# 2

# The Play of Power in the Politics of Harm

Many of the adverse social and environmental impacts associated with the palm oil industry that were mentioned in the previous chapter exceed strictly legalistic definitions of crime. Criminological analysis of this context therefore asks for a broader concept of harm. The notion that strict adherence to a legalistic definition of crime excludes a whole range of serious and widespread harms from criminological analysis has led a growing number of criminologists to argue for a reconsideration of the focus of criminology towards a broader engagement with harm. Yet there is still a profound lack of consensus about the perceived theoretical and political validity of broader notions of harm as an appropriate object of criminological analysis, with ongoing debate over *how* to conceptualize a criminologically relevant notion of harm and *whether* such objectives and the corresponding types of analysis should even be pursued at all (e.g. Hillyard et al. 2004; Michalowski 2009; Potter 2013).

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To advance this debate, this study puts forward a theoretical and analytical approach to a criminologically relevant, critical engagement with harm that draws on and contributes to green criminological analyses of the extractive industries. In this chapter, I explicate what this approach entails, how it redirects the harm debate within criminology, and why criminology is in need of such redirection. Central to my argument is the notion that harm is contested and that this contestedness exists on two levels. Existing debate over the appropriate object of criminological analysis is principally centred on the *academic* contestedness of harm *within criminological theory and analysis*. Considerations of power are generally not absent from these works; at times implicit, at times more explicit, reference is made to the distribution of power and wealth to explain and critique what practices are dealt with as crime and which ones are not. Still, the argument put forward here is that, to enhance our understanding of the power relations and mechanisms that invest discourses and practices of harm and that draw the boundaries between the legal and the illegal, we should shift our criminological lenses to a second level of contestedness. That is, harm is also contested in the broader social field. Although the academic debate is not uninformed by the *on-the-ground* contestedness of harm, criminology has not granted this dimension the central attention it warrants.

In what follows, first the green criminological perspectives and concepts that carry relevance for the purposes of the harm approach here suggested will be addressed. Subsequently, following on from what was outlined by way of introduction in the previous chapter, the various positions on harm within critical criminology will be addressed in more detail. This then takes us to the crucial turning point in the chapter where I redirect the focus to the politics of harm. After this, the contours of an explanatory framework for the operation of power in the politics of harm in the context of Colombian palm oil production will be laid out. I thereby draw on the political economy framework of analysis that generally underpins critical, green criminological studies of crime and harm related to processes of natural resource exploitation (e.g. White 2011; Stretesky et al. 2014) and also point out the need for a more refined and integrated theorization of harm, power, and legality.

## A Critical, Green Perspective on Harm

As noted by White (2013b), green criminology is not a unified field but has developed into a fairly broad area of scholarship wherein a diversity of substantive concerns, conceptual foci, theoretical positions, and political orientations finds common ground in the perceived need to grant more specific criminological attention to environmental issues. Below I expand on three key directions in which green criminology has sought to rethink crime and the criminological endeavour, specifying also how and to what extent these notions figure in this study.

### Extending the Focus from the Human to the Nonhuman

Green perspectives extend the disciplinary reach of criminology beyond exclusively human-centred analysis towards a more encompassing concern with the impacts of environmental harm on humans, nonhumans, and the natural environment. Whether something comes to be defined as an environmental issue to be dealt with as crime, or whether it comes to be defined as an environmental issue at all, is dependent on philosophical principles, questions of power, and particular interests (White 2008: 4–5). Let us first consider some of the eco-philosophical principles that underpin our understanding of the human–environment nexus and societal and individual attitudes towards nature and that lend themselves to different conceptualizations of environmental harm and crime as a result (Halsey and White 1998). At the outset, I should state that there lies a world of subtleties, complexities, and significant overlap between different eco-philosophies (see, e.g., Halsey 1997) and that it is beyond the purposes of this study to elaborate on this. Most relevant here are critiques of the type of anthropocentric or human-centred attitudes towards nature that rest on purely instrumental views of the natural world and that reduce nonhuman nature to human property. From an anthropocentric stance, nature generally tends to be viewed and treated as an exterior realm that is open to human exploitation and appropriation, as "natural capital" at our disposal (Plumwood 1991; Halsey and White 1998). From such views,

environmental harm is problematized only to the extent that it impedes human interests. It is thereby moreover *sectional* human interests that are often of decisive influence.

In contrast, an ecocentric or socioecological approach rests on the notion that there exists a substantial degree of continuity and interdependence between humans, animal and plant species, and the broader natural environment. Yet it *also* perceives a level of distance and distinctiveness that demands that human beings use, interact, and live with nature in sustainable ways in order to minimize or avoid generating adverse impacts (Halsey and White 1998; Plumwood 1991). Thus considered, humans are neither superior to nonhuman nature nor "just another" species but instead have specific responsibilities towards each other and towards nonhuman nature so as to sustain both current and future generations (Halsey 1997; South 2008). Even when an ecocentric perspective is adhered to, the focus regarding who or what is being victimized may vary. An ecocentric perspective or socioecological approach to a particular environmental problem is, for instance, not incompatible with a primary emphasis on how this affects certain *human populations*.

In regard to who or what is victimized, criminological engagement with environmental harm occurs along three intersecting, and potentially conflicting, lines of enquiry: (i) from the viewpoint of environmental justice, analysis is primarily centred on the human consequences of environmental issues; (ii) from the viewpoint of ecological justice, analysis centres on the adverse impacts of environmental crime and harm on the integrity of the natural environment at large; and (iii) from the viewpoint of species justice, the concern lies with the harms and crimes perpetrated against animal species, which may refer to individual cases of animal abuse, institutionalized abuse, as well as habitat destruction stemming from broadly accepted social and economic activities (White 2013a). Particular ideas of eco-justice (White 2013a) thereby underpin different conceptions of rights. Thus, from an environmental justice perspective, environmental rights are thought of as a necessary extension of human rights, considering that access to and the use of a healthy environment are crucial components of social justice. In view of the intrinsic worth of nonhuman nature on the other hand, ecological justice

and species justice can be seen to entail the need to extend the reach of rights to the natural environment and animal species.

Ideas of eco-justice are also bound up with notions of power. Environmental justice—from which this study takes its cue—has been defined by White (2013a) as "the distribution of environments among peoples in terms of access to, and use of, specific natural resources in defined geographical areas" (White 2013a: 15). As a consequence of power differentials operating along lines of gender, class, ethnicity, race, geopolitical location, age, and so on (Stephens 1996; Wachholz 2007; Lynch and Stretesky 2003), environmental problems are often shifted onto, or disproportionately affect, particular human groups. Thus, environmental *injustice* is intricately linked to social systems of oppression and differentiation that lead to the differential victimization of certain human populations and individuals (Lynch and Stretesky 2003). It follows that justice, rights, harm, and power intertwine. However, understanding how harm comes about and persists requires an explicit focus on harm vis-à-vis power. It is from this angle that rights enter the analysis in Chap. 5 (centred on how the ground has been, and is being, prepared for palm oil production), Chap. 6 (which analyses the constructions, practices, and perceived and lived realities of harm in the context of cultivation and production processes of the palm oil industry), and the concluding chapter.

## Extending and Deepening the Critical Criminological Tradition

As hinted at above, environmental issues can also be assessed in terms of the power relations that imbue environmental crime and harm. As I have argued elsewhere (Mol 2013), how power produces and operates through green issues is interlinked with the ordering of an array of social and socioecological relations. In the analysis of the social and environmental harms of palm oil, questions of power pertain to who or what is being harmed; where (geographically) such harm is experienced or transferred to; the causes or driving forces behind these harms; how alleged harms are conceptualized or denied; and so on.

Analysis of the multiple ways in which power operates through social differentiation based on class, race, ethnicity, gender, and persistent colonial patterns of domination and exploitation has increasingly been finding its way into critical criminological analysis. The critical criminological tradition arose in the late 1960s to advocate a praxis-oriented, structural analysis of power and an attendant critique of existing (inequitable) social arrangements in the study of crime and deviance. The founding principles of this critical project were perhaps best exemplified by, and for the first time thoroughly spelled out in, the landmark book "*The New Criminology*" by Taylor et al. (1973).

Later, the limitations of the initial concern with what was primarily the class character of crime, crime control, and criminal justice procedures began to be laid bare, realizing that class was but one component in a range of power relations that criminologists should focus their energies on. Progressively, considerations of race, patriarchy, gender, culture, and so on have thus gained a more significant place in criminological analysis.[1] Donnermeyer and DeKeseredy (2014: 37), for instance, in their exposition of a critical rural criminology, clearly articulate that it is crucial to take account of, *inter alia*, "the patriarchal and ethnic relations that also control our society", all the while being attentive to macro-forces as well as micro-relations.

Green criminology, too, embeds itself in, continues, and deepens the critical tradition by taking the analysis and the interrogation of power into the socioecological realm, extending it to human–nonhuman dualisms, and examining the systemic nature of environmental crime and harm. Premised on an attentiveness to "the ability of powerful groups to manipulate and use race, class, gender *and the environment* to preserve the basis of their power" (Lynch 1990: 1, emphasis added), the "greening of criminology" was first explicitly called for over two decades ago by Lynch (1990). More recently, a strand of green perspectives has once more taken up considerations of political economy in the analysis of environmental crime and harm (Lynch et al. 2013; Stretesky et al. 2014). Analysis and theorization along these lines centre primarily on global political and economic structures, processes, and relations that are being managed by standards of economic performance that fail to observe the environmental

and social costs of production models, being geared instead to the accumulation of capital and economic-reductionist criteria of wealth (Ruggiero and South 2013). This is closely linked to ideologies that tie human welfare and societal progress to economic growth and likewise seek the "solutions" to environmental problems in market expansion, individualized forms of responsibilization, and technological innovation (White 2011; Stretesky et al. 2014). All too often existing harms are perpetuated or exacerbated in the process, or new forms of harm are generated.[2]

Stretesky et al. (2014) draw on Schnaiberg's theory of the "treadmill of production" to theorize the systemic nature of environmental harm. They argue that the expansionary logic of capitalism and the ecological additions and withdrawals central to capitalist production cause ecological disorganization.[3] Also, existing regulatory frameworks and the dynamics of law enforcement—in other words, the extent to which environmental crimes and harms can be and are officially dealt with—by and large reflect and reproduce the power configurations of contemporary capitalist society (Stretesky et al. 2014).

The present work is strongly committed to the type of structurally oriented analysis that seeks to theorize environmental crime and harm with an explicit view on power, conflict, and political economy. I will, however, also argue for the need for a more multiple view of power.

## Transcending the Legal–Illegal Divide

Despite growing environmental awareness, as well as legislative and judicial gains in relation to environmental matters, there is still a substantial discrepancy between official definitions of environmental crime on the one hand, and *legal* (i.e. lawful) environmental harms endured by humans, plant and animal species, environments, and ecosystems on the other hand. Owing to this mismatch between acts legally designated as environmentally harmful or problematic, versus ecologically informed notions of harm (Halsey and White 1998; White 2011), a central endeavour of green criminology is to rethink and theorize "harm", and the legal–illegal divide, within criminology. As Halsey (2004) states:

> [C]riminology should not be constrained by a strictly delimited field of analysis. Indeed, the vitality of the discipline depends on its capacity to subject to critique events and processes which, when viewed through one lens or another, are apt to attract the label 'harm' or a closely associated term. Indeed, a key critical criminological task is to bring to light factors which function to divide criminal from so-called normal, routine or acceptable practice. (Halsey 2004: 837)

As touched upon previously, the routine character and broad societal acceptance of acts and processes that generate (or are conducive to) environmental harm must be viewed in terms of the economic and political dictates that inscribe global capitalism, and the construction of needs and corresponding patterns of production and consumption in late modern consumer culture (White 2002; Stretesky et al. 2014; O'Brien 2008; Brisman and South 2014). South (1998: 226) for that matter has noted that: "Late modern society is a consumption society but this also means it is a "throwaway", "discard and dispose" society, a society producing more and more desired goods but also more and more undesired "bads"—waste, effluent, toxins and so forth". Arguably, we can even go as far as to state that the "discard and dispose" logic signalled by South (1998) extends to whole groups of seemingly expendable human beings, nature, and nonhuman life (see, e.g., O'Brien 2008).

In their critique of narrow corporate constructions of environmental problems, Lynch and Stretesky (2003) elaborate on the contrast between environmental justice and corporate versions of "green". The latter version rests on a depoliticized view not only of environmental problems but also of environmental law, regulation, and enforcement; points at consumption and individual behaviour as sources of (and hence the key to solving) environmental harm; and frames as environmentally problematic only practices officially defined as illegal. Hence, its definitive feature is that it leaves untouched the structural arrangements and underlying power differentials that are at the basis of environmental victimization. In view of this, Lynch and Stretesky (2003, 2014) insist that a critical green criminology must take a firm political stance in analysing and confronting environmental issues.

Although I concur with the view that considerations of power should be central in the criminological analysis of environmental crime—and, by implication, *harm*—I differ on the view advanced by Lynch and Stretesky (2014) that it is essential that criminologists thereby strive to base their analyses on objective, scientifically grounded notions of harm. A central argument of this chapter (and book) is that it is much more insightful, and in fact crucial, to approach the conceptualization of harm, too, as an unequivocally political process. Before elaborating on this point, in order to situate the foregoing in wider perspective, I will first turn in more detail to the longstanding debate over (social) harm within criminology at large.

## Beyond Crime: Criminological Concern with "Harm"

The origins of the debate over criminology's core organizing referents can be traced back to the time of Edwin Sutherland's presidential address to the American Sociological Society in 1939, where Sutherland (1940) directed attention to the crime-equivalent nature of the social harms perpetrated by "white collar criminals". The discussion thus instigated has lost none of its vigour or relevance over time. Yet the directions that have been taken since are manifold: from calls for a move "beyond criminology" (Hillyard et al. 2004), to expressions of concern that some harm perspectives appear to discard the potential for progress *within* criminology (Hughes 2006; Muncie 2005), to the resolute stance that criminologists are committing a conceptual and analytical error when blurring the categories of crime and harm (Green and Ward 2000; Lasslett 2010).

There is always the risk of oversimplification when trying to translate a longstanding debate into a categorization of its key conceptual premises. Nevertheless, in my view, it is possible to discern three main positions from which and between which the debate over the conceptualization and the criminological relevance of harm has developed. A first strand of works insists on the crime-equivalent character—in scope, severity, and

nature—of a variety of social harms (Sutherland 1940; Schwendinger and Schwendinger 1975; Michalowski 2009). This strand of works rests on the notion that these legal harms can be legitimately incorporated into criminological analysis by broadening the definition of crime. Thereby the objective is not necessarily to criminalize the practices or relations in question, but to *analytically* deal with these as (equivalent to) crime. Diverging theoretical and political orientations notwithstanding, the common denominator in these works is the view that criminological analysis must address the variety of social harms that escape scrutiny for being outside official, legalistic definitions of crime. Such endeavours to broaden the definition of crime to the inclusion of a wider set of harms are subject to critique from two distinct and mutually exclusive camps.

On one end, social harm-oriented scholars question whether it is theoretically accurate and politically useful to maintain the conceptual distinction between crime and harm (Hillyard and Tombs 2004; Pemberton 2004). From their point of view, no matter how critical, a focus on crime maintains and reinstates the "myth of crime" and, by doing so, adds legitimacy to an inequitable and ineffective criminal justice system (Hillyard and Tombs 2004). This has led to calls for a shift away from crime to an all-encompassing focus on social harm and, in the long run, the altogether abandoning of criminology. While it has been suggested to refer to this field of study as "zemiology", this term does not enjoy broad acceptance (Hillyard et al. 2004: 276). Pemberton (2007) for instance has pointed out that "zemiology", as the study of *all* harms, is not the preferred term to refer to the study of *socially mediated* harm, which is what the political and theoretical project of a social harm approach is principally concerned with.

However, there is another line of critique that stands in sharp contrast to social harm perspectives in the way it takes issue with a broadening of the object of criminological study. For these scholars, however, their critique rests precisely on the argument that the concepts of crime and harm are distinct categories *that ought to be retained as such*. It is asserted that crime and harm cannot and should not be conflated, nor merged for analytical purposes (Ward 2004; Green and Ward 2000; Lasslett 2010). In any given historical and social context, particular sets of social relations and practices assume the form of "crime" and come to be enforced as

such, while others—no matter how harmful—are tolerated and/or socially accepted (Matthews 2009; Lea 2009). It is therefore considered incoherent for criminologists to study social harm; notwithstanding the significance of harm as a sociological phenomenon, harm as such, it is argued, is not the sociological phenomenon that falls within the scope of *criminological* analysis.

Below, each of these three positions will be discussed in more detail. Subsequent to this outline, I suggest a distinct focus that redirects our criminological engagement with harm. In the concluding chapter, I reflect once more on the three positions here addressed in the light of the findings of this study and the discussions developed throughout the book.

## Off with the Old Criminologies[4]: Broadening the Definition of Crime

It is reasonable to see in Sutherland's pioneering work on white-collar crime (1940, 1983) the early foundations of the debate over criminology's appropriate object of study. Directing long due attention to the crimes of the powerful, Sutherland argued that the social harms perpetrated by "persons of respectability and high socio-economic status in the course of their occupation" (1983: 7) are not categorically different from conventional crimes and *are* crimes indeed. This challenged conventional depictions of crime as disproportionately or all but completely concentrated in the lower classes. The core of Sutherland's argument rests on the view that what sets the crimes of the powerful apart from the crimes committed by persons of low socio-economic status is that they are *differentially dealt with*; rather than being dealt with through the criminal justice system, the crimes of the powerful are taken up by administrative and civil procedures and hence become neither perceived nor officially labelled as crime.

By rejecting exclusive adherence to definitions of crime that encompass only the perpetration of acts that are in violation of the criminal law and have been tried and penalized in criminal court accordingly (cf. Tappan 1947), Sutherland extended the reach of the definition of crime to any act legally defined as socially injurious and for which the legal provision of a

penalty is in place, irrespective of the type of legal statute under consideration. This therefore included civil and administrative law. However, even if rejecting narrow, criminal law definitions of crime, Sutherland did not interrogate the power dynamics and structures at the very basis of prevailing constructions, and the functioning, of a particular concept of crime and the institutions bound up with it. On this point, critical criminologists such as Taylor et al. (1973) challenged Sutherland's work, lamenting the lack of "examination of the ways in which white-collar infractions were (and are) functional to industrial-capitalist societies at points in their development" (Taylor et al. 1973: 274).

Where Sutherland failed to truly challenge the legal and ethical boundaries set by the State (Schwendinger and Schwendinger 1975), the Schwendingers went further, claiming that the legal definition of crime in capitalist society reflects and operates in the service of a bourgeois morality that functions to reproduce a repressive and exploitative class system (1977). To avoid complicity in the reproduction of the existing social order via acceptance of the legal definition of crime handed down by the State, the Schwendingers put forward a human rights-based concept of crime, consistent with which the criminal character of social systems and practices follows from the latter's violation of basic human rights. Imperialism, racism, sexism, and poverty are thus considered crimes that demand criminological analysis (Schwendinger and Schwendinger 1975).

But where would Schwendinger and Schwendinger draw the line as regards the criminal status of human rights violations? Are all violations criminal, and as such the legitimate object of criminological scrutiny? Stan Cohen (1993) considered this aspect of the Schwendingers' position problematic. Hence, while in principle urging criminologists to pursue a more thorough consideration of the violation of human rights in their analyses of the crimes of the powerful, Cohen insisted that criminologists should restrict themselves to the study of evidently criminal violations of human rights. According to Cohen, the Schwendingers had failed to establish the criminal character of human rights violations, which led him to denounce their unqualified, overly broad reliance on human rights rhetoric as a "moral crusade" (1993: 98).

One sees a focus on the "evidently criminal" also reflected in a more general reluctance in criminological work on crimes of the powerful to

stray too far from existing legal frameworks. As pointed out by Michalowski (2009), the majority of criminologists dedicated to the study of corporate, political, and state crime continue to hold on to some form of "legal formalism". That is to say, they study acts that are formally prohibited by law, albeit in a legal framework that transcends domestic criminal law, from a broader and complementary focus on international law (e.g. Kauzlarich 1995; Rothe and Friedrichs 2006). On a pragmatic level, it is argued that such adherence to the legal framework adds legitimacy to criminological analysis, which may enhance the acceptance of such work at the institutional level and by the general public, as well as increasing the chances of assimilation of this type of analysis into the mainstream of criminology (Kauzlarich 1995). However, as Michalowski (2009) rightfully observes:

> The problem, as I see it, is that limiting criminological analyses to only those harmful actions that have been prohibited through the workings of hegemonic power structures inherent in law formation renders criminological inquiry constitutive of the dominant social order rather than analyses of that order. (Michalowski 2009: 307)

Michalowski therefore questions the reliance on existing legal frameworks, international ones included, as "epistemological warrants" for criminological analysis. According to Michalowski, there are certain acts and processes that, although crime-equivalent in scope and severity, in the light of geopolitical interests and global power imbalances are unlikely to be critically examined under existing legal provisions.[5] Michalowski (2009) has put forward the concept of "analogous social injury" for the criminological analysis of the social relations, political and economic structures, and cultural framework that underpin these crime-equivalent harms. His notion that "studying the non-creation and non-enforcement of laws in the face of significant social injuries is as central to the sociological study of crime as studying the origin and enforcement of established laws" (2009: 320) parallels the assertion by Kramer et al. (2002: 266) that "it is in the differences between crime and not-crime that the underlying dynamics of making law and practicing "justice" are revealed". Within green criminology, a similar argument has

been made by Halsey (2004), which I presented earlier. These crucial reflections arguably allow for a more productive engagement with the legal–illegal construct than tendencies to dismiss the concept of crime altogether, as some social harm scholars (see below) suggest. I will return to this later.

Hence, overall, the works that have been addressed in this section problematize strict legalistic definitions of crime and as such challenge the official discourse of crime. However, all make reference to, or retain, *some* concept of crime. In contrast, it is the very discourse and category of crime that is rejected by social harm scholars.

## Thinking Harm Outside the Box: Abandoning Criminology?

From the view that a differentiation between criminal and noncriminal harm is theoretically incoherent (Hillyard and Tombs 2004), attempts to decentre the category of "crime" are central to social harm approaches. Insistence on the argument that the designation of certain acts as "crime" and others as "not-crime" is not supported by any intrinsic quality held by the first category, while absent from the latter, draws significantly on Hulsman's (1986) critique of critical criminology and the concept of crime. Hulsman insisted that crime lacks ontological reality and argued that although critical criminologists analyse crime and crime control in view of inequitable power configurations and existing political and economic structures, they do not debunk the concept of crime *as such* (Hulsman 1986).

Social harm scholars, as well as critical criminologists more generally, argue that the image of crime as ontologically real is socially constructed and perpetually reproduced through legislative, judicial, and political processes within national as well as supranational frameworks and discourses of criminal justice (Hillyard et al. 2004; Michalowski 2009). This is claimed to divert attention from other—not infrequently more serious—forms of suffering, and the role of governments, corporations, intergovernmental organizations, and financial institutions in the production and/or persistence of such suffering. The difference between

Michalowski's (2009) notion of "analogous social injury" and Hillyard et al.'s (2004) concept of social harm consists in the open-ended nature of social harm versus the *crime-equivalent* character of analogous social injury (Michalowski 2009), meaning that the latter draws on a certain parallel with acts officially designated as illegal. In contrast, social harm, as a concept and analytical approach, resists analogies with legal definitions of crime. Michalowski's "analogous social injury" thus appears to sit more comfortably with efforts to broaden the concept of crime (see the previous section) than with the social harm perspectives discussed in this section.

Advocates of a focus on social harm question the "theoretical rationale and political utility of retaining a commitment to the analysis of crime, (criminal) law and the criminal justice system" (Hillyard et al. 2004: 1). Both criminological reliance upon existing legal frameworks *and* critical criminological efforts to bring about a broadening of the definition of crime are in this light deemed problematic from the viewpoint that this perpetuates the "myth of crime" and as such reinforces hegemonic, misguided notions of the true nature and extent of harm that people endure throughout their lives (Hillyard and Tombs 2004; Pemberton 2004). Pemberton, even if not denying the political utility of drawing upon existing legal norms and principles to lay bare "the inconsistencies inherent in the 'law and order' project" (2004: 71), problematizes the recourse to legal discourses of harm from the view that this ultimately fails to challenge dominant tendencies to perceive the most serious harms predominantly in terms of criminal justice notions of "crime". He sees this as applying to the normative framework of human rights as a definer of criminal harm, too.

Mainstream criminology *and* critical criminology are thus targeted as ill-positioned to break away from the hegemonic imagery and institutional arsenal built up around the legal category of crime. Criminology's proximity to the state and its apparatus of criminal justice—focused on the intentional actions and moral agency of the individual actor—is held to preclude adequate engagement with the *social* forces that are at the basis of a wide range of wholly preventable harms (Hillyard and Tombs 2004; Gordon 2004; Pemberton 2007). There is as such a strong emphasis on the need for criminologists to engage the systemic character of the social harms

that inhere in the social, political, and economic organization of contemporary societies (Tombs and Hillyard 2004).

However, in response to such criticisms it has been argued—in my view rightly so—that "a reconsideration of the parameters of criminology" is already well under way (Muncie 2005; Hughes 2006). One can think for instance of critical criminological studies of crimes of globalization[6] that thoroughly engage the cultural, political, and economic forces conducive to harm (intended or not) and the ways in which these harms are perceived and dealt with (or not) by governments and/or suprastate bodies. As one example of such work, take the in-depth analysis by Rothe et al. (2006) of the sinking of the Senegalese state-owned Le Joola ferry in 2002. There, Rothe et al. analyse the criminogenic contexts that result from the convergence of legacies of colonialism, the dictates of global capital, and structural adjustment and austerity measures imposed by the World Bank and IMF; factors which conditioned expenditure on transportation and infrastructure by the Senegalese State, which ultimately led to the sinking of the Le Joola ferry and the consequent death of 1863 persons. Criminological attention for crimes of omission as one dimension of a "complicity continuum of state crime" (Kauzlarich et al. 2003) likewise moves criminological analysis away from traditional concerns with intent. In addition, major examples can also be found within the field of green criminology; for example, Halsey (1997) on oil as the "life-blood" of the global economic system, and the social and environmental consequences of this taken-for-granted addiction; Boekhout van Solinge (2010) on the local–global dynamics that connect processes of deforestation in the Amazon rainforest to patterns of unmaintainable meat consumption in the west; Zaitch et al. (2014) on natural resource exploitation and the nature and effects of consequent land use change in Latin America; and, for an edited volume on environmental crime and social conflict, Brisman et al. (2015). All such work reflects the potential for critical analysis *within* criminology while at the same time upholding *some* discourse of crime. And perhaps this is precisely the strength of such analyses. I come back to this in the concluding chapter.

## Crime Matters: Back to the Core

A third strand of perspectives is critical of both the type of criminological work that broadens the definition of crime *and* of social harm approaches that seek to dissolve the very category of crime and the discourses and institutions bound up with it. These scholars take issue with the shift from the analysis of crime to broader notions of harm, and urge criminologists to revive the study of crime and criminalization. Zedner (2011) for that matter claims that "crime needs to be put firmly back onto the criminological agenda" (p. 272). She emphasizes that acceptance of "crime" as a legal category and as criminology's core organizing referent does not impede asking critical questions regarding "the whys and wherefores of criminalization" and crime control. Against the argument that a social harm approach is better positioned to challenge power, Zedner states (2011: 275):

> To the extent that the problem lies outside the legal category of crime and in the realm of power politics, it is unclear that moving "beyond criminology" would liberate new conceptions of harm from the hierarchical political relations and interest group politics that have bedevilled it thus far. That crime has been mobilized to serve sectional interests, that it takes particular forms, and targets particular social and ethnic groups does not mean that it is incapable of reform. Nor does it mean that any alternative concept would be free from the effects of these embedded structural inequalities. If powerful constituencies mobilize crime for their own political ends, what reason have we to think that social harm, or indeed any other conceptual category (dispute or conflict, for example), would be immune?

Of course, *no* conceptual category, nor any aspect of social life, exists outside of or is immune to power, let alone that it could be liberated from it. The argument put forward by social harm proponents, to be fair, rather seems to revolve around the point that "harm" does not come with the institutional and ideological baggage that to a large extent *is* indeed bound up with "crime"; hence, the notion that, at least in principle, analyses centred on social harm may be better positioned to challenge existing power configurations and structural inequalities.

Other perspectives that seek to reinstate crime as the object of criminological study more explicitly address the relation between crime and harm. This has led to claims that, while overlapping, crime and harm are distinct concepts (Green and Ward 2000; Ward 2004; Lasslett 2010). To expand on the type of constructionist thinking that tends to underpin the attendant view of crime as a social relationship that is not without objective reality, it is instructive to draw on Matthews (2009). From a critical realist position, Matthews insists that crime, as a construct embedded in social structures, is not a mere act or transgression but the historical product of a complex interplay between action and reaction. Crime is not something simply construed into existence but a social relationship embedded in a set of material conditions, structures, and ideologies by which it obtains its concrete quality (Matthews 2009, 2014). In keeping with this version of social constructionism, it is acknowledged that a phenomenon does not have an essence *in and of itself* that inscribes it with a criminal status, but that it is the larger totality of relations and processes in which phenomena are embedded that inscribe these phenomena with definite characteristics (Lasslett 2010). Thus considered, Lasslett posits that:

> Hillyard and Tombs are quite correct to assert that there is nothing "intrinsic" in an act which makes it criminal, nevertheless, acts can certainly acquire this characteristic as a result of the social complex in which they are situated, and may thus be said to have an ontological reality. (Lasslett 2010: 3)

Lasslett (2010) explicitly decouples crime and harm, whose relationship, he argues, is at most contingent. Thereby crime is the outcome of processes of social contradiction and struggle by which a certain social audience succeeds in labelling an act as deviant. It follows that not all harmful acts will acquire the characteristic of criminality, just as not all acts that are assigned a deviant status will be necessarily harmful (Lasslett 2010). This conception coincides with, and draws significantly on, the view adhered to by Green and Ward (2000), which rests (i) on a commitment to a conceptual link between crime and deviance, and (ii) the argument that, although closely related, harm and deviance are distinct

areas of study. What results for Green and Ward (2000) is a definition of crime that encompasses a set of human rights violations that are at once "objectively illegitimate" and "subjectively deviant". Accordingly, to focus on human rights violations per se—i.e. without specifying what defines the criminal status of a human rights violation (cf. Schwendinger and Schwendinger 1975)—is believed to stretch the concept of crime too far if criminology is to retain its coherence as a field of study distinct to that of the study of social harm. Criminology, thus perceived, is the study of deviant behaviour; although there can be overlap between crime and harm, the undifferentiated study of social harm is not considered the domain of criminology in this view (Green and Ward 2000; Ward 2004).

## The Contestedness of Harm

The above-outlined positions argue, respectively, for (i) a broadening of the definition of crime in order to include the analysis of crime-equivalent harms that fall outside strict legalistic definitions of crime; (ii) the analysis of social harm, based on the view that there are neither theoretical nor political grounds to maintain the differentiation between categories of crime and legal forms of harm; and (iii) maintaining a clear differentiation between crime and harm, reinstating the concept of crime as the object of criminological analysis. Clearly then, the concept of harm—both its conceptualization and whether or not it is an appropriate object of criminological analysis—is contested within criminology. But notions of harm are contested not only within criminological theory and debate; harm is also contested in the broader social field, where it is the object of conflict and struggle and differently constructed by the various actors involved. There is, as such, *a second level of contestedness* that is pushed from view when criminologists preoccupy themselves primarily with adopting a particular position on (or against) harm, within or outside criminology. When criminologists are mostly concerned to resolve the academic contestation around "harm", the bigger picture of harm's contestedness *on-the-ground*, and, crucially, what can be learned from this dimension, moves to the background. The argument advanced here is that to advance the criminological debate on

harm, this on-the-ground dimension of contestedness is in need of critical interrogation, and it is in this vein that this study engages (and theorizes) the social and environmental harms associated with palm oil production in the Colombian Pacific coast region. In what follows, I will explicate this book's consequent focus on the politics of harm. In the concluding chapter, I return to the three above-outlined positions on harm.

## The Politics of Harm

Harm is contested, but this contestation is not limited to the academic realm. As a normative concept, the notion of harm has an unequivocal political dimension: to speak of harm is to challenge, to dispute, or to make a claim to something, the assertion of a right, a demand for change, and so on. The politics that as such inhere in "harm" manifest themselves in two forms. One way is via the denunciations voiced by those who endure alleged harms, and those who represent or support the former in their struggles. Furthermore, politics also inhere in the *production* of harm: bringing about a degree of harm may be crucial to secure, facilitate, or reproduce particular political and economic interests, privileges and arrangements, and the broader cultural framework in which these are embedded. No less crucial, in turn, are the ways in which these alleged harms are discursively framed, denied, justified, relegated to external factors and processes, and so on.

As such, I argue that a politics of harm consists of two dimensions: (i) a discursive dimension, which refers to how a concept of harm is articulated, understood, constructed, denied, reconfigured, or used strategically, and (ii) a practical dimension—i.e. "the actual" or that what actually happens—in this case referring to the operations of the palm oil industry and the dynamics revolving around it, which includes struggle(s) over the practices, social relations, and human–environment interactions thereby implied. Thus, this study's focus is on the on-the-ground practices, discourses, and relations in the context of palm oil production in

Colombia's Pacific coast region, analysed against the broader structures of power and control in which these are embedded, as well as the different perceptions and meanings ascribed to these practices and relations by local subjects and wider stakeholders. The perspectives that are thereby attended to are those of (a) palm oil industry representatives, (b) corporate executives, (c) public officials, (d) local, small-scale agriculturalists dedicated to oil palm cultivation, (e) local community members critical of the perceived imposition of palm oil production onto the region, and (f) agroindustry-critical civil society organizations. Through this focus, this study aims to arrive at a more encompassing understanding of the lived and perceived realities of harm in the context of palm oil production, along with the interrogation of the power relations and mechanisms thereby at work.

The production of harm, the "validity" accorded to some conceptualizations of harm versus the discursive displacement or disqualification of others, the classification of harm as legal or illegal, and the ways in which the latter category of harms is dealt with (or not!) by a state's criminal justice apparatus or regulatory entities are all intimately bound up with the operation of power in a given context. It is worthwhile drawing on Foucault (1991) here, and his reflections on the shifting "space of tolerance" granted to given sets of illegalities—shifts that tend to accompany transitions in the social, economic, and political organization of a society. Important to emphasize in this regard is that power not only differentiates harm into legal harm and illegal harm but also distributes the harms that belong to the latter category along an "economy of illegalities" that reflects the values and precepts useful for a society's political and economic functioning. Hence, it can be explained that, in keeping with a bourgeois legality, a gradual redistribution of illegalities took place with the historical transition to capitalism (see Foucault 1991: 76–89, 272–292). Think also of the dehumanizing practices committed against colonial subjects, and the violence and inferior treatment that indigenous peoples and Afrodescendants in the Americas (similar experiences apply elsewhere) have been subjected to from the time of the Conquest, and still *are* to this very day. In view of such injustices, Rojas-Paéz (2017), drawing on de Sousa Santos (2007), explains: "the categories of 'crime', 'legal', and 'illegal', fell

short in describing the socio-legal reality of the colonial world, in which other forms of legality existed and differed widely as regards the treatment of human beings and the exploitation of nature" (2017: 66).

## A Multiple View of Power

In view of the above, this study examines the politics of harm as spanning from legal harm to tolerated illegal harm and nontolerated illegal harm. Considering that differential systems of legality say something about the order of power in any particular society—the international frame of reference included—it is task to investigate the power dynamics that draw and keep in place such boundaries and the hegemonic notions and practices of legality that reproduce corresponding realities of harm. This will be guided by a multiple view of power. Ekers and Loftus (2008) note that, other than a singular view of power, how it is exercised and what it does, one can also take a multiple view of power that draws on both relational and more realist understandings of power; that thinks of power as consolidated in social structures and institutions but as also operating at the level of the subject; as something held and deployed, as well as an effect; and sometimes more consensual whereas at other times more coercive. In addition, it is necessary to remain open to interacting and overlapping oppressions linked to social differentiation along, *inter alia*, class, race, ethnic, and colonial lines of power, and the human–nonhuman or human–environment nexus. Rather than assuming the existence of a single determining principle of articulation—for instance class, under which race, ethnicity and so on are then subsumed—this study is open to the possibility of the structuring force of social relations other than those corresponding to a capitalist logic of power, i.e. the structuring force of social relations, practices, cultural forms and meanings that do not necessarily bear a one-on-one relationship to a society's economic foundations (Hall 1996). Alongside capitalist social relations, there are other social relations and cultural practices and meanings to take account of. These may articulate with, but not necessarily, let alone principally, be determined by class struggle or the capitalist mode of production (Jessop 1990; Moore 1996). Regarding the merits and limitations of a

macro-structural political economy framework for the analysis of land and resource-related conflict, Moore (1996: 126) has noted that:

> Global capitalism, from this [macro-structural] perspective, not only shapes but also exactly determines heterogeneous local histories, cultures, and societies. Cultural practices and beliefs usually enter this discussion derivatively, as exotic trappings to the nuts and bolts of "underlying" structures. Although it would be wrong to minimize the force of political economy, too much emphasis on structural determination elides other factors shaping conflicts over Third World environmental resources […] Macro-structural accounts miss also local differentiation among resource users; particularly those mediated by class, gender, ethnicity, and age.

An explanatory framework of the play of power in the politics of harm in the context of palm oil production must therefore simultaneously include and go beyond the dictates and dynamics of the political economy of global capitalism.

A sometimes rigid emphasis on the capital–nature antagonism and on capital's inherent tendency to expand destructively, to impose, coerce, and obliterate, thereby also warrants to be qualified, considering that capital may (selectively) protect and conserve some natures and environments (see Cárdenas 2012), make concessions, and forge environmental and social compromises. A Gramscian perspective—for the more autonomous role it grants to ideology, culture, and politics—may carry relevance here and has the potential to counter somewhat mechanical understandings of the link between the economic infrastructure and environmental harm and crime (see, e.g., Levy and Egan 2003; Moore 1996).[7]

In addition, in keeping with the above, it must be stressed that it is vital to be attentive to culture and meaning. The politics of harm in connection to palm oil is a cultural politics, too: as noted by Moore (1996: 127–128), "struggles over land and environmental resources are simultaneously struggles over cultural meaning [and practices]". Recent endeavours to work towards a green cultural criminology (Brisman and South 2014) and considerations of "the rural" from a green cultural criminological perspective (Brisman et al. 2014) have started to integrate such notions more expressly into green criminology by calling attention to "the intersection of

the rural, the cultural and the ecological", which includes taking account of the contestation of space and constructions of environmental crime and harm. Brisman et al. (2014) thereby also go some way in pointing out the need to challenge stereotypical and monolithic depictions and understandings of rural life and livelihoods, and the ways in which "the rural" is either impacted by, or impacts on, environmental degradation.

It is with these notions in mind, that this study addresses the constructions, practices, lived and perceived realities of harm, as well as the meanings ascribed to land use change to oil palm cultivation by local subjects and wider actors that have a stake in the politics of palm oil harm—i.e. small growers, (local) palm oil critics, and industry protagonists. The aim in the remainder of this chapter is to fuse the aforementioned considerations regarding harm, power, and legality into an explanatory framework for the play of power in the politics of palm oil harm, to refine green criminology's analysis and theorization of extractivist dynamics and impacts.

## Towards an Explanatory Framework of Power in the Politics of Palm Oil Harm

As briefly mentioned earlier in this chapter, critical green criminological perspectives insist that the form and pace of the transformation and degradation of nature cannot be understood in isolation from the dynamics and the expansionary logic of the capitalist mode of production (White 2002; Stretesky et al. 2014). Hence, the overriding theoretical framework deployed in green criminological analyses of natural resource extraction draws principally on Marxist-inspired political economy perspectives. Below, some of the work that to this end has been developed within green criminology and in the broader academic literature will be expanded on first.

### Green Criminology and Political Economy Analyses of Environmental Harm

Insistence on the continued relevance of political economy is central not just to critical green criminological perspectives (Stretesky et al. 2014; White 2013b) but has been reiterated in scholarship in the field of crimes

of the powerful as well (Tombs and Whyte 2002). As stated by Tombs and Whyte:

> The labour theory of value and the theory of surplus value, the necessarily antagonistic relationship between classes, the inherent tendency of capitalism to expand, destructively, whilst at the same time reproducing the contradictions upon which it is founded, all seem to be crucial tools for understanding and engaging with the trajectories of the world. (Tombs and Whyte 2002: 222)

Green criminology specifically extends this analysis of power in structural terms to questions related to environmental harm and crime. The dynamics that inhere in the capitalist mode of production and the concomitant social, economic, and political configurations, globally and nationally, entail growing pressures on the natural world (White 2002, 2011; Stretesky et al. 2014). How this constant drive to accumulate and generate more profits results inevitably in the production of social and environmental harm is approached from different angles.

Within green criminology, Stretesky et al. (2014) have drawn on Schnaiberg's treadmill of production theory as a theoretical basis for the analysis of environmental harm. Treadmill of production theory explains how the extraction of raw materials, and the conversion of these raw materials into commodities, causes ecological disorganization, damaging or destroying ecosystems to such extent that the conditions to sustain human and nonhuman life are severely disrupted, sometimes irreversibly. This occurs through ecological withdrawal and ecological additions. Harms of withdrawal are brought about directly by the technologies and processes of extraction and harvesting. Harms of addition stem from production-related waste streams and the contamination of soil, water, and air. Due to the expansionary drive of capital, this is a continuous process that leads to ever more intensive, widespread, and accelerated ecological disorganization (Stretesky et al. 2014; Lynch and Stretesky 2014).

Outside of criminology, a strand of relevant work takes its cues from Marx's writings on the "metabolic rift" (Moore 2000; McMichael 2009b; Schneider and McMichael 2010); a concept that revolves around the

notion that the push towards ever more capital-, energy-, and technology-intensive forms of agriculture exacerbates the separation of agriculture from its biological base—and of humans from nature more generally—and disrupts the natural nutrient cycle to unprecedented extents (see also Crook and Short 2014). Reworked,[8] the concept explains the rapid exhaustion of soil and ecological conditions as agriculture comes to be subordinated to the logic of capital and the capitalist division of labour (Schneider and McMichael 2010). Moore (2000), through a discussion of the successive metabolic rifts that are cause and consequence of global capitalist development, substantiates the claim that capitalism *inevitably* destroys the ecological basis of its production conditions. The capitalist logic of productivity cannot but depend on large-scale industrially farmed monocultures that exhaust soil, water sources, and ecological conditions that sustain life. Through the concept of "metabolic rift", it is possible to arrive at enhanced insight into the dynamics and implications of the "subordination of agriculture to capitalist production relations" (McMichael 2009b: 827). In Chap. 6 of this book, in the discussion of the social and environmental harms linked to oil palm cultivation as a consequence of the displacement of traditional models of production and subsistence in the process of the neoliberal capitalist restructuring of agriculture, the relevance and explanatory power of the concept of the metabolic for the theorization of agroindustry-related environmental harm in green criminology are demonstrated.

Harvey's (2003) notion of "accumulation by dispossession", too, carries relevance for the green criminological analysis of the social and environmental harms that result from global patterns of production and consumption.[9] Bearing in mind that the extended reproduction of the capitalist system necessitates constant expansion, this entails that if the production of surplus value can no longer be realized within existing production settings,[10] new frontiers for capital accumulation must be opened up. Revisiting Marx's notion of primitive accumulation, Harvey (2003: 144) has noted "the continuous role and persistence of the predatory practices of 'primitive' or 'original' accumulation". As such, in order to sustain economic growth, capitalist penetration and processes of commodification reach into all but every corner of the world and aspect of human and nonhuman life, to open up "non-capitalist territories"[11] to

capitalist accumulation. Agribusiness is one such driver of dispossession, undermining smallholder agriculture, subsistence economies and the cultural and socioecological dynamics of locally embedded forms of life and coexistence, and disrupting ecological processes (McMichael 2009a).

On the whole, the importance of macro-structural engagement with political economy as a framework of analysis of the social and environmental harms of palm oil production is indisputable. But the on-the-ground dynamics of the politics of palm oil harm simultaneously ask for closer reflection on the day-to-day struggles over access to, control, and use of land; the cultural meanings and practices that invest the respective territories; and the multiplicity of power relations and mechanisms at work in this context. Consider for instance that although the presentation of the primary research data in Chaps. 4–6 in many ways bears witness to processes of "accumulation by dispossession", I will also demonstrate that this notion cannot fully comprehend the ways in which the Colombian palm oil industry operates and expands. Moreover, local communities do not share a single reality of lived and perceived harm; instead, it is crucial to attend to the different *realities* of harm in connection with the palm oil industry. This indicates a manifest need for theoretical refinement of green criminological engagement with harm and crime linked to natural resource extraction. Such refinement must also account for colonialist practices and attitudes, which often figure prominently in extractivist patterns of accumulation (Mondaca 2017; Rojas-Paéz 2017). The case of Colombian palm oil forms no exception to this, as the discussion below elucidates.

## Peripheral Natures and Peoples: The Centrality of a Persistent Coloniality

In making the case for an eco-global criminological perspective, White (2011) takes up the theoretical and methodological implications of the spatial dimensions, transnational character, and local–global dynamics of environmental issues for criminology. In addition to a focus on the transference of harm, he thereby also calls attention to the fact that the

world is viewed and perceived differently through different eyes and from different localities, histories, and subjectivities. The "local", on such accounts, is not a mere physical construct or geographical marker, but refers just as much to one's social and epistemological location and ontological being (White 2011). The colonial character of many a case of environmental victimization, the transference of harm, as well as the production of knowledge regarding such harm, is certainly acknowledged within green criminology (in addition to White 2011, see also South 2007; Walters 2011). At the same time though, colonial patterns of power in the analysis of social and environmental harm arguably merit a more central place in green criminological analysis, without thereby *reducing* a colonial logic of power to a capitalist one, notwithstanding their intricate relation. In what follows, I outline some of the works that confirm the relevance of such a focus in connection with the operations of the palm oil industry in the Colombian Pacific.

Colombia's Pacific coast region, to reiterate, is a region predominantly inhabited by Afro-Colombian and indigenous communities. The heterogeneity that characterizes this region's cultural and ethnic diversity, its "disorderly" nature, and forms of sociocultural organization and local ways of relating to the region's natural environments have come under growing pressure from the homogenizing mechanisms of dominant models of development (Escobar 2008). The push for the agroindustrial capitalist development of Afro-Colombian and indigenous territories by sectors such as the palm oil industry, according to Escobar (2008), entails the subjugation of local relations, practices, cultural beliefs, and ways of being and knowing. Denunciations of the palm oil industry are in this regard closely linked to the displacement of local social relations and conceptions of the land and historically and culturally specific systems of production and subsistence by projects that supposedly bring progress, development, and sustainability (Ramírez Vidal 2007).

Colombia's Pacific coast is an example of a region that, in keeping with an imaginary geographical and racial hierarchy known as "andinocentrism", is still significantly portrayed as backward, its inhabitants ranked as racially and culturally inferior (Oslender 2007; Arocha Rodríguez and Moreno Tovar 2007). The agroindustrial production of palm oil is

considered exemplary of the imposition of this andinocentric, or "Euro-Andean" (Escobar 2008), model of development. Such processes are moreover to a large extent sustained and enabled by the "armed machinery" that operates in the region (see Chap. 4) and which is claimed to have subjected many inhabitants of the Pacific to a new diaspora (Arocha Rodríguez and Moreno Tovar 2007).

With reference to the enduring forms of colonial domination of non-Western cultures, Quijano (2007) has coined the concept of "coloniality" to emphasize the continuity of a colonial technology of power, notwithstanding the end of colonial administrations (Castro-Gómez 2002). The disqualification of "alternative" ways of knowing, seeing, and being, as well as the broader devaluation of human and nonhuman life in regions construed as Colombia's Other (Serje 2007) draw attention to the persistence of a colonial imaginary that divides social reality into distinct albeit interrelated realms.[12] Boaventura de Sousa Santos (2007) speaks of such divisions in terms of "this side of the line" and "the other side of the line", whereby the latter is constitutive or forms the condition of possibility of the former (see also Oslender 2007). This logic applies as much to global North–South divides as to centre–periphery relations within regions of the Global South. An assigned peripheral status thereby sustains a view of the environments and human inhabitants of the Global South or peripheral regions as instrumental, manipulable, and expendable in the process of implanting dominant models of development and industries primarily geared to support the lifestyles of those in the North or centre.

Escobar (2007, 2008) has extended the notion of coloniality to include the ecological, arguing that "it is in the nature of coloniality to enact a coloniality of nature" (2008: 120). A coloniality of nature is thereby discernible in the subordination and exploitation of biophysical nature as well as through the subalternization of local models of nature, "particularly those that enact a continuity between the natural, human, and supernatural worlds" (ibid.: 121). As Alimonda (2011) has argued more broadly:

> A persistent coloniality impacts on Latin American nature. The latter, both as biophysical reality (its flora, fauna, human inhabitants, the biodiversity of its ecosystems) and its territorial configuration (the

> sociocultural dynamic that significantly articulates these ecosystems and landscapes) is depicted, in global hegemonic thought and by local elites, as a subaltern space open to exploitation, devastation, and reconfiguration according to the demands of current regimes of accumulation. (Alimonda 2011: 22)

Ramírez Vidal (2007), looking back upon research carried out in Tumaco in the late 1990s, recalls how palm oil companies in the region "had become the new symbol of mestizo and white cultural penetration". Consequently, "the control that Afro-Colombian groups had come to take of their environments, was being seriously threatened and undergoing profound socioeconomic and cultural transformation" (Ramírez Vidal 2007: 410). Thus, critics stress how the palm oil industry is "infused with colonial overtones" (Escobar 2008: 70), which manifests itself in an imposed alteration of local land uses that reinvigorates exploitative configurations of human–environment relations (Ramírez Vidal 2007; Escobar 2008; Cárdenas 2012: 330).

However, notwithstanding the above, the palm oil industry is not being unequivocally and unanimously opposed in Colombia's zones of palm oil production. In order to bring into view the full range of dynamics of agroindustry expansion, alongside coercive forms of domination and exploitation, it is therefore necessary to be attentive to more consensual dynamics that are at play in the exercise of power in these contexts, too.

## Between Coercion and Consent: Small Growers in the Midst of Opposition

Where the smooth incursion of agroindustries and wider projects of economic restructuring are obstructed by dissenting populations that oppose the imposition of such logics onto their territories, in Colombia the answer often assumes the form of a "politics of terror" and violent persecution of local communities (Oslender 2008). However, somewhat disparate from well-documented cases that link the establishment and expansion of the Colombian palm oil industry to violent and coercive

processes of dispossession (Mingorance 2006; Grajales 2013; Maher 2015), in many of Colombia's palm oil production zones, palm oil is not so much, *or at least no longer,* the mere product of violent imposition and dispossession. In the introductory chapter I noted how, during my initial encounters with the palm oil industry in Tumaco, I was confronted with the involvement of a substantial number of small growers in the cultivation of oil palm (see also, Leech 2009; Cárdenas 2012). What is it that drives smallholders to opt for the cultivation of oil palm on their lands? If local populations "opt" for palm oil, then what does this say about the dynamics of land use change or land grabs? Borras Jr. and Franco (2012) have cautioned against the imprecise and uncritical use of the "catch-all phrase" of land grab, arguing that such tendencies risk obscuring the complexity and multidimensional character of the nature, mechanisms, objectives, and directions of land use change. It should as such not be assumed that mechanisms of land use change always depend on violence and coercion. Alongside the forced imposition and the resort to coercive mechanisms of land use change, there are also more consensual processes by which local subjects are incorporated into projects of agroindustrial capitalist development (Cárdenas 2012). If power works in coercive and violent as well as in noncoercive ways, it follows that it is crucial to analyse how coercion and consent figure in the play of power in the politics of harm, and how, or to what extent, these two dimensions may articulate.

Also of relevance in this regard is that, since 1991, an expanded legal framework (see Chap. 3) seeks to include historically excluded segments of the population, among them Colombia's ethnic minorities. But, as Lemaitre Ripoll (2009) notes, parallel to the respective constitutional and legal changes, increases have occurred in the violent persecution of these groups. Rural communities are especially hard-hit in this regard. Notwithstanding advances in the legal recognition and protection of Colombia's ethnic and cultural diversity, it is still the case that when neoliberal development models run up against the legal limits set by the collective land titles granted to Afro-Colombian and indigenous peoples, such "obstacles" are often sought to be violently overcome:

> There is a general opinion in Colombia that an error of historic proportions was committed when the government handed over 25% of the nation's territory in the form of *resguardos* to [indigenous] communities, in effect placing these lands beyond the scope of the market and of all possibility of investment and development. Evidently, the corrective to this has been to put into practice a covert program of extermination, hidden behind the veil of the country's armed conflict. The rate of violence in indigenous zones is 100% greater than the national mean. (Serje 2007: 46)

For a more thorough understanding of the conditions that enable and/or constrain opposition to palm oil, and the effective space opened up to alternative notions of legality, it is crucial to reflect on the embeddedness of Colombia's expanded legal framework—in relation to the territorial and cultural rights of ethnic minorities—in the wider configuration of social, cultural, political, and economic relations and processes. With the legal recognition of ethnic and cultural diversity and the allocation of collective land titles, to what extent can alternative social, cultural, and ecological rationalities effectively be enacted?

It is crucial to take up this set of questions, too, to reflect on the actual degree of autonomy that Afro-Colombian and indigenous communities are allowed to exercise in the cultural, territorial, and economic sphere; and on the implications of Colombia's expanding legal order and the corresponding set of legal practices for the lived experience and contestedness of harm. Informed by the analytical approach and theoretical contours of the framework set out over the course of this chapter, in Chaps. 4–6 the fieldwork data of this research will be analysed and discussed. To this end, the next chapter provides some further detail on the ecology, demographics, and social turmoil in the region under analysis and more generally places Colombia's palm oil industry in its national and regional context.

## Notes

1. For an overview and discussion of directions in critical criminology that have emerged since the 1970s, see DeKeseredy (2011).
2. I mentioned in the introductory chapter that White (2011: 45) refers to this as "paradoxical harm".
3. I expand on this point later on in this chapter, when engaging in a more detailed discussion of the Marxist analytical framework initially envisioned by Lynch (1990)—and later followed by others (e.g. White 2002; Stretesky et al. 2014)—as the terrain from which to pursue the greening of criminology.
4. "Off with the old criminologies, on with the new orientations, the new horizons!" was Tappan's (1947: 96) reproach to attempts to extend the criminological scope beyond the mere study of offenders convicted by the state for violations of the state's criminal law.
5. Recent withdrawals by several African nations from the International Criminal Court (The Guardian 2016) are signal events worth taking serious in this respect. Accusing the ICC of a racist bias in its selection of cases to investigate and prosecute, it is claimed that western nations are led off the hook despite having committed "heinous war crimes" (think, e.g., of the 2003 Iraq invasion).
6. A term first coined by Friedrichs and Friedrichs in (2002), and most recently extensively dealt with in Rothe and Friedrichs (2015).
7. Chapter 5 and the concluding chapter take these ideas further.
8. Reworked in the sense of shifting the emphasis from a principal concern with the *organization* of labour to the *practice* of labour; i.e. looking more meticulously at agricultural practice under capitalism (Schneider and McMichael 2010).
9. See also Gutiérrez-Gómez (2017) for the application of this concept to state-corporate harm in the context of gold mining in Colombia.
10. That is, within the limits of, for instance, existing manufacturing, agricultural, or extractive activities.
11. These are territories where a noncapitalist logic of production and subsistence prevails, even if not wholly external to the capitalist economy.

12. Based on a false dichotomy, there is a prevailing notion that there are two separate Colombias: the prosperous Andean zone which is seen as the centre of development, modernization, order, stability, and legality, versus a Colombia characterized by absence, lack, and disorder, onto which is projected an imagery of backwardness, marginality, and violence (Serje 2007, 2012).

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