

# The Right to Landscape

Contesting Landscape and Human Rights

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## **Landscape Crime: The 'Right to Landscape' from Hell to Heaven**

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### **Introduction**

The phenomenon of environmental crime is increasingly common at both the national and the international level. Illegal trade in, and disposal of, hazardous waste has spread world-wide. Illegal logging is not confined to high-profile cases such as the Amazon Basin, but is also widespread in Africa, Asia, and the Americas. It has been estimated that up to one half of all logging in Siberia is illegal (Brack et al., 2002). Illegal mining of everything from coal to precious metals flourishes throughout both the developing and the developed world.

Wherever it occurs, organised environmental crime violates the right of people and communities to live in a safe environment, or the 'Right to Landscape.' Combating such crime therefore represents a major challenge to local, national and global institutions. In order to meet that challenge, it is imperative to reflect on the way in which individuals perceive and act within and upon their own landscapes.

In this chapter we discuss environmental crimes that directly affect or violate the rights of people to determine the shape and meanings of the places they inhabit. We introduce the notion of 'landscape crime' as a concept related to, but distinct from, the well-established notion of environmental crime. Our focus is on both landscape crime and landscape protection, as well as on environmental policies that variously threaten, undermine or support people's rights to landscape. We argue that the umbrella concept of 'landscape' can help to build just and sustainable communities, and to conserve the world's cultural and biological diversity, by providing opportunities for experiencing natural and cultural heritage. Landscape and questions of environmental justice, we argue, should be included as a basic component of human rights protocols. Finally, we suggest that the notion of landscape as a 'sacred place' has the potential to promote a local and global civic culture of responsibility for the long-term wellbeing of humans and nature.

## Landscape Crime

The idea of 'landscape crime' we wish to propose here builds on the established concept of 'environmental crime' (Situ and Emmons, 2000), while at the same time being distinct from it. Environmental crime is 'an unauthorized act or omission that violates the law and is therefore subject to criminal prosecution and criminal sanctions. This offence harms or endangers people's physical safety or health as well as the environment itself. It serves the interests of either organisations – typically corporations – or individuals' (ibid.: 3). Hence environmental crime describes cases where an individual or collective, whether public or private, takes actions that directly undermine the health and resilience of environmental systems; for example, in the pollution of a river or deforestation.

Landscape crime, however, refers to something more complex than environmental crime. It denotes the undermining not only of natural systems, but also of the more elusive relationships between people and place. The concept is similar to 'biopiracy,' when it refers to unauthorised extraction of biological resources associated with traditional knowledge of local communities (Robinson, 2010; Mooney, 2000). In these terms, environmental crimes can be seen as landscape crimes, but not all landscape crimes are necessarily environmental crimes. The environmental crime of polluting a river becomes a landscape crime when that pollution occurs, for example, when that river has sacred significance, and when its pollution disrupts the rituals associated with the place. The more complex and layered the human presence in a place, the greater the gravity of the landscape crime.

Environmental crime moreover denotes actions that degrade or compromise ecological systems in ways that are quantifiable, for example the number of fish species present in a given section of a river. Landscape crime, by contrast, deals with how these quantifiable actions affect the relationship between the abiotic, biotic and human components of landscape, and thus also how they affect individuals and communities. These effects can take the form of damage to symbolic meanings, memories or practices, or any other kind of disruption of existing relationships between ecosystems and people in the place where crime occurs.

The term 'environmental crime' therefore applies to those actions where damage to the environment can be assessed using existing scientific means. Measuring landscape crime, by contrast, requires a far more nuanced and culturally engaged set of tools, of which quantitative measurement is only the beginning.

Concluding, with 'landscape crime' we refer to all those actions that undermine landscape understood as a relationship between natural and cultural systems, foregrounding the relationships and meanings, accreted over time, between people and place.

## The Role of Corruption

Landscape crimes are frequently closely correlated with political or economic corruption. Political corruption is the abuse of power by political leaders for private gain (Pellegrini, 2010). A corrupt system, in order to flourish, infringes numerous rights in the areas of political participation, or bars access to the legal mechanisms for gaining compensation for such crimes (Robinson, 2010). One of these is the right to landscape. When individuals have to pay bribes to access housing, open a business or secure land, a safe environment and the basic rights of 'life, liberty, and security of person,' set forth in Article 3 of the Universal Declaration of Human Rights (United Nations, 1948), are violated. The fight against corruption is thus inextricably linked to the fight for human rights.

Political corruption can, however, also occur through legal mechanisms, including legislation. An example are the three Italian laws, passed in 1975, 1994 and 2003, allowing *condono edilizio*, or the regularisation of illegal building through payment of a fine. Despite these strict regulations, the building industry has flourished with the passage of each new law. So-called 'abusive building' (that is, illegally permitted or constructed) is common in the Italian landscape. Yet Italian citizens, who are otherwise known for their tendency to strike for basic rights, do not protest such abuse because they generally value the private realm over that of the public (Pungetti, 1999; Banfield, 1958).

In regards to economic corruption, Cianciullo and Fontana (1995) coined the term 'ecomafia' to denote criminal organisations that engage in activities that directly damage the environment. In Crotona, in the southern Italian region of Calabria, schools and even the public square in front of the police headquarters have been built using cement mixed with toxic waste (Sansa et al., 2010). In neighbouring Campania, one million tons of toxic waste imported from elsewhere have been spread over agricultural fields (Capone et al., 2006). The groundwater has now been polluted, with serious repercussions for both agricultural produce and the health of the local population. Recorded cases of cancer, diabetes and blood diseases have all recently increased (ibid.).

The 2009 Abruzzo earthquake, in which over three hundred people perished, demonstrated another profound risk to human health and life posed by structurally weak cement used in construction of houses, hospitals, schools, bridges and tunnels (Osservatorio Ambiente, 2010). Other landscape crimes are committed by the so-called 'agromafia,' 'zoomafia' and 'archeomafia.' The first is linked to agriculture, the second to husbandry and the third to archaeological and artistic heritage.

## Threats to Landscape

Landscapes crimes are committed on sea as well as land. A 2009 report indicates that 'dozens of ships with radioactive and toxic cargoes have been

intentionally sunk by crime syndicates' (Sansa et al., 2010). The practice is especially common in the Tyrrhenian Sea, where ships abandoned for insurance return create an ecological and public health disaster on the beaches of southern Italy. In September 2009, the wreck of the ship *Cunsky*, laden with toxic waste, was discovered on the sea bed only thirty kilometres from the popular resort of Cetraro (Pirro, 2009).

It is a supreme irony of these landscape crimes that they are perpetrated by organisations whose members live, eat and bathe in the very landscapes they are endangering. Italian criminal syndicates are now actively involved in illegal quarrying, traffic in endangered species, and the raiding of archaeological sites. According to the Osservatorio Ambiente (2010), even on the backdrop of severe economic crisis in 2009, the turnover from these criminal activities was 2.5 billion Euros and their range extended to North Africa and parts of Southeast Asia (*ibid.*).

Criminal organisations have also been active participants in, or coordinators of, the construction of 'ecomonsters,' a term coined by the Italian environmental organisation Legambiente to describe buildings or infrastructure incompatible with particular landscapes. One of the most notable examples of an 'ecomonster' is the Hotel Fuenti on the Amalfi Coast, widely considered one of the most egregious cases of degradation of the Italian landscape, and indeed of the entire Mediterranean coast (Guerra, 2009). The hotel is built into a tufa outcropping above the sea, dangerously close to an old limestone quarry, and compromising a cultural heritage landscape that dates to the sixteenth century. The Coppola Village, at Castel Volturno in nearby Caserta, is another case of an 'ecomonster,' an entire illegal settlement that is perhaps the largest example of illegal building anywhere in Italy. Punta Perotti is a case of a large residential building on the Bari promenade that was authorised by the local municipality to be built in an illegal manner, i.e. less than 300 metres from the seashore. The development of Pizzo Sella, near Palermo, contains over 150 illegal villas built on the slopes of the Mondello Mountain. Some of these developments have become centres of criminal activity, violence and social degradation.

In many regions of Italy, criminal organisations have also emerged as major players in the development of renewable energy infrastructure, exploiting national and European subsidies to build wind turbines without environmental assessment. Particularly in Sicily in the last decade, mafia front companies bribed local officials to grant building permits in ecologically sensitive areas along coasts and on mountain tops, collecting subsidies for energy production even when installations never began producing electricity. The front companies then sold these turbine installations to global energy corporations at profit (Dinmore, 2009). The result has been widespread opposition to wind power in Italy, in part because it is seen as irretrievably linked to organised crime, and a backlash against other forms of renewable energy, seen as similarly compromised by mafia infiltration.

Though derived from the name of the most famous Italian criminal organisation (Schneider and Schneider, 2005), 'ecomafias' are far from

unique to Italy. Similar criminal organisations are now actively committing landscape crimes throughout the developed and developing worlds. One notable example is Mexico, where the Department of the Environment and Natural Resources has found evidence of a wide variety of environmental and landscape crimes, much of it related to political corruption. Despite the creation of a national commission to oversee logging, illegal or irregular licences are common. In one notable case, a single individual was granted a permit to log 800,000 cubic metres of timber in two years, an amount to the total annual production of the states of Chihuahua and Durango combined. At the same time, the number of forest inspectors has decreased dramatically, falling from 3,000 to 300 between 1970 and 2001 (Monge and Ortiz, 2001). The 30,000-kilometre Mexican coastline is the site of numerous illegal buildings and uses. An official document from the Mexican Environment Protection Agency documents that only 3 per cent of recreational sites along the coast are properly licensed, depriving the Mexican state of 800 million pesos annually (45 million Euros at 2011 exchange rates).

Too often landscape crime involves national governments ignoring or abrogating their own laws. A recent example is the so-called 'border fence' built along the United States border with Mexico between 2006 and 2009. In order to expedite construction of this barrier, which cut through private lands on the United States side of the border and even divided a public university campus, the United States government gave the Secretary of Homeland Security the authority, 'notwithstanding any other provision or law ... to waive all legal requirements [he] determines necessary to ensure expedition construction of barriers and roads' (United States Congress, 2005, Sec. 102). The legislation also banned all appeals against fence construction to federal appeals courts. The Department of Homeland Security invoked this clause in 2008 and 2009 to waive over three dozen laws, affecting everything from clean water to endangered species to Native American burial sites, in order to override opposition to fence construction (Dorsey and Díaz-Barriga, 2010). Similar examples of 'legal' landscape crimes could be cited in Europe, the Americas, Africa, and Asia (European Parliament, 2006; Transparency International, 2004; Council of Europe, 1999; World Bank, 1997).

### **Safeguarding Landscape**

From illegal disposal of toxic waste to the control of the alternative energy sector and the construction of 'ecomonsters,' organised crime is a big business – so big, in fact, that it is often difficult to separate it from the economy as a whole (Saviano, 2007). Italy is a well-known case where the line between illegal and legal activity is blurred, but it is only one of many countries with entrenched cultures of economic and political corruption. In this global context, the fight against landscape crime thus appears lost before it has even begun.

But there are many examples, all over the world, of successful attempts to safeguard landscape, often by communities who gather together to make use of legal instruments that already exist. The passage of the European Landscape Convention, adopted in Florence by the Council of Europe in 2000, has increased the prominence of landscape protection and awareness in Italy in the past decade. Furthermore, laws on landscape planning, such as the Galasso Law of 1985 and the Urbani Code of 2004, which require landscape plans for the whole country, have introduced restrictions that have prevented landscape crime in sensitive environments, such as the island of Ischia near Naples.

Eight of the twenty ecomonsters noted by Legambiente have now been demolished as a result of public pressure. The aforementioned Hotel Fuenti was confiscated in 1981 and partly demolished, and the 'ecomonsters' of Punta Protti on the Bari waterfront, of San Giuliano Milanese and of Palmaria near Riomaggiore, have all been demolished too.

Another success is the seizure of illegal buildings and quarries for restoration and reuse, often as community centres (Perrino, 2010). This has helped to reduce public tolerance of the three major Italian criminal organisations, the Mafia, Camorra and N'drangheta. In addition, the European Union has provided funding to convert ex-mafia properties into centres for education or business (Europa, 2010), while other resources have been made available for their restoration as parks, woodlands and organic gardens.

Arrests related to environmental crime, denunciations of criminal activity and seizures of illegal property have increased substantially in Italy in the past decade (Osservatorio Ambiente, 2010). In Sicily, eight local officials and entrepreneurs from Sicily, Campania and Trentino were recently charged with offering or receiving money and votes in exchange for turbine permits around the city of Mazara del Vallo (Dinmore, 2009).

Other countries have seen similar successes. In Indonesia, ten regents in Kalimantan have been prosecuted for alleged involvement in illegal logging and the embezzlement of government reforestation funds. In Turkey, for the first time since the 1950s there is a concerted effort underway to combat uncontrolled and illegal urban development, thanks to a new law passed by Parliament in 2005 introducing prison sentences for violation of planning codes.

Finally, despite the legal hurdles put in place by the United States Government, the border fence with Mexico has been the subject of over 800 lawsuits, particularly in Texas, where residents on either side of the Rio Grande form a single community with a common history. One of these suits was brought citing International Human Rights Law by a member of the Lipan Apache nation, Eloisa Tamez, whose land along the river, granted to her ancestors by the Spanish Crown in the eighteenth century, was to be dissected by the fence. Aided by the University of Texas and the Center for Human Rights and Constitutional Law, she argued that the fence represented aggressive and illegitimate pursuit of eminent domain and was the latest

phase in a history of repression of the native peoples of the Rio Grande Valley by Spain, Mexico, Texas, and the United States (Támez, 2009). As of 2011, her case remains unresolved, and will likely proceed to the United States Supreme Court.

### From Hell to Heaven

The turbulence of these landscape injustices paints a picture of hell. Ancient myth, too, is replete with instances of injustice and violence. But despite this violence, myth, unlike contemporary landscape crime, has a redemptive ecological dimension: it is grounded in respect for nature. This respect was the result of the profound fear and awe that people felt in the face of the natural world (Tuan, 1979). Nature was seen as animate, full of active and independent forces, from the stars and thunderbolts in the sky to volcanic magma underground. The woods and springs of the earth were the home of gods and nymphs, open air temples of which the trunks of trees were the pillars linking the water beneath to the sky above. The landscape of myth is a sacred landscape where animals and people comingle.

One of these sacred landscapes is the Casentine Forests, where St Francis, patron of ecology, came to meditate. The monastery of La Verna was founded there by the Franciscans, close to a site already occupied by the Benedictine hermitage of Camaldoli (Pungetti et al., 2009). This landscape is what the theologian Mircea Eliade (1959) called an *axis mundi*, or a point of communication between the earthly and divine realms. It is where heaven starts.

Such sacred groves are common. In Sumerian myth, the cedar tree represents regeneration and immortality, and is a sacred symbol of the ascent to heaven. For this reason, cedar forests were believed to be the homes of the gods. The cedar tree continues to be sacred in modern Lebanon, and is even the symbol of the country (Makhzoumi, 2011).

Mountains, too, are *axes mundi*, sacred landscapes that give meaning and depth to the lives of residents and visitors. Organisations throughout the world, such as the Cambridge Centre for Landscape and People and the Mountain Institute, work to conserve the landscape integrity and cultural diversity associated with mountains, and sacred species and sites (Pungetti et al., 2012; Bernbaum, 1997). The purpose is to connect people with nature, lift their consciousness, and help them conserve these invaluable landscapes.

The integrity of sacred landscapes derives from traditional forms of knowledge and practice, passed on through the generations since ancient times. It is through this knowledge that traditional land use practices have been sustained, maintaining a balance between landscape and people. Sacred landscapes are a means for strengthening place, resolving conflicts and enhancing individual wellbeing and identity. But sacred landscapes also have a strong civic dimension, promoting a sense of cultural belonging and social



justice, and strengthening efforts to preserve biocultural diversity (Pungetti, 2008). They therefore play an important role in combating landscape crime.

## Conclusion

Understanding the characteristics, strategies and modus operandi of the context where environmental injustices happen is essential for implementing the 'Right to Landscape' in particular places. Equally, reflecting on the traditional knowledge embedded in sacred landscapes is imperative to appreciate the power of landscape as a means for strengthening the resilience of places, resolving conflicts and enhancing wellbeing of individuals and communities.

Landscape has the potential to build just and sustainable communities, and to preserve both ecological and cultural integrity and biocultural diversity. But landscape cannot flourish in an environment where landscape crime is common and goes unpunished. Specific landscape crimes, and the political corruption that abets it, must therefore be challenged wherever they occur. This defence of landscape must begin in local communities, but it cannot end there. Communities are sometimes too entwined in networks of corruption effectively to defend their own landscape. Local attempts to fight corruption must therefore be backed up by national and even supranational enforcement. At the same time, global efforts will not succeed if they are not grounded in an understanding of particular landscapes, whether secular or sacred, with their cultural, social and political institutions.

The challenge is enormous. Fortunately, the legal framework for success is already largely in place. It is now a question of coordination between local efforts and global institutions in the linked struggle for clean politics and healthy landscapes. But in order to be successful, such coordination must be combined with awareness-raising measures tailored to individual cultures and places. People, all of whom have a stake in the resilience and increase of the landscapes they inhabit, have a right to nothing less.

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