

**Commentary**

**Beyond Criminalisation: Green Criminology, Environmental Harm, and Sustainable Development Goal 15**

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**Abstract**

Sustainable Development Goal (SDG) 15 seeks to protect terrestrial ecosystems, promote sustainable land use, and halt biodiversity loss. This commentary argues that green criminology offers one of the most valuable frameworks for achieving SDG 15, as it shifts the focus from legalistic definitions of crime to broader ecological ‘harms’ and a harm-based perspective. Criticisms of green criminology are common and highlight the need for nuanced and contextual application. This commentary will respond to this need, by addressing the environmental and humanitarian consequences of rare earth mining in Myanmar, and by examining how legal penalisation could be potentially ineffective in addressing ecological degradation under military-led governance. By integrating green criminology with regionally tailored policy and intervention, this paper suggests a pathway toward more effective environmental governance and sustainable development.

In May 2024, Global Witness released its report on a comprehensive and detailed investigation into environmental and supply chain harms for Burmese citizens due to unsustainable rare earth mining practices.<sup>1571</sup> The report highlights both the primary and secondary harms of such environmental degradation and suggests the adoption and enforcement of ‘legislation [...] including strict penalties for non-compliance’ for countries not regulating environmental and supply chain standards in line with the United Nations’ (UN) SDGs. This paper advocates for a criminological approach, in the

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<sup>1571</sup> Global Witness. “Fuelling the future, poisoning the present: Myanmar’s rare earth boom.” 2024. Available at: [https://globalwitness.org/en/campaigns/transition-minerals/fuelling-the-future-poisoning-the-present-myanmars-rare-earth-boom/?gad\\_source=1&gad\\_campaignid=21060178994&gbraid=0AAAAADm6LODTxhHjqliwYINVv9s9YB-Mv&gclid=EAlaIQobChMI-I\\_1353njQMVoEtHAR1n7Q\\_IEAAYASAAEgKCNfD\\_BwE](https://globalwitness.org/en/campaigns/transition-minerals/fuelling-the-future-poisoning-the-present-myanmars-rare-earth-boom/?gad_source=1&gad_campaignid=21060178994&gbraid=0AAAAADm6LODTxhHjqliwYINVv9s9YB-Mv&gclid=EAlaIQobChMI-I_1353njQMVoEtHAR1n7Q_IEAAYASAAEgKCNfD_BwE). Accessed 01 January, 2025.

vein of green criminology, for the achievement of sustainable ecological practices that align with UN standards. Sustainable Development Goal (SDG) 15 aims to protect, restore, and promote the sustainable use of the environment, including the sustainable management of forests, halting land degradation, desertification, and biodiversity loss. This paper contends that green criminological theory contributes to SDG 15 by examining environmental degradation and promoting sustainable development by understanding 'crimes' as 'harms'.<sup>1572</sup> This paper will address key criticisms of green criminology, particularly its potential to promote overcriminalisation, which can be less effective in advancing development goals. It concludes with a case study of Myanmar, advocating for a regional cooperative framework or a national restorative policy as alternatives to international criminalisation of environmental harms.

SDG 15's objectives centre on the preservation of life on land, including the protection of ecosystems and the sustainable management of natural resources, with the goal of implementing sustainable forest management, combating desertification, and restoring degraded land by 2030.<sup>1573</sup> Green criminology highlights a general neglect or misunderstanding of the impact of ecological issues within criminological discourse,<sup>1574</sup> seeking to address environmental crimes such as deforestation, land degradation, and pollution—crimes that directly hinder the achievement of SDG 15. For example, green criminology would define deforestation in the Amazon rainforest as harmful and, therefore, potentially criminalisable due to its links to significant biodiversity loss. This illustrates how ecological harm can be both immediate and far-reaching, and how green criminology criminalises 'harms' instead of crimes, seeking to facilitate development goals.

Green criminology similarly advocates for responsible land management practices, emphasising the need for policies that address harm and complicated perpetrators while promoting sustainable resource use. Dehury et al. emphasise the need for such

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<sup>1572</sup> David R. Goyes, "Southern Green Criminology: Fundamental Concepts," in *Green Crime in the Global South: Essays on Southern Green Criminology* (Cham: Springer International Publishing, 2023); Angus Nurse, "Repairing the Harm: Restorative Justice and Environmental Courts," in *An Introduction to Green Criminology and Environmental Justice* (London: SAGE Publications Ltd, 2015).

<sup>1573</sup> United Nations General Assembly. *Transforming Our World: The 2030 Agenda for Sustainable Development*, 2015; United Nations General Assembly. *Work of the Statistical Commission Pertaining to the 2030 Agenda for Sustainable Development*, 2017.

<sup>1574</sup> Michael J. Lynch and Paul B. Stretesky. *Exploring green criminology: Toward a green criminological revolution*. (London: Routledge, 2016) as referenced in Nurse, *An Introduction to Green Criminology and Environmental Justice*.

green criminology policies in framing successful interventions:<sup>1575</sup> green criminology in the context of SDG 15 considers the broader implications of environmental harm and the functional implementation of sustainability strategy. The connections between ecological harms and potential criminal action demonstrate how green criminology can help frame policies and practices that contribute to more sustainable conservation, while deterring criminal activity by individuals, states, and groups that might contravene SDG 15.

SDG 15 does not outline criminal acts but instead focuses on harms and future implications of land degradation and biodiversity loss, indicating green criminology's contribution to SDG 15 as a potential driver for the criminalisation of 'harms' instead of 'crimes.' Echoing semiological criminology,<sup>1576</sup> it is crucial to first distinguish between environmental crimes and harms in our application of green criminology. Brisman et al. describe ecological crimes as traditional violations of legislation or legal acts<sup>1577</sup>, while 'green harms' are not statutorily prohibited, but are regarded as equally or more damaging.<sup>1578</sup> The latter can be divided into primary and secondary.<sup>1579</sup> Primary harms are a direct depletion of natural resources, such as deforestation or increasing natural disasters. Secondary harms involve exploiting conditions that follow an ecological crisis or damage, such as internal displacement.

Green criminological perspectives could influence the development of laws regarding environmental crimes and hence contribute to SDG 15<sup>1580</sup>. For the last 50 years, ecocide has been proposed as an international crime— including as a potential fifth crime against peace to the UN Law Commission, which would criminalise extensive

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<sup>1575</sup> Parthsarathi Dehury, Imteyaz Ahmed, Manas Ranjan Behera, and Ranjit Kumar Dehury, "Exploring the Landscape of Green Crime in India: A Theoretical Understanding with References to Rapid Industrialization," in *Proceedings of the NDIEAS-2024 International Symposium on New Dimensions and Ideas in Environmental Anthropology-2024* (Berlin: Springer Nature, 2024), 96.

<sup>1576</sup> In this instance, zemiology takes its definitions from Avi Boukli and Justin Kotzé, eds. *Zemiology: Reconnecting crime and social harm*. (Springer, 2018), 3, denoting social harms, as opposed to necessarily criminalised actions.

<sup>1577</sup> Avi Brisman, Nigel South, and E. Walters, "Southernizing green criminology: Human dislocation, environmental injustice and climate apartheid", *Justice, Power and Resistance* 2, no. 1 (2018): 2.

<sup>1578</sup> Polly Higgins, Damien Short, and Nigel South, "Protecting the planet: a proposal for a law of ecocide", *Crime, Law and Social Change* 59 (2013): 252, <https://doi.org/10.1007/s10611-013-9413-6>.

<sup>1579</sup> Nigel South, "Nature, difference and the rejection of harm: Expanding the agenda for green criminology" in: *Global Harms: Ecological Crime and Speciesism* (2008): 187-200.

<sup>1580</sup> Ricardo Pereira, *Environmental criminal liability and enforcement in European and international law*, vol. 21 (Leiden: Brill, 2015).

damage to ecosystems.<sup>1581</sup> While the proposal is yet to be codified due to extensive issues of definition and actual implementation,<sup>1582</sup> it exemplifies the potential for criminalising environmental harms on an international level, and shows how green criminological perspectives can be used to achieve sustainability goals.

While there is disagreement at the global level of criminalisation, there is a case for addressing environmental harms on the domestic level to prevent land-degrading actions internationally and facilitate SDG 15. Scholars have suggested that managing environmental harms at the domestic level, particularly in developing countries, can mitigate many economic and social integration issues.<sup>1583</sup> This is because ecological harm stemming from local practices and global demand, where international criminalisation as a solution might be ineffective, can be dealt with within the context of the country. This will be discussed later in this paper in the context of Myanmar.

This paper acknowledges that some aspects of green criminology pose issues in three distinct categories: definitions, eurocentrism, and over-criminalisation. Definitions of 'harmful' and/or 'criminal' acts are subjective to the perspective,<sup>1584</sup> and necessitate accurately describing what reaches the threshold of 'environmental harm', which is complicated, as integral harms will not always be felt as severely the moment they are committed.<sup>1585</sup> Eurocentrism could also obscure the root causes of environmental harm,<sup>1586</sup> while the Global South has been cited for having contributed significantly to global emissions during the last 30 years, contributing 63% of total GHG emissions, including land-use change,<sup>1587</sup> historical research suggests Global North actors are

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<sup>1581</sup> Higgins et al, "Protecting the planet: a proposal for a law of ecocide", 252.

<sup>1582</sup> Francisca Valencia Arias and Ann-Kathrin Reinefeld, "50 Years of the Proposed Crime of Ecocide: Challenges Regarding its Definition and Possible Answers," *International Criminal Law Review* 1, no. 1 (2024): 1-29, <https://doi.org/10.1163/15718123-bja10205>.

<sup>1583</sup> Andrew K. Jorgenson and Brett Clark, "Societies consuming nature: A panel study of the ecological footprints of nations, 1960–2003," *Social Science Research* 40, no. 1 (2011): 226-244, <https://doi.org/10.1016/j.ssresearch.2010.09.004>.

<sup>1584</sup> Goyes, "Southern Green Criminology: Fundamental Concepts," 215; David Rodríguez Goyes, "Green activist criminology and the epistemologies of the South," *Critical Criminology* 24 (2016): 503-518, <https://doi.org/10.1007/s10612-016-9330-y>.

<sup>1585</sup> Nurse, "Repairing The Harm: Restorative Justice And Environmental Courts," 3.

<sup>1586</sup> Andrew K. Jorgenson, Christopher Dick, and John M. Shandra, "World economy, world society, and environmental harms in less-developed countries," *Sociological Inquiry* 81, no. 1 (2011): 53-87, <https://doi.org/10.1111/j.1475-682X.2010.00354.x>.

<sup>1587</sup> Aaron William Tester, "Deforestation in the Global South: Assessing uneven environmental improvements 1993–2013," *Sociological Perspectives* 63, no. 5 (2020): 764-785, <https://doi.org/10.1177/0731121420908900>; Harald Fuhr, "The rise of the Global South and the rise in

heavily responsible for global emissions.<sup>1588</sup> Finally, the emphasis on punitive responses that some strands of green criminology encourage risks over-criminalisation,<sup>1589</sup> overlooking underlying factors contributing to environmental damage, such as poverty and conflict, which might hold individual actors accountable for systemic issues often rooted in corporate, state or international behaviours, especially in the Global South.<sup>1590</sup> These issues could have an inverse effect on contributing to sustainable development by unfairly over-criminalising actors, not contributing to SDG 15.

Acknowledging the above criticisms, green criminologists have highlighted the potential benefits of restorative justice and alternative dispute mechanisms. Scholars emphasise that these alternatives provide more effective solutions:<sup>1591</sup> green criminological perspectives are already helping as a 'decolonial tool',<sup>1592</sup> mobilising the litigation space and the law in Global South jurisdictions to strengthen climate change policy responses and halt emissions-intensive projects,<sup>1593</sup> viewing environmental harms as crimes and addressing these ecological issues while sidestepping the problems of over criminalisation in the Global South. Hence, this perspective is still invaluable in its application to SDG 15.

This commentary will use Myanmar as a case study, highlighting rare earth mining and fire as a Global South example that considers the definitions of 'harms' as the two-pronged 'primary and secondary' classification,<sup>1594</sup> and as a focus on where criminalisation might not sufficiently address the complexities of rare earth mining or

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carbon emissions", *Third World Quarterly* 42, no. 11 (2021): 2724-2746, <https://doi.org/10.1080/01436597.2021.1954901>.

<sup>1588</sup> Eos. "Global North Is Responsible for 92% of Excess Emissions". 2020. Available at: <https://eos.org/articles/global-north-is-responsible-for-92-of-excess-emissions>. Accessed 21 October, 2024.

<sup>1589</sup> Mark Halsey, "Against 'green' criminology", *British Journal of Criminology* 44, no. 6 (2004): 833-853, <https://doi.org/10.1093/bjc/azh068>.

<sup>1590</sup> Michael Kidd and Melissa Strydom, "Criminal enforcement of environmental law in South Africa," in *Research Handbook on Environmental Crimes and Criminal Enforcement*, 382-406. (Edward Elgar Publishing, 2024).

<sup>1591</sup> Nurse, "Repairing The Harm: Restorative Justice And Environmental Courts," 4.

<sup>1592</sup> David Rodríguez Goyes, "Green criminology as decolonial tool: A stereoscope of environmental harm", *The Palgrave handbook of criminology and the global south* (2018), 323-346.

<sup>1593</sup> Jolene Lin and Jacqueline Peel, "Actors in Global South Climate Change Litigation Mobilization Efforts," in *Litigating Climate Change in the Global South* (Oxford University Press, 2024).

<sup>1594</sup> South, "Nature, Difference and the Rejection of Harm: Expanding the Agenda for Green Criminology," 187-200.

human rights issues. Global Witness's 2024 [investigation reports](#) on environmental harm associated with the expansion of rare earth mining in Myanmar, highlighting its detrimental community and ecological effects, including severe land degradation, deforestation, and pollution, directly contradicting the goals set out in SDG 15. In Myanmar, rare earth mining can often displace citizens and directly fund military operations, contributing to further land degradation through scorched earth tactics.<sup>1595</sup> This demonstrates the need for a green criminological approach prioritising environmental justice instead of criminalisation, as in Myanmar, the impact of rare earth mining is also exacerbated by the State's involvement. This mirrors issues with environmental impact, such as armed conflict in Syria, exacerbated by state involvement.<sup>1596</sup> Ecological and humanitarian problems are often interconnected, underscoring the importance of restorative approaches and focus on secondary harms, where green criminology can better facilitate SDG 15, prioritising environmental restoration rather than imposing punitive measures.

Furthermore, international criminalisation of environmental harms might not be sufficient in the context of Myanmar's military-led governance as direct actors in the harms. Scholars describe the Western perspective as reductionist to the point that it risks misunderstanding the drivers, dynamics and potential solutions of conflict. In response, they call for a nuanced approach to develop successful responses,<sup>1597</sup> which can be exemplified by the Association of Southeast Asian Nations (ASEAN)'s dealings with Myanmar, providing a more nuanced model for addressing environmental and humanitarian issues. ASEAN has facilitated humanitarian interventions under the guise of disaster management. This enables it to address environmental and humanitarian impacts while avoiding alienating Myanmar by violating state sovereignty,<sup>1598</sup> illustrating the potential for regional cooperation in managing ecological harm. Such

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<sup>1595</sup> Thiri Shwesin Aung, "Satellite analysis of the environmental impacts of armed-conflict in Rakhine, Myanmar," *Science of the Total Environment* 781 (2021):1-15, <https://doi.org/10.1016/j.scitotenv.2021.146758>; Myanmar Witness. "Myanmar on Fire," 2023. Available at: <https://www.myanmarwitness.org/reports/myanmar-on-fire>, Accessed 21 October 2024.

<sup>1596</sup> Pax for Peace. "Axed & Burned: How Conflict-Caused Deforestation Impacts Environmental, Socio-Economic and Climate Resilience in Syria," 2023. Available at: <https://paxforpeace.nl/publications/axed-burned>. Accessed 21 October 2024.

<sup>1597</sup> David Brenner, "Misunderstanding Myanmar through the lens of democracy." *International Affairs* 100, no. 2 (2024): 751-769, <https://doi.org/10.1093/ia/iaae015>.

<sup>1598</sup> Mikio Oishi and Nina Ghani, "Developing a way to influence the conduct of the government in intrastate conflict: the case of Myanmar," in *Contemporary Conflicts in Southeast Asia: Towards a New ASEAN Way of Conflict Management* (2016), 89-110.

practices suggest that a collaborative strategy could enhance the effectiveness of responses to the challenges of rare earth mining, by prioritising restorative action that engages local communities. This perspective aligns with the SDG 15 goals and emphasises the importance of community involvement in environmental governance, ensuring that local voices are prioritised and that interventions are effective.

To conclude, this commentary argues that green criminology provides valuable insights into addressing environmental harms related to SDG 15, emphasising the need for a nuanced understanding of ecological harms and the importance of sustainable practices and environmental responsibility, which are crucial for achieving long-term success in addressing SDG 15. A theory of international cooperation and regional or national domestic restorative policy, effectively enhancing enforcement mechanisms to combat ecological degradation and biodiversity loss, is a more practical approach to achieving SDG 15 goals than international criminalisation of environmental harms. Combining green criminological insights with regional cooperation, as seen in Myanmar, could strengthen enforcement mechanisms, fostering a culture of sustainability and ecological responsibility.



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