Criminological Approaches to Residential Water-Restrictions: A ‘Sensitising Perspective’

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In many areas throughout Australia, water use is of prime concern and its management requires a complex grasp of a number of inter-related features. This article reflects upon Australian residential water restrictions in a criminological light. By underemphasising the ecologic and environmental impacts associated with breaches of residential water restriction schemes, the relevant harms are trivialised in scope and provide only a thin understanding of both the harm at issue and the underlying conditions which underpin the restrictions. Such regulatory frameworks operate to (1) frame the harm at issue in overly anthropomorphic terms as well as (2) concentrate on the instrumental impact of water-restrictions rather than providing a multi-dimensional understanding of those harms associated with breaching residential use. In light of such issues, this article discusses what is gained by viewing aspects of excessive water-use in terms of environmental harm.

The lavish use of water for residential purposes is eroding in the developed world, particularly here in Australia. Population explosions, irregular rainfall, lowering water-tables, changing weather patterns, the associated prospect of climate change and a range of other related issues make for haunting scenarios over dangerously low reservoirs and future water supply (Cullen 2005). In the main, such scarcities can no longer be ignored without placing at risk basic quality of life issues for future populations. In framing the Australian response, the perceived severity and scope of securing water for residential, commercial and industrial use is a problem requiring sustained regional solutions. These proposed solutions take account of increased internal water demands, shifting demographics underpinning urban planning, the effect of water-use on the economy and, of course, the impact on the ecologic health of the wider Australian landscape.

A significant re-think on water supply has been one of the main policy initiatives, with the Coalition of Australian Government’s National Water Initiative (NWI) of 2004 reflecting the broad principles upon which issues of water are to be dealt with. One plank of the NWI is that environmental harm is created by not returning environmental flows to waterways and rivers (NWI 2004). Yet with growing urban populations, the demand for residential water has proportionately increased even with the present and future concerns of water scarcity. One common response has been to effect water restrictions. This article explores residential water restrictions in Australia, drawing broadly upon the criminological literature (See Halsey 1997a; Situ and Emmons 2000; Lynch and Stretsky 2003; Beirne and South 2007; White 2003; White 2005). I will argue that the harms which surface in breaches of residential water-restrictions across Australia are dominated by anthropomorphic concerns and a broader emphasis on ecologic health would be of benefit.

Regulating water-use raises issues for federal, state and local governments, the range of industries and commercial enterprises that rely upon infrastructures of water, as well as residential users’ access to water. Schemes to restrict water-use are only one plank of a larger platform of reforms to address the expanding scope of the water problem; future water allocation, water infrastructures, supply and pricing issues are also relevant.

Residential water-restriction schemes are presided over by local government unless otherwise overridden by state governments. These bodies are able to account for the variables of rainfall, population density, weather patterns, local hydro-geologic conditions, water management infrastructures, as well as sensitively respond to the handling of current and future residential, industrial and commercial water-use and demand. Consequently, while remaining a complex governance issue with regional and national water-priorities at stake, local water authorities are positioned to make informed decisions about the quality and type of restrictions imposed on residential users.

Mapping Australian residential water-restriction schemes typically involves a series of decisions by the applicable water authority determining the level...
of restriction applicable. For instance, the greater Brisbane area was subject to High Level Restrictions set forth by the Queensland Water Commission in July of 2008 (subject to being lowered to Medium Level Restrictions upon certain dam levels reaching 50%) (Brisbane City Council 2008). These restrictions dictate the use of water for cleaning cars, watering gardens, general outdoor cleaning, maintaining pools as well as providing targets for individual use per day. With the determination of a local level of water-restriction, a set of residential water-restrictions are triggered, linking unlawful uses of water to a range of penalties. For instance, keeping with the Brisbane example, a first breach of the water restrictions is a $150 fine, a second offence within two years is $450 and a third is $1,050 (Brisbane City Council 2008). To compare, Adelaide’s level 3 water-restrictions are detailed by South Australia Water with a $315 fine for an initial breach with subsequent breaches by individuals liable for fine up to $5,000 (South Australia Water 2008). Across Australia, households in breach of their geographically circumscribed water-restriction schemes are subject to infringement notices, fines and in rare instances, severe limitations on their water-use for a limited period of time.

As it is a mainstream criminological concern to comment on the regulation of certain harms, ‘investigating environmental issues from a criminological perspective requires an appreciation of how harm is socially and historically constructed’ (White 2003, 484). Of course, frameworks for understanding harms are complex, contested and embedded with a range of normative, social, cultural and technical orientations. Legal provisions may capture certain dimensions of harm and its redress, yet such provisions can also give legal sanction to such harms, as Halsey has demonstrated in his work on the clear-felling of old growth forests in Tasmania (Halsey 1997b).

While these and other factors sketch frames for conceptualising the harms at issue, which are important in and of themselves, this article follows the lead of White and Halsey (1998) who assert that three frames of reference are useful in understanding varying domains of harm associated with crimes against the environment:

1. an anthropomorphic position which transposes issues of environmental health as significant to human concern,
2. a bio-centric approach which raises the profile, susceptibility and vulnerability of particular species and their relative diversity.
3. an eco-centric approach concentrating on the viability, vulnerability and health of a particular ecosystem.

Each perspective provides a register for understanding the terms of the harm at issue, which often overlap and most certainly interrelate. The anthropomorphic perspective presents harm as it directly relates to humans. Assaults, robberies, illegal drug-use and other conventional crimes are routinely understood in these terms, focusing on the victims and the offenders. A bio-centric approach broadens the definition of harm to other species, articulating that harm can be understood in relation to, for instance, the abuse of companion animals, lack of protection for endangered animals as well as the excessive reduction of fish stocks. In this light, problems of water scarcity extend beyond humans and the frame of the harm in question extends to encompass other species affected by the breach of water-restrictions. An eco-centric approach widens the framing of harm even further, advocating that risks to ecologic health also constitute harms. Herein, this framing of harm suggests examining the broader ecologic systems that are impacted by residential water-use.

Interestingly, these three perspectives on harm are addressed in various pieces of environmental legislation in Australia in relation to water. For instance, section 14 of Queensland’s Environmental Protection Act (1994) defines environmental harm as ‘any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance’. This framing of environmental harm in terms of environmental values is given further specificity in section 9, where environmental values pertain to:

(a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
(b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

Such broad articulation of environmental harms, and the environmental values upon which harms are defined, are given greater specificity in interrelated pieces of legislation. Continuing in the Queensland context, those environmental values are tied to

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measurable water quality indicators for the Logan and Brisbane Rivers, hence providing greater clarity over what is meant in terms of environmental values, as well as how harm is to be understood in a specific environmental context. Hence one would expect such values to be embedded in the material relevant to residential water-restrictions.

However, this notion of environmental values underpinning and informing environmental harms appears to be less prevalent in relation to residential water-restrictions. There is an apparent premise that water-use in a residential context, whatever its symbolic and ecologic importance, should be managed for the sustained benefit of human societies. In reviewing the residential water-restriction material for Brisbane and Adelaide, it appears that the harms constructed in association with water-use are grounded in risk-thinking, where residential users place larger society at risk by their behaviours and choices in relation to their water-use. Harm materialises (to humans) with acute shortages of supply, decreasing the quality of residential life not to mention the deleterious effects on urban growth, as well as industrial, commercial and agricultural endeavours. White (2003) also notes this anthropomorphic framing of harm in relation to the uses of water. White emphasises that water is, obviously, given legitimacy for drinking yet asserts that other uses are more contestable, which he terms as ‘mis-uses’.

In applying this line of thought to residential water-use, two central mis-uses can be identified (1) excessive water use and (2) improper use, where water could be used in a more productive or efficient ways. In reviewing public campaigns aimed at increasing water-conscious behaviours, mis-uses of water would include lengthy daily showers and baths, overly saturating water-intensive gardens, cleaning sidewalks or driveways with high-pressure hosing and the like, which seem distant from broader environmental concerns. Even emphasising the common-pool dimensions of water-use does not provide adequate linkage to water’s broader role with respect to non-human species and ecologic health. To be clear, there is a practical, well-intentioned quality attributable to an anthropomorphic understanding of these harms. Indeed it is responsible to acknowledge the harms associated with unchecked residential water-use. However, by the very emphasis of such a construction, connections to the wider ecosystem, including issues over biodiversity and specific harms to a range of species, fauna and the general health of the environment are written out of both the regulatory framework as well as the public discussion over residential water-use. Clearly, there is much to gain by holding onto and putting forward an anthropomorphic view of these harms. Ultimately it is for its effect on individuals and communities of this and future generations that regulating such harms is to have its most proximate benefits (May 1995; Braithwaite 2000). By framing harm in anthropomorphic terms we are putting forward, in many instances, a commendable response to the problems associated with the scarcity of water. However, overemphasising the anthropomorphic frame significantly detracts from appreciating the holistic nature of harms at issue as well as the pursuit of integrated and sustainable water solutions; in the context of water, harm reduction measures will not be sustainable if the broader context and ecological impact are withdrawn from the definition of harm.

One issue of concern in the anthropomorphic framing of the harms associated with breaches of residential water-restrictions is that it oversimplifies our understanding of the harm and limits the scope of sustainable solutions. With this view, harms are circumscribed by and understood through a lens of prospective risk to human populations and not a lens of greater concern for other species or ecologic health as a value in itself. In short, the negative ecological impacts on local environments, including species diversity and eco-system health, are positioned in the background of this discussion. Acknowledging that residential water-restrictions are embedded in discourses that value water-conscious behaviours does not necessarily emphasise the broader ecologic importance of water nor necessarily identify the environmental harm at issue. In an issue as critical and environmentally symbolic as water, a dialogue that emphasises human, biotic and ecologic harms would provide a more solid foundation for addressing the range of direct and associated problems. Why, it could be asked, are the harms associated with breaches of water-restrictions framed so narrowly when in other instances (such as when new dams and reservoirs are proposed or with the introduction of recycled water or desalination plants), the scope for appreciating the harms is so much broader?

In conclusion, this article draws upon a criminological approach to harms so as to provide a ‘a sensitising perspective’ (South 1998, 212) on the absence of environmental harms that surface in relation to a
generalised sketch of residential water-restrictions on offer throughout Australia. I am suggesting that residential water-use, as a matter of national concern, would merit a framework to promote established norms that fully legitimate the range of harms at issue. The harms associated with the regulation of residential water-use currently concentrate on direct and collective impacts to people. Cultivating an eco-centric or even a diversely integrated bio-centric approach could maximise rather than minimise the ability to moderate those harms. In short, the anthropomorphic framing of these harms waters down the prospect for sustained solutions in relation to residential water-use.

References


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