increasing criminological concern, but one which has also been cited as presenting the best hope for the evolution of the discipline of criminology beyond a narrow focus on the ideological priorities of the state criminal justice system (Hilliard and Tombs, 2007; Lynch and Stretesky, 2003; and Ruggierro and South, 2013). We aim to not only develop the utility of POP beyond frontline state police services, but also to stretch notions of crime and criminality which POP should be seized of beyond individualized, state-centred readings, in order to enable a conceptualisation of policing which engages with the wide ways in which crime harms individuals and society (Hilliard and Tombs, 2007; Lynch and Stretesky, 2003).

As recent research has shown, environmental crimes are an area of increasing concern, not only because of the globalized nature of crimes of the environment (Ruggierro, and South, 2013; Ruggierro, 2013) but because the ecological disorganization these crimes entail have impacts beyond the capacity of criminal justice systems of most states to comprehend or address (Schainberg, 1980; Lynch, 1990; Lynch and Stretesky, 2003; Ruggierro, 2013). A *condicio sine qua non* of today’s policing is thus, not only understanding the properties of a policing methodology, but understanding the complexities to which it may be deployed in an increasingly globalizing world: For POP, conceptualization of a ‘policing problem’ has to be examined against the light of global capitalism’s ‘ecological disorganization’ (Schainberg, 1980; Ruggierro, 2013) for example, in order to show how specific forms of criminality such as ‘illegal logging’ (or timber theft to many other people) or pirate fishing (conveniently termed ‘illegal, unregulated fishing’) can be resolved as part of the policing of a certain region’s environmental crimes problem. But, it is not enough merely to understand the broad outlines of POP and how we can test this outline to preconceived notions of crime, as some research has done; we must also ask important questions about the process in which conceptualisation of something as crime happens- What is left in or out by terminology? What is prioritised in such conceptual framework? How may such conceptualisation enhance or deter effective and just deployment of a POP toolkit, among others.

The structure of the paper is a simple one: We begin with conceptualization of the policing ‘Problem’ for which ‘Orientation’ is sought, in POP literature. This is then followed by deconstruction of the criminology of the state, showing not only the limiting framework it imposes on crime research, but how its dangerous assumptions are harmful to notions of justice, because they accept and sustain violent neoliberal notions of crime and harm. To provide the reader with important context, this section also includes analysis of neoliberalism as a form of violence which is already staged in global environmental crimes. A tentative analysis is thereafter made showing how POP may be applied to a range of environmental crimes, especially logging and forest crimes, providing the reader with the complex social, cultural and political context of environmental victimization and harms. A brief conclusion is made on how a harms approach to POP may enhance the application of the methodology to environmental crimes.

***POP: The ‘problem’ and its ‘orientation’***

The precise understanding of the term “problem”, as it applies to POP, is subject to debate. Nonetheless, Tilley (2008) and Tilley and Laycock (2002) have outlined a conceptualization of POP in which a policing problem consists of: (1) *Repeat victimization*, that is, the increased risk to those who have suffered crime and the time-course of heightened risk, (2) *Hotspots*: The concentration of incidents in particular places or categories of places, (3) *Prolific offenders*: The concentration of offending on particular persons, (4) *Hot products*: The attractiveness of particular products as targets of theft, (5) *Hot classes of victim*: The heightened vulnerability of types of person to specific types of crime, and (6) *Seasonality*: The times of the day, week, year when incidents tend to be more frequent.

Goldstein (1979) saw the identification of a policing problem as the first part of a series of 4 steps/processes which have come to be represented by the SARA model in POP literature:

* *Scanning* – the identification of an issue and determining whether it is a problem to which policing may be applied;
* *Analysis* – data collection on the problem to determine its scope, nature, and causes;
* *Response* – the use of the information from the analysis to design an appropriate response, which can involve other agencies outside the normal police arena; and,
* *Assessment* – evaluation of the impact of the response on the problem it was supposed to solve, the results of which can be used to re-examine the problem and change responses or to maintain positive conditions (see also, Eck and Spelman, 1987; Tilley, 2008).

The development and implementation of the SARA model is not linear, of course, but can be repetitive depending on the complexity of the problems to be addressed. SARA should be understood as a series of disjointed and often simultaneous activities (Tilley, 2008). (Also, a wide variety of issues can cause deviations from the SARA model, as Braga (2002) notes, including identified problems needing to be re-analysed because initial responses were ineffective and/or because implemented responses have revealed new problems[[1]](#footnote-1).)) As Goldstein (1979) also noted, how one defines a problem greatly influences how one ‘polices’ it. One can define or describe problems in a variety of ways: One can for example describe them in terms of what the offensive behaviour is, who the people involved are, when the problem occurs, or where the problem occurs (see also, Tilley, 2008; Tilley and Laycock, 2002; Clarke and Goldstein, 2002).

The wide array of possible descriptors for the problem therefore become mere shorthand ways of describing the entire problem so that the response is concomitant with the descriptor one privileges. This is important for several reasons, as Tilley and Laycock (2002) have also noted: First, without a clear focus on specific forms of offensive behaviour, one runs the risk of adopting overbroad or ineffective responses. As an example, while it is sometimes convenient to describe problems in terms of a class of people or even one individual, it is dangerous (morally, ethically and legally) for a POP approach to treat a person or people as the problem itself. That is to say; because crime- or law for that matter- is not a thing, but a process of defining and value-allocation of differing social interests, one should be careful of the ‘positivism of crime’ (Reiner, 2010; Hilliard and Tombs, 2007). Characterizing problems with broad labels like "drugs," "violence," ‘logging’, ‘disorder," "neighbourhood decline," or "juveniles," without specifying the behaviour at issue (and the complex processes at play) will therefore result in simplistic analyses and inadequate response to a complex set of issues.

The key issue for the prospect of applying POP to environmental crimes is thus the blind spot Goldstein (1979) and Clarke and Goldstein (2002) gave it: POP, they argued, should not be aimed at the search for "root causes", but rather ‘the deepest underlying conditions that are amenable to intervention, balancing what is knowable with what is possible’. Their argument, which has characterised operational understandings where POP has been attempted, is that many of what are commonly thought of as "root causes" are beyond the police's capacity to change (although the police can be effective by seeking out partnerships and so forth). In tandem POP scholarship (for example, Tilley, 2008; Tilley and Laycock, 2002) has cautioned against analysis and assessment of POP operations which trap policing into trying to address aspects of a large problem that are well beyond their capacity or mandate.

In this sense, POP practices can appear to be welded to a notion of policing which de-politicises the policing process, disregarding the well-known challenges of police legitimacy; the police- or policing partnerships- are located in and determined by a particular state’s framework of laws, which are sometimes extended to determine or distinguish between the ‘winners’ and ‘losers’ of a state’s social, cultural and political realities (Loader, 2002; Reiner, 2010; Bowling, 2007). Transnationally especially, the securitization of policing (under so-called ‘war on terror’) continues to raise issues of legitimacy of not only policing institutions, but the credibility of policing methods when deployed across borders, often without the tacit approval or support of occupied territories and peoples. Recent analyses of transnational policing has shed light on the systemic abuse of police power through the ‘juridical othering’ which allows states to carry out ‘colonial’ proxy wars, such as the UK’s paramilitary policing in Northern Ireland (Jameson and McEvoy, 2005), but also to evade accountability under international law by the use of private military contractors as part of ‘outsourced sacrifice’ policing (Kailemia, 2015; O’Reilly, 2005; Bowling and Sheptycki, 2012). Recent analysis, for example in Kailemia (2015), O’Reilly (2005) and Bowling and Sheptycki (2012) suggests a domination of the interests of powerful states which also fund transnational and policing bodies as one of the impediments to a just solution to transnational policing problems, especially when they are corporate environmental crimes.

A credible notion of the problem of policing to which POP may be applied must therefore engage with these issues, if it has to have currency with environmental crimes which by their very nature cut across border. But, for this to happen, POP scholarship must rid itself of the pervasive state-centric notion of crime, perpetrators and victims, and instead focus on a social harms notion of crime and victimization. Let us examine this notion below.

***The narrow criminology of environmental policing we should avoid***

In their paper ‘From crime to social harm’ Hilliard and Tombs (2007) remind us that the process of criminalization is centred on the state, which criminalizes an act or event- otherwise having no ontological value- by appropriating to itself (through the criminal justice system) the conflict between actors. Through this intervention, the state ascribes intent on actors, sometimes using a set of dubious moral scales. In the standard scenario the state weighs an actor’s intent (what was going through their mind- were they *compos mentis*? Were they aware of an alternative response? Was there sufficient time to escape the scenario and so forth) hoping to establish, through the bureaucratic policing processes, the extent of the actor’s culpability or victimization.

This bureaucratic process individualises criminality even when it is not directly focused on an individual. In the well-known example (of ‘the rich get richer and the poor get prison’) Reiman (1998) argued that even where crime does not require proof of intent on the part of the individual – such as in the case of corporate manslaughter- the individualising ethos of the criminal justice system minimises the chances of successful prosecution of a distant actor, because it constructs their distant harm as weak, unintentional or as an indirect intent to harm, compared to another actor who does not enjoy the benefit of the distance but who may actually do less harm: A corporate CEO, for example, may be deemed to have unintentionally harmed a forest community thousands of miles away, compared to a rapist or machete attacker and so on. What we witness when these two crimes are being prosecuted, Reiman reminded us, is the role of the criminal justice system (from investigators, prosecutors, judges and juries) in ascription of liability- by weighing the relative moral culpability of the ‘direct’ killer *vis a vis* the distant corporate entity. But, although the corporation (or its CEO) may have not intended to harm no one in particular, not only does this not mean that the corporation may not have known that its actions were likely to harm, but the victim of the process is someone in particular, meaning that the state’s choice of priorities can be a part of the process of victimization.

For Hilliard and Tombs, the proper stance to adopt when confronted with this individualising tendency of the criminal justice system is to reject it *in toto*, shifting from the notion of criminology altogether to one of social harms. The notion of social harms, they show, limits the state’s influence in how become aware of crime, and what we chose to prioritise as a response to it. This is an important point for beginning to grapple with the ideological background against which environmental crimes scholarship takes pace, and how it may intersect with analysis of specific policing methodologies. As an example, when I have to illustrate to my students why pirate fishing (or poaching, or dumping toxic waste and so on) should be considered a crime, I begin by distinguishing the narrow ‘corporatist’ definition of crimes (see also, Lynch and Stretsky, 2013; White, 2013), with more broader social justice perspectives which define crime taking stock of issues of power, social class, gender, race and so forth- whilst also being conscious of the dangers of anthropocentric speciesism (Lynch and Stretsky, 2013). But, things take a twist when, after I begin to illustrate the social justice issues of fishing- a bold move on its own- I realise that I am referring to this crime as ‘*Illegal, Unreported and Unregulated Fishing’* (IUUF), in line with almost every published reference to it. This reference to legality or declaration places the wrong emphasis on the violent nature of the harms perpetrated during the theft of marine resources, from terrorism to human trafficking to the ecological collapse of whole regions (see also, Lynch and Stretsky, 2013; White, 2013).

The question thence becomes: What to do when we are well aware of the mediating role played by how states (or transnational institutions and protocols) notions of criminality mediate our understanding and response to social harms? How do we respond to environmental harms when we still have to appropriate nomenclature rooted in corporatist ideology of what environmental crimes are? Clearly there is no way around this unless we are prepared to de-centre the system beholden to powerful corporate and state interests, prefiguring this system as the culprit even. This is a good thing for a number of reasons, elaborated very effectively by Hilliard and Tombs (2007). First, such an approach is more theoretically coherent and imaginative- and more progressive politically. Think, for a minute, of the impact of policing pirate fishing as theft, or as trafficking in persons or as terrorism: This would have more effect in sensitizing not only those involved in the fishing industry or communities that depend on fish for their diet and income, but it would also shift academic focus to the ways in which pirate fishing shares a space of opportunity with other forms of organized crime (PEW, 2013; EJF, 2014; FAO, 2014), rather than as an issue of arresting people who don’t declare fish catch.

Secondly, de-centring the state and its narrow definition of harm allows important light to be shed on policing ideologies, for example on how definitions deployed in global conventions or by global institutions provide the ideological fences which protect just engagement with global environmental violence. As an example, the ‘social harm’ approach advocated by Hilliard and Tombs among others, centres neoliberalism as the ideological base of global environmental violence. Neoliberalism- which is discussed in the next section- has not only hollowed out notions of social relations, but has normalised intellectual references to crime which ignore its structural determinants- from poverty, social deprivation and the growing inequalities between rich and poor or the collapse of global solidarity among the disenfranchised (Zizek, 2017; Kailemia, 2017; Whyte, 2007). The state’s role is crucial in global deployment of neoliberal ideology: As Zizek (2017) also observes, the state redraws the basic coordinates of exploitation by articulating its defined ‘common benefits’ of the process of extraction- for example the potential to plug gaps in foreign reserves as a sacrifice worth making in the face of ecological displacement or, in extreme cases, constructing civil opposition to certain forms of neoliberal accumulation as enmity to national development.

***Neoliberalism as violence, ab initio***

In recent reading- for example by Harvey (2011), Zizek (2017), Kailemia (2017), Chomsky (2014), Whyte (2007) and Hilliard and Tombs (2007)- neoliberalism is a harm-generating form of capitalism that systematically incorporates the state, not so much into self-regulation, but into regulation of all factors that may challenge untrammelled capitalist accumulation. From violence towards indigenous communities inhabiting forests targeted by oil and logging corporations, or the overthrow of states to align them with a dollarized global economy or the targeted killing of environmentalists and civil society activists, neoliberalism is present as the cutting edge of corporate and state environmental violence- the logic which legitimates such violence but also neutralises any attempt at emancipatory social economic and political development (Zizek, 2010; Klein, 2002). In her analysis of ‘the violence of financial capitalism’ Marazzi locates the power of neoliberalism in the existence of a ‘distinctive, and problematic’ machinery of globalized “interest- bearing capital” (so-called fictitious capital), in which ‘money is produced by means of money’, and thus all other forms of production (including knowledge-production) must prostrate themselves to a system of ‘militarized’ global accumulation in which

In addition to industrial profits not reinvested in instrumental capital and in wages... there are profits deriving from the returns of dividends and royalties from offshore investments; flows of interest coming from Third World debt to which flows of interest on international bank loans to emerging countries are added; flows of interest on international bank loans to the emerging countries; surplus-values derived from raw materials; the sums accumulated by individuals and wealthy families invested in stock markets, retirement and investment funds (Marazzi, 2011: 28).

Apropos of Marazzi, Mendoza (2015) has linked neoliberalism to the rise of a global ‘zombie economy’ of austerity in which economic conquest is undertaken as an extension of a ‘colonial project’ which ensures untrammelled supply of cheap labour and natural resources from global financial ‘colonies’. In this sense, neoliberal conquest of nature and man is not an unintended effect of doing business or extracting value- as Hayek (1973), the father of neoliberalism once opined- but as the logic *par excellence* of neoliberal economics. The role of neoliberal economics is not merely to profiteer (at the risk of inequality or homelessness for example); its aim is to create inequality (or homelessness or debt) because only through such inequality can the empire survive any revolutionary threats. Similarly, pollution or resource thefts are not accidental features of neoliberal globalization: They are its *modus operandi.* Thus, the question apropos of neoliberalism, and an important one for environmental policing scholarship, is not how to counter neoliberal excesses, but how to confront its subtle ideological assumptions, including terminology deployed in standard references to features of its globalized violence.

In his aptly titled book ‘*The looting machine’*, Tom Burgis has given us a glimpse into the main feature of global neoliberal violence, thus:

Where once treaties signed at gunpoint disposed Africa’s inhabitants of their land, gold and diamonds, today phalanxes of lawyers representing oil and mineral companies with annual revenues in the hundreds of billions of dollars impose miserly terms on African governments and employ tax dodging to bleed profit from destitute nations. In the place of old empires are hidden networks of multinationals, middlemen and African potentates. These networks fuse state and corporate power. They are aligned to no nation and belong instead to transnational elites that have flourished in the era of globalization (2015, p. 8).

The handiwork of this network, Burgis concludes, is that

For every woman who dies at childbirth in France, a hundred die in the dessert nation of Niger, a prime source of Uranium that fuels France’s nuclear powered economy. The average Finn and South Korean can expect to live to eighty, nurtured by economies among whose most valuable companies are, respectively, Nokia and Samsung, the world’s top two mobile phone companies. By contrast, if you happen to live in the Democratic Republic of Congo, home to some of the planet’s richest deposits of minerals that are crucial to the manufacture of mobile phone batteries, you’ll be lucky to make it past fifty (2015, p. 6).

The question then is: How should a POP approach see the environmental crimes problem? Let us look at what is conveniently referred to as ‘illegal logging’ in standard environmental crimes scholarship. How might a POP approach help with it?

***Scanning the problem as social harm: ‘Illegal logging’ as a policing problem***

The primary concern of a social harms approach to POP should be to define a problem in terms that have meaning to those it affects. The terms of reference must engage with the history and materiality of the problem. As Goldstein wisely noted, a problem is not merely the *prima facie* symptom of a thing, but its underlying ‘related, or recurring incidents rather than a single incident; a substantive community concern; or a unit of police business’ (1990: 66). Let us take the example of the recurrent violence related to the use of forest resources in Kenya’s Rift Valley[[2]](#footnote-2). In the last 10 years the Mau forest, in Kenya’s rift valley region, alone has lost close to 40000 hectares and as the *World Rain Forrest Alliance* notes[[3]](#footnote-3), is probably the most violent part of Kenya and East Africa, perhaps only rivalled by Eastern Democratic Republic of Congo (with its mineral conflicts). When the lives and livelihoods of close to half a billion people are at the mercy of rapid loss of forest cover because of illegal harvesting, burning or illegal encroachment the issue has reached beyond one of legality and police arrests. The Mau problem would benefit from a POP approach which understands the problem in its complexity and provides cope for a policing which brings in as many partners as possible to resolve it. Like other regions of Kenya, the problem in Mau forest is rooted in the inequality of the post-colonial state which dislocated African populations in order to avail vast parcels of arable land for colonial large-holder cash crop farming (Kailemia, 2017; Warrah, 2008; Wrong, 2009). As Warrah argues, access to land, and the cultural entitlement that come with it, were not redressed as part of the independence transition, meaning that forestry crimes are not merely about economic gain, but also about cultural statements of how different communities perceive their entitlement or denial of state protection from a crime of history: For the Kalenjin and Maasai of the Rift Valley Kenya, for example, the Mau forest is not just a watch catchment tower which must be protected as a technical issue, but a parcel of land which they are kept off while other ‘settler’ communities such as the Kikuyu have been granted access by successful administrations. We are now familiar with the episodes of land violence in this region of Kenya, such as the post-electoral violence over land (in 2007/8) which culminated in indicated of Kenyan leadership at the International Criminal Court. What few are aware of, and what this process of indictment and prosecutions did not properly capture is that land struggles have existed in the first region in this part of the Rift Valley since independence, and no credible policing of loss of forest cover has succeeded absent a resolution of the underlying colonial problem. This means that effective control of forestry crimes in Kenya will require not only a clear understanding of the problem and how it intersects with other forms of criminality, but also action across many policy areas, including promotion of good governance, action to tackle corruption, legislation on land reform, industrial and fiscal policy reform among others.

Clearly, there is scope for POP here: The SARA typology outlined above envisages the role of the police as one of scanning the problem to see what partnerships may be necessary to tackle it, together with the resources and timelines which may be necessary (for substantial completion of the process). The main problem that efforts in this direction will encounter, as POP literature has argued, is inevitably the skewed nature of state policing priorities. In the post-9/11 era, state policing priorities in Kenya have been dominated by notions of crime and victimization which emphasise securitization, rather than social justice (see, for example, Warrah, 2008; Wrong, 2009). Under these circumstances, environmental problems, which perhaps are more harmful than the standard focus of state criminal justice agencies, have been relegated to corporate self-policing, or to non-governmental organizations mainly funded by the EU, but which unfortunately lack the skills and operational proximity to the sources of most of environmental problems.

Kenya is no exception to the rule across most of Africa and the global south. To date, the focus of most anti-forestry crimes, from Congo to the Amazon, has merely been on individualised prevention such as consumer market awareness of timber products, or bilateral forestry law, governance and trade arrangements with western countries. There is no effort at investigating and prosecuting forestry crimes- or other environmental crimes for that matter- at international courts, even in forums like the ICC in which African and Latin American membership is crucial to the priorities and business of the Assembly of state Parties. There is a problem when poor states concentrate their efforts on the arrests of a handful of loggers, but do little to sanction the banks and mineral companies that contribute to the ecological disorganization threatening to wipe out their entire economies and populations. Reflecting on this important lacuna in international criminal justice, Zizek has noted how

Congo no longer exists as a united operating state; its eastern part in particular is a multiplicity of territories ruled by local warlords controlling their patch of land…each warlord has business links to foreign companies of corporation exploiting the wealth- mostly mineral. This arrangement suits both partners: The corporation gets mining rights without paying taxes and so forth, while the warlord gets paid… so in short, forget about the blaming the conflict on the ‘savage customs’ of the local population: Just take away from the equation the foreign high-tech companies and the whole edifice of ‘ethnic warfare fuelled by old passions’ will fall apart’ (2014, p. 23)

But, as we already know, not a single corporation or corporate ‘controlling mind’ has been indicated at the *International Criminal Court* to date. For every Jean Pierre Bemba indicted for war crimes and crimes against humanity at the ICC[[4]](#footnote-4), there are countless perpetrators in the global corporate world shielded from culpability by a rigged system of international justice which allows violence to be outsourced (Kailemia, 2015; Zizek, 2015). As a result of this narrow notion of perpetration, most forest crimes around the world go undetected, unreported, or ignored. All too often, investigations—in the rare event that they do take place—are amateurish and inconclusive, and the few cases taken to court tend to be of trivial significance, prosecuting people whose involvement in crime is due to poverty and exploitation (Magrath et al., 2007; Lawson and MacFaul, 2010). Even fewer cases result in significant or serious penalties, and the public treasury virtually never recovers the economic value of stolen or destroyed forest assets.

The conclusion here is that illegal logging is amenable to policing intervention, but that suppression of illegal logging through the criminal justice system has gotten little attention from policy makers, activists, and technical assistance providers because of this narrow of the role of environmental policing. But, this is not to say that law enforcement (investigation, prosecution, imprisonment, and the confiscation of illegal proceeds) are not important, but that they need to form part of an integrated and sustainable solution to the problem of the violent theft of forest resources. Thus, to be successful, policing agencies (including the police and forestry officials) require an understanding of the positive impact that a social harms perspective can have when integrated into the criminal justice system.

***Analysing this inadequate structure; the shared opportunity space of illegal logging***

According to Eck and Clarke (2003) the analysis phase of POP involves a quest for an understanding of the underlying conditions that give rise to crime problems. The challenge here is for the police (or policing partnership) to go beyond the analysis that ‘naturally occurs to them’; they must find the places and times where particular offenses are likely to occur, or the networks of opportunity shared between one type of crime and others[[5]](#footnote-5). Overall the attractiveness of POP is that it emphasises problem-solving methods which, while they may involve the police (as outlined in the last section), are not wholly reliant on the police. That is to say; while scanning involves determining whether the police can be involved (alone or in partnerships) or not, it is only as part of analysis that the precise nature of the problem and extent of police involvement can be determined. Analysis is also where the descriptors (encountered during scanning) are unpacked, where a shift occurs from broad categories to specific connections/interfaces between crimes and opportunities for crimes (Clarke and Goldstein, 2002; Braga et al., 1999)[[6]](#footnote-6). The *Centre for Problem-Oriented Policing* (www.popcenter.org) outlines the following schemata for analysing policing problems:

• Identifying and understanding the events and conditions that precede and accompany the problem.

• Identifying relevant data to be collected.

• Researching what is known about the problem type.

• Taking inventory of how the problem is currently addressed and the strengths and limitations of the current response.

• Narrowing the scope of the problem as specifically as possible.

• Identifying a variety of resources that may be of assistance in developing a deeper understanding of the problem.

• Developing a working hypothesis about why the problem is occurring.

So, how do things look apropos of illegal logging? Although the specific offenses vary across jurisdictions, analyses of illegal logging have revealed its network nature, from the involvement of money launderers’, people and arms traffickers to funding of terrorist organisations (Greenberg et al., 2009; Lawson and MacFaul, 2010; Kishor and Damania, 2007). Illegal logging has thus been at the centre of recent cases of armed conflicts, particularly in central Africa and South East Asia where it has fuelled corruption and forced displacement of populations. As an example, Indonesia has struggled with illegal logging for decades: During the Suharto *New Order* regime, capture of economic rents from forestry was institutionalized and essentially sanctioned among a small number of elites who were able to benefit from their privileged access to the machinery of government (Lawson and MacFaul, 2010; Kishor and Damania, 2007)[[7]](#footnote-7). Indonesia’s long history of resource thefts and conflicts means that, although the post-Suharto period witnessed policy changes aimed at enhanced policing of forestry resources- including inauguration of Forestry Law Enforcement and Governance Treaty (FLEGT) with the EU[[8]](#footnote-8)- available data suggests that patterns of law enforcement are ineffective. First, there are relatively few specific cases of illegal logging being detected and even fewer being pursued with detailed and professional investigations (Setiono and Husein, 2005; Satriastanti, 2010). Where cases are pursued, it is usually against relatively low-level criminality as opposed to high-level offenders and corrupt officials. Or the few cases that are prosecuted result in insignificant penalties, with no recoveries of public assets (see also, Chatham House, 2009; FAO, 2005; Kishor and Damania, 2007).

***A social harms response to illegal logging as a policing problem***

After a problem has been clearly defined and analysed, Goldstein (1990) taught us, the task for the police is to confront the challenge of developing a plausibly effective response. As we have mentioned above, the analysis process is aimed at revealing the potential targets for an intervention, and in addition, ideas about the type of interventions (and partnership accoutrements) that may be necessary. Goldstein (1990) preferred an ‘uninhibited’ approach which frees the police to enter fluid partnerships which last the problem-solving duration. In a social harms setup the priority should not so much be getting officers in the right places at the right times, or identifying and arresting the offender (although both may be valuable responses), but in getting other people to take actions that reduce the opportunities for criminal offending. The partnership machinery must mobilize every formal and informal (social) controls until the problem is solved, including incorporating critical academic insight into how the problem came about and what its overall implications are to harms widely defined. Goldstein (1990, p.102-147), who of course imagined the (public) US police as the locus of this intervention, offered the following suggestive list of general considerations for responses which partnerships could tweak:

* Concentrating attention on those individuals who account for a disproportionate share of the problem. The danger here is that an individualised approach may fall prey to the definition of individual culprits that the state machinery of criminal justice deems so. The figure in this instance must be the one identified by a cross-section of social interests as the perpetrator, not just police informants and such like.
* Partnership Coordination between local and transnational and between local public, private and voluntary agencies, and creating expanding cycles of intervention as long as this intervention is measurable and guided by a set of clearly articulated aims. The danger to be avoided here is duplication of role/effort or the domination of partnership agencies by the police, or agencies that provided the most in put in terms of financial or logistical resources. The voices of all players must be heard;
* Using mediation and negotiation skills to resolve disputes. This is the most important. Most of the problems of environmental criminality are bound together with social and economic marginalization or inequality and as such, there is no way of arresting or killing pour way to a solution. Partnership effort must resist militarisation of every social problem. While arrests and prosecution may work for some types of crimes, and are convenient approaches for state machinery, in the long term other solutions like mediation are more effective and earn interventions the legitimacy they need.
* Public consultation and information sharing to not only allay fears and reduce anxiety, but to enable citizens to solve their own problems, by equipping them with knowledge of how to recognise their own victimization or the specific ways their behaviour may inadvertently harm others. The aim here should be mobilise members of a community to develop alternative forms of intervention that do not cede control to external agencies, but which also are linked to state agencies should their knowledge, legal apparatus or equipment be necessary.

It goes without saying that the power of POP in a social harms approach, should be aimed at mobilizing other resources beyond law and the criminal justice system. On law, forest law enforcement (where it exists) has been found to be highly ineffective in most countries at countering and deterring illegal logging (Contreras-Hermosilla, 2001; Akella and Cannon, 2004; FAO, 2005). A four-year study conducted by Magrath et al. (2007) in four resource-rich countries (Brazil, Mexico, Indonesia, and the Philippines) found that the cumulative probability of an illegal logging crime being penalized is less than 0.082 percent. In one of the regions examined (Papua, Indonesia) the cumulative probability of being convicted of illegal timber shipping was only 0.006 percent (Kishor and Damania, 2007; Akella and Cannon, 2004). The conclusion is that, due to weak environmental legal and enforcement frameworks, formal controls alone are not adequate disincentive to offset the gains of illegal environmental activities (see also, Akella and Cannon, 2004). As Magrath et al. (2007) note, most illegal logging cases brought to trial are dismissed either because of lack of evidence (including poor collection of evidence, or the collection of the wrong evidence) or because judges, prosecutors and the police lack knowledge about important forest laws and regulations.

The first step of a vibrant response, then, is proper education on evidence collection for both policing and prosecution agencies. The other is a heavy-handed response to corruption, especially where it involves interfering with evidence. As McGrath et al. (2007) show, the biggest threat to a criminal justice response to illegal logging (in Brazil, for example), is the bribing of local forest officials or the securing of protection from high-ranked political figures. In almost all cases of cross-jurisdictional research, the effectiveness of a criminal justice response to illegal logging has to be secured against a strong tide of the discretionary powers enjoyed by forestry and other government officials. For example, in Honduras, an independent commission established in 2004 found evidence that, investigations into illegal logging on the part of a number of the country’s largest timber companies were halted by the Assistant Attorney General just as prosecutors were reviewing relevant documents that were in the possession of the state forest administration agency[[9]](#footnote-9) (Akella and Cannon, 2004). A major task for POP is thus, not only spelling out in clear terms the limits of discretion (and penalties for violating such discretion), but also educating the population on how their habits contribute to the problem, as well as targeting those directly responsible for the problem. But, in doing so, POP must also avoid misplaced focus on low-level criminals engaged in illegal logging, rather than the criminal organizations or intermediaries ultimately responsible for these crimes.

Needless to say, indiscriminate arrests or harassment of poor people—even of those who might, because of exploitation and manipulation, be involved in illegal activities—undermines the credibility of forest law enforcement by ignoring the organizations and “masterminds” in control of the illegal activity. In many countries, illegal logging is controlled by powerful syndicates with high-level political connection while, in other places, links can be seen between illegal logging and criminal organizations known to be involved in drug and human trafficking and other crimes[[10]](#footnote-10). These organizations are known to demand protection money from those who buy the illegal logs, who, in turn, simply regard this as an additional cost of doing business—in the same vein as transportation costs and customs duties (Akella and Cannon, 2004).

***A social harms Assessment; what have we achieved?***

The crucial last step in the practice of problem-oriented policing is to assess the impact the intervention has had on the problem it was supposed to solve. Assessment is important for at least two different reasons. The first is to ensure that the policing partnership remains *accountable* for its performance- and information- and for the use of its resources (Clarke and Goldstein, 2002; Eck and Clarke, 2003). Secondly, assessment allows institutional learning, answering important questions such as; what has worked? What hasn’t? As Eck (2003) argues, unless the police- or for our purposes, policing partnerships- check to see whether their efforts are producing required result, it will be hard for them to improve their practices. This is also why it is important, right from the start, to distinguish between ‘output’ and ‘outcome’, but also between assessment and evaluation. As Eck (2002) points out, ‘evaluation’ relates more to integrity of the process (Is the problem declining? Is such decline on account of the methods being used?). Evaluation thus begins as soon as the problem-solving process starts, continuing throughout the stages of the SARA model, for example. Assessment, on the other hand, is the culmination of the evaluation process and represents the final stage where it is determined whether the targeted problem changed as a result of the implemented responses and decisions, or whether the intervention practices themselves need to be altered (see also, Braga, 2002; Eck, 2002). While the degree of rigor applied to the assessment of responses may vary, depending on the available resources and the nature of the problem, what must *not* be sacrificed is the goal of measuring results (Clarke and Goldstein, 2002; Eck, 20023).

The point is for the initiative at all times to stay focused on the end rather than the means. For illegal logging, policing its complex networks means that interventions must consider designing and implementing a strategy with clear and reasonable objectives and timelines for completion, as well as creating appropriate assessment tools to track the achievements and failures of initiatives. This is perhaps where most criminal justice approaches to illegal logging fall short, as Magrath et al. (2007) also observe. There are few jurisdictions (particularly in the developing world) with vibrant tools for resolving crimes related to forestry resources theft, much less for measuring accountability or even for storing the kind of data which would show where initiatives are succeeding or failing.

***Conclusion***

The above analysis has attempted to show how the wonderful methodologies of POP may be applied to an area of hidden criminality, but the dangers that lurk underneath the global system of neoliberal criminal juice which does not adequately prioritise social harms, such as environmental crimes. The paper has shown that the low priority of crimes that have potential to harm, or even destroy, the whole of humanity, is not accidental; it’s systematic and aimed at extension of neoliberal violence so that the radical distinction between the winners and losers of global economics can be upheld. We have examined not only the fact of neoliberalism as a specific form of violence, but also one embedded in the state system which, local and transnationally, occludes proper recognition of wide harms that resort for environmental crimes. The methodology of Problem-Oriented Policing was chosen because, unlike most other approaches, it focuses on a problem, rather than the perpetrator. This is important for a social harms approach which is aimed not only at challenging notions of crime which atomize perpetration and victimization but is also aimed at the underlying ideological structure on which this tendency is built. POP can help to remove the tendency to see policing problems as only the problems for the police (Reiner, 2010), but also to create opportunities for methodologies of policing to be tested against emerging forms of criminality, especially environmental crimes, which are transnational in nature and methodology. Whether problem-oriented policing works depends, of course, on what one believes to be the objectives of the policing. Successful policing for us is policing that achieves its multiple objectives of disrupting and minimising social harms. There is great scope for POP to plug the gap left by lopsided state focus on environmental crimes, and we hope that future works will extend application of POP to other forms of transnational environmental victimization.

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1. It is also important to remember that the SARA model is only one way of operationalizing problem-oriented policing; as Read and Tilley (2000) remind us, it is not the only way and perhaps may not be the best way for police to address problems. [↑](#footnote-ref-1)
2. See, for example https://www.reuters.com/article/us-kenya-landrights-sengwer/kenyas-sengwer-say-they-face-fresh-threat-of-eviction-from-their-forest-land-idUSKBN1EU1GW [↑](#footnote-ref-2)
3. <http://www.wrm.org.uy/oldsite/bulletin/113/Kenia.html> [↑](#footnote-ref-3)
4. See <https://www.icc-cpi.int/car/bemba?ln=en> [↑](#footnote-ref-4)
5. Goldstein (1990, p. 98-99) described this as the problem of “ensuring adequate depth”. Goldstein offers the example of shop theft: Although the standard response is to call for more arrests of shoplifters, if one digs deeper, it becomes apparent that shoplifting is heavily influenced by how the merchandise is displayed and the means used to safeguard it. On order for POP to take place, Goldstein argues, the police must stop accepting merchandising decisions as givens. [↑](#footnote-ref-5)
6. Again, we must not lose sight of the fact that POP is never interested in ‘individual criminals’ but in the crime problem itself: The focus is not on the offender, but how that offender is part of a problem (as its victim or perpetrator. Here, POP understands that merely taking the individual from the equation can have little impact if s/he the conditions of offending allow the subject’s replacement [↑](#footnote-ref-6)
7. Since the collapse of the *New Order* only a very few successful prosecutions against Suharto cronies in the forestry sector have been brought forward and there has been little recovery of stolen assets. In the post-Suharto period, forest policies in Indonesia have been in flux, including a period of marked decentralization of control over resources and a retrenchment from the decentralization. [↑](#footnote-ref-7)
8. Se, for example, <http://www.euflegt.efi.int/home> [↑](#footnote-ref-8)
9. Similar studies led by non-profit organizations working in this sector have found that illegal logging is linked to corruption at the highest levels of government. This type of corruption (known as “state-capture corruption”) requires different enforcement methods than those used in combating other forms of corrupt activity. [↑](#footnote-ref-9)
10. As Akella and Cannon (2004) argue, law enforcement is not the best way to address the problems posed by these lower-level criminals, who often resort to crime in response to extreme poverty and a lack of other options. Instead, a more effective way of addressing the root causes motivating actors at this level may be to put more energy into prevention and into combating poverty. [↑](#footnote-ref-10)