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Interspecies Violence and Crimes of Dissent: Communication Ethics and Legitimacy in Message Crimes Involving Wildlife

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Abstract In this article, we consider the phenomenon of message crimes involving harm to wildlife from a sociological and criminological perspective. Using a case study of dissident Nordic hunters killing protected wolves to send a message to the state agencies responsible for their conservation, we engage philosophically with the question of wildlife victimhood and why interspecies violence is unjustifiable as a mode of political dissent. As an alternative to the species justice perspective in green criminology, we examine how the acts disrespect animals as moral subjects of public communication and frustrate dialogue regarding what is owed to them in terms of political justice.

Introduction

In its relatively short life history, green criminology has drawn from a variety of other fields to explore questions of green harms, environmental and species justice (Brisman et al. 2014). In doing so, it has been concerned mostly with description and explanation: what causes individuals, groups, corporations and states to engage in acts harmful to the environment and how does the organization of society promote environmental harms? Perhaps the clearest expression of this approach is to be found in so-called treadmill of production (ToP) theory, which attempts to elucidate the ways in which free market practices trump environmental ideals, laws and regulations, resulting in greater environmental degradation (Stretesky et al. 2013). An alternative to this approach has been green cultural criminology, which has focused instead on questions of how agents differently ascribe, construct, or frame meanings of environmental harms, or represent the relationship

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between economy and ecology generally (Brisman 2015, in press a, c; Brisman and South 2012, 2013, 2014, 2015, 2017, in press a, b; Brisman et al. 2014; McClanahan 2014; McClanahan et al. in press; Mazurek 2017; Schally 2014). Both approaches, however, appear to neglect the question of political legitimation. Here, we have in mind not the framing and construction of meaning by diverse actors, but the *public justification* of the ideals around justice that undergird environmental laws and regulations in the first place.

To a considerable extent, compliance with environmental laws depends on different actors accepting the public justifications offered for them—that is, accepting them as normatively legitimate. Under conditions of pluralism regarding comprehensive conceptions of justice (Rawls 1993), the legitimacy of law can only be a function of inclusive processes of public communication, deliberation and debate. While deliberative outcomes concerning the justification of laws and regulations may not satisfy everyone, such outcomes can, at least, be seen as legitimate to the extent that all affected actors believe they have had a voice in shaping outcomes. Failures of democratic legitimacy result only when some actors are—or perceive themselves to have been—effectively excluded from such public processes of shaping deliberative outcomes and justifications (Habermas 1984; Bohman 1996).

In this article, we consider a particular case of democratic legitimation failure and its implications for wildlife crime—that of Nordic hunters whose frustration with a political process in which they believe themselves to have been marginalized and disrespected has resulted in their turning to crimes of dissent (von Essen et al. 2015). Indeed, some Nordic hunters have resorted to the illegal killing of protected wolves as a way to send a message to the public about their grievances with green laws and environmental regulation they simply do not see as legitimate (Pyka et al. 2007; von Essen and Allen 2015). In order to address the issue of legitimacy failure in relation to conceptions of environmental and species justice, we believe that green criminologists should begin to pay attention to communication ethics and democratic theory, which are best equipped to deal with the phenomenon of illegal wolf hunting as message crime.

Message Crimes and Dissent

Message crimes are crimes of dissent that are inherently communicative acts. They express denunciation and disavowal of laws (Brownlee 2012), involve engaging authorities in a moral dialogue (Markovitz 2005), and can serve as calls for or discursive openings to political discussion (Smith 2013). In practice, however, much of the communication by crimes of dissent are conveyed indirectly or by proxy rather than openly and clearly in a manifesto (Vanderheiden 2005; von Essen and Allen 2015). Some dissent, for example, communicates mostly by constituting ‘propaganda of the deed’, as direct action retrospectively sending a statement by inaction and silence, or by way of property damage sending a message to property owners (Martin and Varney 2003; Wee 2004). In this respect, illegal wolf hunting may be seen as a mode of direct action in which the hunters break those specific laws protecting wolves: they indeed dissent by killing and, in so doing, remove one more wolf from the community. But it is also closely aligned to civil disobedience (von Essen and Allen 2015) insofar as the illegal act simultaneously communicates the dissenters’ sincere belief that the law is unjust (Rawls 1971) or that it stems from a political process deemed to be illegitimate and is in need of correction (Markovitz 2005; Smith 2013).

Crucially, an emerging consensus affirms that such dissent may still operate within circumscribed limits of communication ethics (Medearis 2005). *Interpersonal* violence is unjustified because it violates a condition of civility, but violence toward property, in most cases, does not disqualify those engaged in civil disobedience from qualifying for moral dialogue (see, e.g., Brisman in press b for a discussion). With respect to *interspecies* violence—that between human and non-human animals—we stress that, while our article is motivated by our concern with a failure of democratic legitimacy in the process for justifying certain environmental laws and regulations, we are particularly focused on a different kind of legitimacy failure. This is the failure of hunters to achieve communicative legitimacy through their illegal killings of wolves as an expression of their dissent. Ultimately, then, we believe there are two failures of legitimacy: (1) the failure of the democratic system for producing legitimate decisions (von Essen and Allen 2017a) and (2) the failure of the hunters to abide by acceptable terms of public communication. Our focus in this article will be squarely on the second of these.

Indeed, the question of what dissent may or may not accomplish (Welchman 2001; Sampson et al. 2005; Lovell 2009), and who the *targets* of dissent might be (Goodwin and Benforado 2015), raises another question. This concerns crimes of dissent that involve *interspecies* violence. How *civil*, and by extension, how *justified* is harming or killing animals as a form of conscientious political communication (assuming that there is anything civil or justified at all about using animals to make a political point)? In the case of harm against domestic animals, the property-owner relationship commonly attributes to the human owner the status of “victim” in cases of wrongdoing to the animal (Yates et al. 2001). But, by contrast, wildlife crimes are more difficult to parse, especially as message crimes. In some countries, wild animals are regarded as state property and the state, through the arm of parliament or some other governmental entity, may decide whether certain predators or invasive species should be exterminated via licensed hunts. To this extent, it is far from clear whether the state, as indeed the ‘owner’ of wild animals, is a victim through bereavement of its protected wildlife or the victimizer of the local communities that are made to suffer certain species.

While the idea of communicating dissent through acts of harm to wildlife may appear somewhat attenuated to many readers, protest-motivated poaching is a historical phenomenon (Manning 1993; Paine 1999). That said, however, the lack of a clear proprietor for wild animals has meant wildlife crimes are understudied and undertheorized (Sollund 2013), and the communicative content of these crimes has been a neglected area of inquiry. Our article should thus be read as a plea for green criminologists to incorporate communication ethics and political philosophy in posing and answering their questions, rather than relying solely on approaches to justice for non-human animals in the moral philosophy literature (Regan 1983; Rowlands 1997).

Indeed, as we shall show, contractalist approaches to interspecies justice (where morality is based on contract or agreement) are deeply problematic. But we are, above all, concerned with the need for achieving democratic legitimacy for environmental laws and regulations. Such legitimacy cannot be achieved simply through the imposition of a moral theory—no matter how good that theory may be from the perspective of moral philosophy—as the basis for public justification. Achieving legitimacy for environmental laws and regulations requires close attention to the ethics of public communication and the adequacy of public deliberative institutions from the point of view of providing critical uptake for dissenters.

In what follows, we contemplate who or what constitutes the target and victims of wildlife crimes of dissent. We outline two propositions in the case of killing wolves. On the

one hand, the direct victimization of human “owners.” On the other hand, the victimization of animals through their illegal killing, which violates a fundamental norm of civility in public communication. Indeed, this norm prescribes that the human participants in such communication should respect the openness of deliberative outcomes. All in all, our article is meant to contribute to ongoing species justice discussions in green criminology by undergirding arguments with theories of communication ethics. In this way, we engage with wildlife as “complex, contradictory and often politically inconvenient victims” (Kearon and Godey 2007, p. 31). We also hope to bring greater philosophical clarity to the notion of a crime of dissent in the context of interspecies justice, building upon our previous work analyzing illegal hunting from the perspective of public communication and democratic legitimacy (von Essen and Allen 2017a).

Two Perspectives on the Victims in Wildlife Crime

Wildlife as Property

The first perspective considers animals as the property of their human owners. Thus, harms done to animals may be intended as an attack on their human owners. While wildlife are, in some places, *res nullius* or *ferae naturae*—ostensibly, belonging to no one person (Snijders 2012; Florence 2014)—they may likewise be killed or harmed in order to send a message to the state regarding its wildlife management. In the context of Nordic wolves recently reintroduced and protected as part of the EU Habitats Directive, hunters now ascribe a shadow form of ownership of protected wolves to environmental nongovernmental organizations (ENGOS) and conservationists responsible for their conservation. In Finland, for example, hunters are adamant that “wolves are the property of the state” (Ojalampi and Blomley 2015, p. 22) on the grounds that the state “puts so much highly visible effort into protecting them, and so attacking them is a means of attacking the state” (Holmes 2016, p. 313). This is observed also to apply in Italy, for example, where the protected status of wolves has come to mean state ownership in the eyes of the public (Vitali 2014). Hence, when hunters send severed wolf paws or other body parts of illegally killed wolves to state agencies like the Environmental Protection Agency or to ENGOS associated with their protection (Hagstedt and Korsell 2012)—or when they target wolves with radio-tracked collars whose death will directly be signalled to the relevant authority (von Essen and Allen 2015)—there appears a strong element of wanting to punish the people *supportive of* the conservation of wolves, an enterprise with which one profoundly disagrees.

To be sure, killing wolves also has a practical component: an illegal killing removes one more wolf from the community, thereby making it safer for one’s livestock and hunting dogs, the two principal threats that wolves pose today. That dissent often embodies this dual component—and is not solely a matter of conscientious communication—is now commonly observed by scholars of resistance (Holmes 2007; Vinthagen and Johansson 2013). The epistemic challenge of determining the relative content of defiance and practical motive behind illegal hunting notwithstanding, the aggregate pattern and communication around wolf killings by Nordic hunters signify it as a crime of dissent (von Essen et al. 2015; Pohja-Mykrä 2016). Wolves are no longer seen as part of the common fauna, but as the coddled “pets” of a conservationist urban public, represented in ENGOS over animal welfare and biodiversity conservation (Bisi and Kurki 2008). Because wolves are now symbols onto which broader struggles and resentments are superimposed (Skogen and

Thrane 2007; Bell 2015), as well as a charismatic flagship species of the conservation movement, their killing sends a powerful message of dissent to their “proprietors” or “handlers”: those supporting their welfare and biodiversity agendas, as well as the state which is obligated to protect certain species according to national and international law.

Although understudied in communication theory, killing, stealing or harming wildlife to communicate is surprisingly not a new phenomenon in the context of illegal hunting. In fact, at times, the grammar of such systems of communication has been fairly elaborate and mutually understood by all. In medieval England, for example, the poaching of game, including the category and value of game, where it was felled, and how it was killed, sent specific messages of dissent toward the unpopular landed gentry perceived to have appropriated *ferae naturae* by enclosures (Manning 1993). Deer-stealing, for example, was followed by venison feasts by commoners and possessed a clear material gain component. But it also functioned as a statement of defiance in this context. In a more modern context—the case of reindeer in northern Norway, Sweden and Finland—reveals how the indigenous Sami used reindeer theft, harm or killing as a means to transmit messages to different herders in the region with whom there has been ongoing feuding (Paine 1999). Again, it was reindeers’ human proprietors who were the “victim-owners”, in the words of Fitzgerald (2010), and considerably less focus was on *animal* victimhood.

In the context of killing wolves as a crime of dissent, the argument thus far has been that victim-owners are, symbolically, conservationists and state actors actively involved in their conservation. But it may be argued further that the victims or targets of such crimes also are the public at large. This follows a trend to expand categories of victimhood across multiple axes of humans (see Brisman this issue), although rarely across species boundaries (Fitzgerald 2010). How might the killing of wolves by hunters “victimize” the public? First, in the Nordic countries, the wolf is considered a “public good”, and the public has strongly supported its reintroduction (Sandström et al. 2014). As is now frequently the case, the public features prominently by proxy participation in ENGOs, contributing to wolf conservation through financial donations and membership schemes (Johansen and Martin 2008).

Second, it can be argued that such illegal killings violate the environmental rights of the public—the right to a common fauna, and the right to the good of biodiversity (Nurse 2016). These rights need not be enacted by the public in the sense that the public does not have to make material use of such goods. Instead, in the present ecosystem services paradigm, protecting wolves simply provides these people with a sense of wellbeing, alleviation of guilt, and nature reconciliation. To this end, these may be “optional goods” rather than fundamental rights, as animal rights activists ultimately choose their convictions. The removal of these “goods” via illegal hunting may hence therefore be unfortunate, but not constitute a violation of the activists’ fundamental rights (Hadley 2015). In other words, the killing of wolves does not harm *human* health, economy or security for instance, as might be the case in the (seemingly) more pressing cases of environmental injustice (Hall 2011). Nurse (2016), however, observes that the welfare and viability of wildlife currently constitutes a “charitable good” to humans rather than a fundamental right. At the same time, he suggests that their welfare *contributes to* fundamental rights: it creates the strongly institutionalized protection of universal civil liberties (p. 176) and it adds “to the culture of fundamental rights within society which benefits vulnerable groups” (p. 177).

Expanding the boundaries of victimhood in wildlife crime from direct-owners (landowners on whose land wildlife roams), symbolic-owners (the state and ENGOs) to residual-owners (the community with conservation goals) raises a number of issues.

Indeed, green criminologists, such as Hall (2011) are upfront and optimistic about increased orientation toward the “inclusive rather than exclusive” (p. 377) understandings of victims across these diverse categories, allowing for the potential for self-identification following, for example, emotional deprivation. But this also reflects the inherently anthropocentric basis of environmental justice, whereby rights and justice through wildlife as means are extended to an increasing diversity of humans (Hiskes 2008; White 2008). As Norton’s (1991) ‘convergence hypothesis’ suggests, however, such anthropocentrism is never bad if it results in recognition of some sort of harm involved in the crime. It does not matter whether it was the concern for harm to wildlife directly or as harm done to the persons supportive of it that provided motivation for recognizing the injustice. So long as the injustice is recognized. Still, one can anticipate the objection from more orthodox scholars: for damage to property (wildlife) to target any one individual, there needs to be a clearly identifiable owner of the property (Hadley 2015). As noted above, hunters have recently attributed shadow ownership of wolves to ENGOS, but whether the ENGOS consider themselves “victim-owners” is an empirical question. Moreover, the broader public’s financial or emotional investment in the welfare of wolves may not meaningfully qualify them as owners in this sense, thereby making a weak case for their being considered “victimized” when wolves are illegally killed by hunters.

Wildlife as Direct-Victims in Crimes of Dissent

The above-presented view of wolves as intermediaries used to communicate message of dissent to owners can be challenged on the basis of its anthropocentrism. Some green criminologists object to construing sentient animals as utilitarian objects and advocate recognizing the victimhood of the harmed animal (Wellsmith 2011; Sollund 2013). From this perspective, the wolf is a direct victim *qua* its standing as a subject-of-a-life of illegal killings as in the Nordic countries. This need not necessarily be a controversial position and ascribing the status of “victim” to the wolf does not preclude also considering the humans responsible for wolf conservation as victims. In fact, the victimization of the wolf could be argued as integral to the victimization of its owners (e.g., conservationists, the public, the state). When a rogue associate murders the daughter of the don of the mafia, she is clearly directly victimized at the same time as her father receives a message that also victimizes him.

It becomes less straightforward, however, when we take wolves as the target of dissent to its full implications, for example, as scholars unwittingly do when they construe wolves as the targets of hate crimes (Tønnessen 2010; Sollund 2014). A hate crime need not necessarily be a message crime. It might perhaps be a private expression of hatred, absent any public communicative intent. But supposing it has a public communicative intent, such as ‘I hate you and your kind’, (Jacobs and Potter 2000), there are no compelling grounds to believe that this will be understood by those *wolves* who survive the targeting of their peers, in the same way this can be recognized by the recipients of such a message by the surviving human victims of racial or gender-based hate crimes. The crime is thereby one purely of retribution and incapacitation, communicating nothing to the surviving wolf community. Aside from hate crimes, it may appear equally—if not more—absurd to send a message to the wolves pitched at the level of justice, as standardly required for crimes of dissent like those involving civil disobedience. After all, the wolves cannot be reasoned with on this level and so, even if we accepted the idea that killing one wolf sends a message of retribution over ‘just deserts’ and of deterrence to other wolves, other wolves cannot plausibly be the recipient of such a message (although wolves may learn to fear humans if

they see humans killing other members of their species or pack). Thus, when we bind animals to moral agency, they may accrue greater benefits and rights, including recognition as victims in this case, but this also means imposing on them obligations they cannot justifiably comprehend (Scruton 2000)—as rational interlocutors in a moral dialogue over justice. This might lead to a middleground proposition: wolves are not moral agents who can be held accountable by dissenters, but they are *moral subjects* onto whom harms can be done by other moral agents, notably human hunters. In this sense, wolves are similar in standing to “marginal” humans who cannot participate in the circumstances of justice or be held accountable for breaches of justice, but who are nevertheless recipients of justice (Tanner 2006).

Unfortunately, the practice of illegal killings in the Nordic countries as crimes of dissent demonstrates inconsistency in the wolf’s standing as a moral agent or subject. Indeed, the way some of these killings unfold point unequivocally toward the endorsement of a conception of wolves as direct-victims *and* as intended targets of communication. First, there appears to be genuine hatred toward wolves among some hunting factions; wolf kills are described as crimes of passion resulting from grief and resentment over the loss of one’s hunting dog, for example, or the maiming of sheep in one’s pen (Skogen et al. 2013; Peltola and Heikkilä 2015). So-called large carnivore retaliatory killings constitutes a chapter unto itself in human–wildlife conflict literature (Liu et al. 2011) and is a particularly strong current in the research conducted on hunters’ relationship with wolves in the Nordic countries. Here, hatred and fear form “contagious and socially acceptable feelings” (Peltola and Heikkilä 2015, p. 719) as drivers of illegal killings (Pyka et al. 2007; Tønnessen 2010). Although it is difficult to ensure the illegally killed wolf is the same wolf that killed one’s dog—(“targeted punishment” to Goodwin and Benforado 2015, p. 269)—revenge provides a powerful motive whereby any wolf becomes representative of past harms done by wolves in the area. Here, wolves may be the victims of hate—if not *hate crimes* intended to send a message to the wolf community. Whatever is communicated as hatred of wolves motivating their illegal killing remains internal to the human speech community. This may have a limited epistemic value in communicating the feelings and perceptions of some rural residents to the larger public. But expressions of hatred towards wolves is not by itself a form of communication that promotes reasoned dialogue at the level of justice and so, similar to violent forms of dissent that are more about violence through direct action, in this latter respect, such expressions lack any normatively appropriate epistemic value.

The second argument regarding how hunters construe wolves themselves as the direct targets of illegal killings builds upon the observation that hunters often state that particular individual wolves deserve to receive punishment or a message. Typically, hunters charge certain wolves and not others with having breached the tacit terms of interspecies co-existence, whether by moving surreptitiously closer to human settlements, displaying ‘unnatural’ behavior, becoming increasingly tame before humans (thereby violating a wildness boundary), systematically preying on livestock or domestic animals, or hybridizing with dogs (see, for example, Pohja-Mykrä and Kurki 2014; Hermans 2015; Theodorakea and von Essen 2016). Hence, it is viewed as more justified to kill these particular animals, who are implicitly framed as moral agents capable or cognizant of violating social contracts or codes. Binding wolves to such contractual agency thus makes it possible to understand crimes of dissent as being directed against them—as agents capable of such higher-order cognition. This kind of argument, however, replicates the error from the previous arguments of implausibly attributing powers of moral agency to the wolves rather than treating them simply as moral subjects (Regan 1983).

The third and final argument that currently betrays the view that wolves are direct victims of these crimes of dissent is that if hunters' reasoning is to be believed, they may use these killings as ostensive warnings of deterrence to other wolves. This much can be read from an oft-repeated "teach-wolves-to-stay-away" narrative that is predicated on the need to re-install a sense of fear of humans in them, alleged to have been lost under the current strict protection policy. While imposing hunting pressure on wolves generally may contribute to the species' adaptation to living separately from humankind, it remains highly questionable to argue that particular kills constitute message crimes to other wolves in the pack for the reasons we have already given. Nevertheless, such strategies of imposing hunting pressure have constituted a way of dealing with wolves in Sweden, to the point where 'The Swedish System', as it came to be known internationally, has meant stringing up wolves and making an example of them to their fellow wolves (Bergström et al. 2015).

Independent of hunters' rhetoric surrounding the killing of wolves, there are clearly some ways in which the wolf would seem to qualify for victimhood. In Christie's (1986) ideal victim framework, animals fulfill every condition: they are weak and vulnerable (Linzey 2009); the offender is 'big and bad' in relation (the hunter); the offender and victim had no prior personal relationship (beyond the offender's generalized hatred for the species); the victim was not in the wrong place at the wrong time—it was in a place where it could not be blamed for being (i.e., nature); and the victim was engaged in respectable behavior when victimized, in the sense that it predated 'correctly' within the moral economy of prey animals, namely wildlife (Bogliogli 2009). As we have argued above, the notion that wolves violate standards of respectable behavior when, for example, they predate domestic animals in a human inhabited area—in effect, breaching a contractual agreement—is difficult to uphold. Indeed, this conceptual problem with contractualism is powerfully entrenched by the state's licensing hunting. As we contend, by all accounts, the wolf approximates an ideal victim and the hunter, qua his power, approximates an ideal offender. As such, it is obvious hunters view themselves as victims of wolf attacks to their property, and the wolves as the criminals. Goodwin and Benforado (2015) write that this is easily done by ascribing mental states to non-human animals: while these mental states clearly fall short of the traditional "guilty mind" (p. 641)—or *mens rea* required for criminal culpability under the law—the ascription of such states enables hunters to (mistakenly) view animals as appropriate targets of moral retribution.

In this section, we have outlined the two principal propositions regarding wildlife standing in crimes of dissent that involve sending a message: (1) taking wolves as means by which one punishes the real targets: owners in various constellations of support of them; and (2) taking wolves as direct victims and targets in themselves of dissent. We have shown the propositions are not always mutually exclusive, but that endorsement of the first premise includes a highly inclusive, if anthropocentric, view of victimhood across human categories. The second premise was shown to have some problematic implications for crimes of dissent in terms of taking wolves as communicative, moral agents that is necessarily required by political theory.

In the next section, we develop an alternative account of victimhood that represents a neutral middleground between these two propositions. It is neutral in the sense that it endorses neither the proposition that wolves—as 'sentient property' (Fitzgerald 2010)—are the intermediary means of sending a message to victim-owners nor the proposition that they are moral agents, with whom communication is possible at the level of a public dialogue about justice. Instead, we argue that they are victimized in the sense that these acts violate the terms of civility underlying public communication.

Civility and the Openness of Democratic Public Communication

In our previous work considering illegal hunting as a crime of dissent, we argued that the hunters could only partly fulfill the conditions of civil disobedience (von Essen and Allen 2015). In particular, hunters violated the ‘publicity condition’ for disobedient public communication by conducting their illegal hunting as ‘shoot, shovel, and shut up’. Here, we take that analysis of hunters violating communication ethics a step further by arguing that illegal hunting is also a violation of civility, where this may be taken as “a minimal commitment to public reciprocal respect for the other” (Arnett and Arneson 1999, p. 285). Civility delegitimizes interpersonal violence between the participants in public dialogue. It does so for the obvious reason that reciprocal public communication is effectively foreclosed when some interlocutors lose their lives at the hands of other interlocutors. In other words, fatal violence replaces dialogue (Martin and Varney 2003); it is the performative termination of dialogue on justice.

Civility may or may not be compatible with causing damage to property. Damage to property—perhaps within certain parameters—can facilitate dialogue inasmuch as it does not violate a condition of civility, which is currently ascribed to humans alone (Zinn 1980). Setting fire to buildings may be rude and disruptive, but so long as it does not harm humans, it may qualify as civil disobedience. Indeed, in Medearis (2005)’s words it would be “exceedingly dangerous [...] to suggest that a social movement could never act in such a way as to hinder others’ full and exclusive enjoyment of their property” (p. 70). Others, like Hettinger (2007), disagree with this assessment, however, suggesting there is still significant vicarious harm in the case of property damage. Yet still others intimate that the civility condition of dissent is more complex than a violence/non-violence to property distinction (Brownlee 2012) or that some non-violent cases of dissent may result in more harm than violent ones (Lefkowitz 2007). Martin (2008), for example, argues that civility is not an absolute concept but varies according to the norms of a situation.

That said, however, civility is a virtue of public communication exercised only within the human speech community, and only then among those members of this community who are capable of meeting the relatively high cognitive demands of reciprocity and ratiocination about justice (Rawls 1994). But, for reasons we have already given, wolves are necessarily excluded from such a contractual agreement. Of course, reciprocal communication of, say, emotions, commands, and intentions can also take place among cognitively disabled humans and between human and non-human animals, thus creating a basis of solidarity (von Essen and Allen 2017b). But this takes place below the level of civility in public communication about justice. For their part, wolves cannot be civil participants in public dialogue. But there can be civil public dialogue *about* what is owed to wolves at the level of justice. Here, the exclusion of wolves and other non-human animals, as co-equal *moral agents* alongside humans in civil public dialogue, might be viewed as anthropocentric, if unavoidably and regrettably so. Indeed, reciprocal justice-dialogue is necessarily human-centred. But this does not preclude the possibility of identifying a sense in which wolves are wronged by being *excluded* from such dialogue as *moral subjects* of human concern regarding appropriate terms of interspecies justice. What is this sense?

A key aspect of reciprocal respect in public dialogue is the commitment to holding open—not antecedently prejudging or preempting—the outcomes of public reason-giving on a controversial issue of justice (Cissna and Anderson 2003). The purpose of public dialogue is to reach a reasonable agreement on what should count as justice in the

interlocutors' relations to one another or in their relations to the moral subject of dialogue who are not also co-equal moral agents participating in the exchange of reasons. Agreements are reasonable (Rawls 1994) and democratically legitimate (Habermas 1985) to the extent they are the function of reciprocity and respect in this kind of exchange. But illegal hunters violate civility as reciprocity and reasonableness by virtue of their politically dissenting acts of killing wolves. Clearly, hunters are the ones dissenting from past reasonable agreements that wolves are entitled to protected status under law as members of an endangered species. It would also just as clearly be appropriate for them to motivate public dialogue that reconsiders this status for wolves potentially moving to a new reasonable agreement on rescinding the protected status of wolves.

But that is not what illegal hunters do. They violate civility, reciprocity and reasonableness, by antecedently prejudging and preempting the outcome of public dialogue about the protected status of wolves. Talisse (2005) argues that questions of justice in these cases are essentially settled for the dissenter, by not being subjected to any further scrutiny, consideration or compromise. Here, the hunter's epistemic confidence (or epistemic *arrogance* as according to Garner 2016) is such that he already knows (or thinks he knows) what justice is in this case and what its implementation requires. At any rate, illegal hunters preempt dialogue in the case of those wolves whose lives they take prior to any new reasonable agreement having been reached on whether to uphold or rescind this status. This is fundamentally disrespectful to other interlocutors in the dialogue, but it is also fundamentally disrespectful to the wolves as the moral subjects of public dialogue in the sense that it fails to take seriously the idea that they are properly moral subject of concern *at the level of political justice*. If 'dead men don't speak,' as observed for crimes of dissent (Martin and Varney 2003), then, by parity of reasoning, those who would speak on behalf of wolves in open public communication about their protected status of endangered animals cannot speak on behalf of *dead* wolves. At any rate, they cannot speak on their behalf in the sense of securing any kind of justice for those already dead.

Of course, an objection might be raised that public dialogue is cut off only in the case of those dead wolves who have already been killed by the hunters for the purpose of motivating a dialogue. Reciprocal and respectful public dialogue may then ensue regarding the protected status of wolves whose lives have not already been taken by the hunters, and of the species generally. Indeed, assuming they were willing to hold a moratorium on any further illegal hunting activities until the outcome of this dialogue has been reached in some new reasonable public decision, the hunters would also show due respect for these living wolves as moral subjects of the dialogue. To be sure, that is a rather large assumption of make—one fraught with practical difficulties: how would such a public dialogue be staged and would it be viewed as fair to all participants rather than biased in favor of some? But still the point remains that it is conceivable that it could honor civility, reciprocity and respect for their interlocutors and the wolves under this idealized and hypothetical condition. That, however, does nothing to change the fact that their continued acts of illegal hunting in the non-hypothetical present do violate these norms.

Conclusion

This article has argued that the illegal hunting of wolves victimizes and wrongs wolves as moral subjects entitled to treatment according to the terms of a reasonable agreement to be reached through open public dialogue at the level of political justice. Here, we stress that

we are talking about *political justice*. At the level of moral analysis, there may be reasons to say that no wolves should ever be intentionally killed by humans, legally or illegally. At that level, all wolves are potentially the victims of any kind of hunting practice. But we take no stand here on such important questions of moral theory. Our goal for this article has not been to offer some moral theory of justice for wolves. Instead, it has been to encourage a shift in the orientation of green criminology to questions of communication ethics and democratic legitimacy. We contend that some green harms—the illegal killing of protected wolves come about as the result of legitimacy failures of the laws that protect them. The proper response to such harms is, we believe, to take seriously the sincere belief of the hunters that the political system for justifying the legitimacy of environment law has failed in their eyes and to examine possible reforms and innovation in deliberative fora. This indeed is a project we have taken up elsewhere (von Essen and Allen 2017a).

In this respect, we have concerned ourselves here not with the legitimacy of the deliberation system for justifying environmental laws and regulations, but with the communicative legitimacy of hunters' dissenting act of illegal killing. And, as such, we distinguish between the legitimacy of the communicative act of dissent from a system that is thought to be processually illegitimate and the legitimacy of that system. Indeed, we conclude that the communicative act of illegal wolf killing fails the legitimacy test of civility. Nonetheless, we believe both questions of legitimacy need to be more thoroughly examined by green criminologists. Concepts of species justice will likelier than not fail from the standpoint of the legitimacy of law absent the necessary public process of deliberating their meaning in the case of wolves and other species generally.

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