



Corruption and the Securitisation of Nature¹

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Abstract

This article considers corruption in Australia in relation to the exploitation and preservation of natural resources. In doing so, it examines issues pertaining to a proposed pulp mill and the forestry industry in Tasmania, the development of mining and ports in Queensland, and international agreements pertaining to deep-sea oil drilling in the Timor Sea. Corruption relating to the environment is interpreted in this article as implying both moral corruption and/or direct corruption. Gaining unfair advantage, protecting specific sectoral interests and over-riding existing environmental regulations are all features of the types of corruption associated with the exploitation of natural resources. The result is lack of transparency, a substantial democratic deficit, and expenditure of public monies, time and resources in support of environmentally and socially dubious activities.

Keywords

Natural resources; corruption; securitisation; state-corporate crime.

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Introduction

This article considers corruption in Australia in relation to the exploitation and preservation of natural resources. In doing so, it examines issues pertaining to a proposed pulp mill and the forestry industry in Tasmania, the development of mining and ports in Queensland, and international agreements pertaining to deep-sea oil drilling in the Timor Sea. Concepts such as *securitisation* and *state-corporate crime* are drawn upon to explain corruption in relation to the natural resource extraction industries. The exploitation of natural resources is both global and capitalist in nature and, while the benefits are presented in universalising terms ('we all profit from this'), in practice, they reflect the specific sectional interests of transnational corporations and state elites. Similar trends are likewise evident in the Australian context and form the substance of the present article.

Before delving into the substance of the article and the linkages between corruption and securitisation of nature, a few words about terminology are in order. *Corruption relating to the environment* is interpreted as implying both *moral corruption* (involving the undermining of trust and respect for established governmental processes and institutional practices, as guided by democratic oversight) and/or *direct corruption* (involving direct breaches of criminal laws, facilitated by government officials and non-government actors).

Environmental security refers to the idea that natural resources such as fresh water, fish, trees, coal and gas need to be protected and secured first and foremost for the public benefit of those living within particular nation-states. Popular rhetoric about the national interest and business health can both obscure and bolster that fact that environmental security tends to be constructed around very particular private and state interests. At a concrete level, the social construction of 'security' in an environmental context frequently privileges the rights and interests of the powerful over the public interest. Thus, environmental security more often than not is about protecting financial interests rather than ensuring fair and equal access for all. Who 'the powerful' are, in turn, has to be considered from the viewpoint of specific industries, corporations and firms as well as specific governmental formations ranging from the local municipality and provincial-level through to the nation-state.

Securitisation of nature, in this context, refers to the ways in which particular governments and nation-states, and particular corporations, ensure the security of their investments in natural resources (often for the short term) at the expense of ecological wellbeing and the collective social welfare. In pursuit of the ownership and control over natural resources, and to exploit these for particular purposes, governments and companies have singularly and in conjunction with each other worked to break laws, bend rules and undermine participatory decision-making processes. Sometimes this takes the form of direct state-corporate collusion (state-corporate crime); in other instances, it involves manoeuvring by government officials or company executives to evade the normal operating rules of planning, development and environmental impact assessment.

By examining specific instances of corruption (broadly defined), this article exposes the particular interests and institutional processes that underpin fundamentally unjust practices. The article begins by outlining the strategic importance of natural resource extraction for Australia and the longstanding global push to secure particular resources for economic advantage. The discussion of securitisation maps the larger political economic context within which moral and direct corruption in favour of particular class interests occurs. The article then considers the specific issue of corruption in Australia as this pertains to the exploitation of natural resources across several different sectors: namely, forestry, mining, and oil and gas extraction.

Natural resource extraction and securitisation

Resource extraction industries are the economic lifeblood of countries such as Australia. Mining, forestry and the petroleum industries (involving drilling at sea and on land), as well as coal seam

gas extraction, constitute major sources of revenue and profit for the state and corporations alike (Cleary 2012; Munro 2012). They also demand huge expenditures from the point of view of investment, exploration, operations and rehabilitation. Resource extraction is not cheap. Yet the rewards are great (for the few) as are the environmental and social costs (for the majority) (Carrington, Hogg and McIntosh 2011; White 2013). Natural resources are seen to be vitally important to national economies and corporate profits, especially where overall gross domestic product is reliant upon these types of industries. Yet the capitalist exploitation of natural resources is neither new nor progressive, at least from the point of view of world economic and political developments (Ruggiero and South 2013).

For the past four hundred years, the extraction of natural resources on a global scale (for example, gold and other precious metals, furs, spices and wood products) has fundamentally been a project of displacement and destruction. Indeed, the history of the modern world is based precisely upon resource colonisation, a phenomenon that has had an adverse impact on many different Indigenous peoples in places such as South America, North America and Australasia, as well as the native inhabitants of Africa, Asia and beyond (White 2011b). Across the planet, the prior ownership rights, interests and knowledge of Indigenous inhabitants were treated as irrelevant by the European invaders. People who for thousands of years had lived in harmony with Nature (that is, through intrinsically adopting ecologically sustainable practices), including in some of the most humanly inhospitable places in the world (such as Arctic tundra and sand deserts), were subjected to dispossession, displacement and destruction of their communities. These processes are mirrored in the contemporary exploitation of natural resources worldwide, which continues to hugely affect Indigenous communities (Gedicks 2005; Klare 2012; Le Billon 2012).

Since the Industrial Revolution of the mid-1700s in Europe, the specifically capitalist character of industrialisation has transformed nature in particularly degrading ways and contributed to ecological imperialism on a world scale (Greig and van der Velden 2015). The industrial revolution era has been driven and underpinned by powerful forces (nation-states, companies, armies) pursuing sectional interests. This has been achieved through global imperialism, colonialism and militarism that have served to entrench a dominant worldview and the material basis for certain types of production, consumption and reproduction. Carbon emissions that lead to global warming, for example, occur in the pursuit of 'normal' business outcomes and involve 'normal' business practices (see Rothe and Kauzlarich 2016; Tombs and Whyte 2015). The major contributors to carbon emissions can be identified through reference to specific industries, such as the 'dirty industries' of coal and oil, and how they engage in particularly damaging practices (Heede 2014). But the overarching imperative to expand and increase production and consumption nonetheless is the same for all industries plugged into the global capitalist mode of production. Built into the logic and dynamics of capitalism is thus the imperative to grow. The net effect of this is anthropogenic climate change.

Who is most negatively affected by resource extraction is partly a function of what can be exploited, where it is located, and how much resistance is likely to be encountered. This is also at the heart of the link between resource extraction and corruption, as will be demonstrated shortly. The mega-mining developments of contemporary Australia, for example, are affecting a wide spectrum of people, ranging from particular Indigenous communities (for example, in the Northern Territory) through to the farmers of the Hunter Valley (pastoralists as well as wine-makers).

The presence and activities of the extraction industries equate to the use of oceans, mountains, rivers, trees and lands for private profit. This generally involves the commodification of both nature and human labour, as each is regarded first and foremost in terms of the buyer-seller nexus. Trees, copper and fish are sold for the profits they make, not because of their intrinsic usefulness to humans (although it is their use-value that provides the grounding for their subsequent exchange-value in the market place); human labour is bought as a tradable

commodity on the labour market where workers are interchangeable. The market dominates social life, and one consequence is the concentration of power into fewer and fewer hands in the same moment that disparities in wealth and poverty expand worldwide. Three decades of neo-liberalism have seen the further intense exploitation of nature (ecosystems and the abiotic or non-living, such as rivers) without restraint, the exploitation of the nonhuman (animals, plants) without respect, and the exploitation of humans (workers and consumers) without empathy. Capitalism is comprised of certain types of productivist practices supported by particular consumerist ideologies. The result is often human-induced scarcity.

Shortages of food, water and non-renewable energy sources, and the search for new places where resource extraction can continue, ensure the continuing value of these in the global marketplace. For example, while some capitalist enterprises have embraced 'green capitalism' and new technologies that are meant to be more environmentally benign, the overarching trend has been for continued reliance upon the 'old' extraction industries such as coal, gas and oil. These are being supplemented by newer forms of energy extraction, the so-called 'extreme energy' industries. This refers to novel forms of ecologically unsound energy extraction: mountaintop removal, deep-water drilling and hydraulic 'fracking' (Crook and Short 2014). In the neo-liberal universe, the global status quo is protected under the guise of arguments about the 'national interest' and the importance of 'free trade', which usually reflect specific sectoral business interests. This is most evident in state support in countries like Australia, Canada and the United States for the oil, gas and coal industries, deep-drilling oil exploration, and mega-mines. Concerted resistance to global agreements on carbon emissions and use of carbon taxes accompanies this support for these industries. The consequence of such activities contributes to even more ruthless exploitation of rapidly vanishing natural resources, as well as the further diminishment of air, soil and water quality, thereby exacerbating the competition by individuals, groups and nations for what is left.

The notion of environmental insecurity is usually tied to actions and conditions that undermine the ability to exploit or use nature sufficiently to meet human needs (Hall 2013). Scarcity is tied to the over-exploitation of natural resources. It is also increasingly linked to the consequences of global warming. The choices ingrained in environmental exploitation stem from systemic imperatives to exploit the planetary environment for production of commodities for human use. How humans produce, consume and reproduce their conditions of life is socially patterned in ways that are dominated by global corporate interests and those of the hegemonic nation-states (Stretesky, Lynch and Long 2014). The power of consumerist ideology and practice manifests in the way in which certain forms of production and consumption become part of a taken-for-granted commonsense, the experiences and habits of everyday life (Agnew 2013). Insecurity relates to the biophysical and socio-economic consequences of various sources of threat and damage to the environment including pollution, resource degradation, biodiversity loss and climate change (South 2012; White 2014).

One result of the regimes and routines that sustain contemporary social life is the systematic transformation of nature, as species decline and ecosystems are radically altered (White 2011b). The moral universe (for example, the primacy of individualism and anthropocentrism) and material space (that is, the comparative economic prosperity of advanced capitalist countries) within which these trends occur is one that is generally supportive of this sort of natural resource exploitation. In other words, the ravaging of nature takes place with the *consent* of its beneficiaries, among whom are the general populaces of advanced industrialised countries. In part this is due to the fact that the 'externalities' of environmental degradation and destruction (such as pollution, toxic waste and creation of wastelands) frequently occur 'elsewhere': globally in peripheral countries and locally in marginalised communities.

Nonetheless, there are limits to this exploitation, as evidenced by the increasing scarcity of both non-renewables (for example, oil and minerals) and renewables (for example, freshwater, forests,

fertile soils). Sustainable use occurs when the underlying stock is not depleted in quantity or degraded in quality, but this is rarely the case today. Scarcity can arise from:

- depletion or degradation of the resource (supply)
- increased demand for it (demand)
- unequal distribution and/or resource capture (structural scarcity) (Homer-Dixon 1999).

As Homer-Dixon (1999: 47) explains, these three factors are inter-related: '[d]eforestation increases the scarcity of forest resources, water pollution increases the scarcity of clean water, and climate change increases the scarcity of the regular patterns of rainfall and temperature on which farmers rely'.

The accompanying insecurities and vulnerabilities ensure elite and popular support for self-interested 'security'. Accordingly, a 'fortress mentality' is being constructed and reconstructed at individual, local, national and regional levels, as both an attitude of mind and a material reality (White 2014). Donald Trump's cry to 'Make America Great Again' likewise taps into this sentiment. The net result is that security is being built upon a platform of state, corporate and organised group wrongdoing and injustice, in many instances with the implied and/or overt consent of relevant publics. Much of this can in turn be conceptualised as a form of *state-corporate crime*. This has been defined as 'illegal or socially injurious actions that result from a mutually reinforcing interaction between (1) policies and/or practices in pursuit of the goals of one or more institutions of political governance and (2) policies and/or practices in pursuit of the goals of one or more institutions of economic production and distribution' (Michalowski and Kramer 2006: 15).

The notion of state-corporate crime is particularly apt in regards exploitation of the environment. The securitisation of nature is constructed around two key allied forces: (1) natural resource extraction industries and specific companies; and (2) nation-states that exert hegemonic power and control over natural resources. In effect, *national security* is basically being defined as *company security* in regards access to and exploitation of natural resources.

The centrality of resource issues has been examined at length by Klare (2012), who points out that it is especially important for those states that depend on raw material imports for their industrial prowess. Demand is escalating worldwide for commodities of all types (energy, consumer goods, food), accompanied by huge population growth and rising affluence via economic expansion in places such as China and India. Increasingly, there are scarcities of specific resources (for example, forest cover, marine fisheries, freshwater systems and fossil fuels), leading to a proliferation of ownership contests (for example, disputed islands involving China, Vietnam, the Philippines and Japan; re-drawing of boundaries in the Arctic among border states such as Russia, Canada, Norway and the United States) (see, for example, Brisman 2013a). Meanwhile, to guard against immediate food shortages, government-backed agricultural firms in China, South Korea, Saudi Arabia, and the United Arab Emirates are already buying large tracts of arable land in Africa and elsewhere to provide food for consumption at home (Brisman 2013b). Security is being sought through the appropriation of resources in specific biosocial locations.

Security is substantially constructed around the notion of control over resources, enforced by the viewpoint that 'Might Makes Right'. National security can be conceptualised as being more than just military strength, as also encompassing territorial inviolability, and economic and political interests that protect the value and stability of the state. Moreover, environmental security is basically defined in relation to specific corporate and national interests, and threats to these interests. Such conceptions reflect peculiarly narrow notions of 'security', rather than those premised upon either universal human interest (such as food security, air security and water

security for all) or the intrinsic worth of animals, plants and specific eco-systems as such. It is here that corruption is also most evident with respect to environmental issues in Australia.

Corruption and natural resource exploitation

Corruption and natural resource extraction have long gone hand-in-hand, especially in the wildlife and forestry sectors. Securitisation, in this context, is about securing sectional interest advantage for governments and for companies. In regards to environmental crimes, corruption is evident in activities such as payment of bribes to government officials or politicians for preferential treatment; extortion by officials for operators to artificially legalise illegal operations; evading of national regulations with relative impunity; and bribing customs and border security personnel to ignore smuggling (INTERPOL-UN Environment 2016; Van Dinh 2012;). But corruption always occurs in specific places, involves specific actors, and involves concrete activities such as bribery and abuse of office. The nature and extent of corruption will vary from country to country and situation to situation, as will the officials working in enforcement, detection, prosecution, the judiciary and policy-making who are implicated in corruption (United Nations Office on Drugs and Crime 2012).

Propaganda to the contrary notwithstanding ('it does not happen here'), corruption is ubiquitous: that is, it is a Western as well as non-Western phenomenon (see, for example, Whyte 2015). Just as the corporation is inherently criminogenic (Bakan 2004; Glasbeek 2004), so too, is business involving natural resource extraction fundamentally and profoundly tainted by moral and direct corruption.

The flipside of corruption is regulation. What companies can or cannot do is very much dictated by the laws and regulatory regime that guide natural resource use and extraction. Short of direct corruption, there are many ways in which lack of adequate regulation can itself be seen as a form of corrupted practice. For instance, in supporting economic development, the state can cut costs and encourage business growth by narrowing the scope of its purview and involvement in regulation. This reduction can take several different forms, such as cuts in state resources allocated to environmental audits (for example, botany mapping), or the censoring of scientific information which may be publicly sensitive for specific industries (for example, fishing, forestry, mining) or for private contract partners of government (for example, water treatment plants, power station operators).

The state, nevertheless, has a formal role and commitment to protect citizens from the worst excesses or worst instances of environmental victimisation. Hence, the introduction of extensive legislation and regulatory procedures designed to give the appearance of active intervention, and the implication that laws exist which actually do deter such harms. The existence of such laws may be encouraging in that they reflect historical and ongoing struggles over certain types of business activity.

The regulation of environmental harm, however, whether it be in the areas of risk assessment, management of specific incidents or consumption-related activity, is inextricably intertwined with capitalist accumulation. The most blatant or worst instances of environmental victimisation and destruction may be subject to state sanction. But even this generally begs the issue of the capacity of capital, particularly transnational, to defend its interests through legal and extra-legal means. It has been observed, for example, that the broad tendency under neo-liberalism has been toward de-regulation (or, as a variation of this, 'self-regulation') when it comes to corporate harm and wrongdoing (Snider 2000). In the specific area of environmental regulation, the role of government remains central, even if only by the absence of state intervention. The general trend has been away from direct governmental regulation and toward 'softer' regulatory approaches.

This, too, opens the door to corrupted governmental processes. Consider, for example, the notion of regulatory capture. The concept of regulatory capture refers to the situation where a government agency is dominated by the very businesses and corporations it is meant to be regulating. For instance, Simon (2000) describes many instances in which the US Environmental Protection Agency (EPA) seemed to be more concerned with protecting corporate interests than with protecting the environment. An example of this was a study that showed that the EPA devoted more of its resources in terms of time and money in the early 1990s to exempt corporations from its regulations than it did to enforce the regulations. EPA activity had also extended to opposing congressional attempts to pass tougher environmental regulations. Meanwhile, many former officials within the EPA ended up taking jobs as waste-industry executives. In terms of both activities and exchange of personnel, such situations serve private rather than public interests.

When the US EPA does exert its regulatory muscle, it immediately experiences pushback from powerful interests in the form of lawsuits (from state governments as well as corporations) and, more recently under the Trump administration, the threatened closure of the agency.

The political context within which economic growth and development (as narrowly defined) occurs has a major bearing on both the regulatory environment and the types of activities garnering state support. As far back as the late 1990s, Brunton (1999: 141) observed that, in relation to Australian regional governments:

The States and Territories have restricted sources of revenues and thus are constrained and limited in their policy choice. One area under their control with the potential for expansion is natural resources. Thus the State and Territories understandably become committed to their exploitation, and consequently, generally hostile to conservation. They are always tempted to maximise resource throughput in the short term rather than to husband resources for an optimal return over time. This results in a strong, at times authoritarian, commitment to 'development' at any cost.

After assessing the state of Australian environmental policy, Brunton (1999: 142) argued that, particularly in relation to biological diversity, greenhouse gas emissions and endangered species, voluntary and non-regulatory measures had not been very successful and should have been rejected.

The failures of existing regulation also need to be placed in the context of processes that specifically impede its development and implementation and, in particular, corruption. This article began with definition of two types of corruption: moral corruption and direct corruption. Resource extraction provides substantive examples of each.

Forests

Research has shown that deliberately light-handed forms of regulation in the forestry industry in Tasmania have been accompanied by lack of transparency, absence of third party oversight and a privileging of the economic over the ecological (Hollander 2006; Pearce 2007). In part, this approach stems from the fact that the regulator itself is intertwined with the commercial enterprise. The state has a financial interest in ensuring an economic return from logging in state forests, as managed under a corporatised state company, Forestry Tasmania (soon to be rebranded—during 2016-17—by the Liberal Government as 'Sustainable Timber Tasmania'). The regulators and the foresters are drawn from the same pool of people and share a similar interest in enabling rather than fettering logging activity. Regulators who have tried to 'do their job' by enforcing rules and guidelines have been shifted out of their job and publicly denigrated

by top politicians in public forums in which forestry regulation has been the key item (Pearce 2007).

Abuse of governmental procedure and process was evident in regards to the proposed pulp mill in northern Tasmania in the early 2000s. The proposal was put forward by Gunns Limited, at the time the largest forest products company in Australia. Environmental impact assessment of the project was initially carried out by the formal regulator in charge of evaluating such proposals, the Resource Planning and Development Commission (RPDC). As an independent body, the RPDC was committed to a process that was time consuming precisely because it is rigorous, transparent, involved public hearings and included the testing of evidence by cross-examination (Stokes 2011). Part way into the assessment of the pulp mill proposal, however, Gunns announced it was withdrawing from the process, ostensibly because of the length of time it was taking.

In response, the government 'pursued Gunns with offers of a new and simplified assessment process which was much more likely to lead to approval' (Stokes 2011: 126). To achieve this, the normal planning system processes and its bodies (such as the RPDC) had to be bypassed. Accordingly, new legislation was framed and passed. The *Pulp Mill Assessment Act 2007* (TAS) was rushed through parliament that opened the way, at the State level, for a more quick and favourable assessment of the project. Unlike the RPDC, however, where the Commonwealth Government had certified its assessment as meeting all Commonwealth assessment requirements, the new system meant that the Commonwealth now had to conduct its own assessment. Thus, not only had the Tasmanian government capitulated to the threats of the company to walk away from this state development, it simultaneously hand-balled the key decision-making to the federal level.

All this took place in a political environment in which Gunns Limited had issued writs against 20 environmental activists. This occurred in 2004, as the timber company sued a group of environmentalists, protestors and Green MPs for AU\$6.3 million. This has been interpreted as having the consequence of being a Strategic Lawsuit Against Public Participation (SLAPP) insofar as it tied up environmental critics in litigation and managed to silence a few of those subject to the writ (see White 2011a). This occurred as a prelude to public discussion over the pros and cons of the proposed pulp mill. The SLAPP suit cast a long shadow over the pulp mill proposal and some of the key actors engaged in it. Members of parliament who voted for changing the planning assessment process specifically in regards the proposed pulp mill were more than aware of the bullying by Gunns on related matters.

A final illustration, also taken from Tasmania, reinforces the primacy of economy over ecology and the efforts of governments to ensure this. This time the object of attention was an endangered species of bird—the Swift Parrot—which was being threatened by human impacts on its habitat, in particular, forestry operations. To protect such species, there is a raft of specific federal and state laws and regulations. The *Threatened Species Protection Act 1995* (TAS), for example, has provisions for charging those who harm endangered species as well as to conserve areas of habitat of a listed species. As commentators have argued, however, the existence of legal processes and protection laws at all levels of government has been for nought (Allchin, Kirkpatrick and Kriwoken 2013). This is because of a fundamental reluctance to prevent habitat loss.

The brazenness of governments in changing legislation when faced with legal action that would have helped protect the species, the unwillingness of ministers to reject developments of any kind that would impact upon the Swift Parrot, and the persistent understaffing of those parts of the bureaucracy working to protect species, all suggest that the priority for decision makers is to avoid situations in which substantive consideration of threatened species' values interferes with the primacy of economic growth (Allchin, Kirkpatrick and Kriwoken 2013).

As with the Gunns Limited pulp mill proposal, when legitimate regulations and laws are perceived to stifle economic development, the solution on the part of government is to change the laws rather than adhere to time-honoured processes and ecological common sense. The moral corruption is blatant but unapologetic.

Oil and gas

So, too, is corruption at the international level, especially when it involves the Australian government and protection of its perceived 'national interests'. The example here relates to the *Timor Gap Treaty* and independence of Timor-Leste in 2002.

In 1989, Australia and Indonesia signed the *Timor Gap Treaty* when Timor-Leste (or East Timor) was still under Indonesian occupation. In 2002, Timor-Leste gained its independence and the Timor Sea Treaty was signed, but no permanent maritime border was negotiated. The new nation, Timor-Leste, argued that the border should sit halfway between it and Australia. This would have placed most of the Greater Sunrise oil and gas field in their territory, a field worth an estimated AU\$40 billion. Australia begged to differ and, in the event, negotiated a treaty which ruled that revenue from the oil and gas field would be split evenly between the two countries. As part of the 2006 Certain Maritime Arrangements in the Timor Sea (CMATS) treaty, East Timor agreed to a clause that put a 50-year hold on negotiating a permanent maritime border.

What was not known at the time was that the negotiations were unequal due to the bugging of an East Timor cabinet office during the negotiations. This began in 2004 when, under the guise of an aid project to help renovate the Palace of Government in Dili (the capital city of Timor-Leste), spies from Australia's foreign intelligence service—the Australian Secret Intelligence Service (ASIS)—clandestinely made their way in and installed listening devices. The operation saw transcripts of top-secret conversations conducted by East Timor's negotiating team hand-delivered to the Australian negotiating team, giving them an advantage during treaty talks (Cannane 2016c).

Timor-Leste's Prime Minister Rui Maria de Araujo called it a 'moral crime' in 2015; former president Xanana Gusmão said he considered it a criminal act (Cannane, Koloff and Andersen 2015a). As observed by Peter Galbraith, a former American diplomat and lead negotiator for East Timor during the treaty talks with Australia:

I'm not an expert on Australian law, but what is clear is Australia was not doing this for national security reasons, it was doing it for its commercial interests, to help oil companies and to secure additional revenue for the Treasury. (quoted in Cannane, Koloff and Andersen 2015b)

When Timor-Leste took the case to the Permanent Court of Arbitration in The Hague, a key witness on their behalf was not there (Cannane 2016a). This was 'Witness K', a former senior ASIS officer who found the whole operation morally offensive, especially given that the focus of ASIS at the time was supposed to be on preventing further terrorist attacks in the region. (The Dili bugging operation began 18 months after the Bali bombing terrorist attacks). In 2013, Witness K was set to give evidence in The Netherlands, but the Australian Security Intelligence Organisation (ASIO) raided his home and seized his passport, and he has been prevented from leaving the country to this day (Cannane 2016b; Cannane, Koloff and Andersen 2015b). In the same year the Attorney-General of Australia, George Brandis, authorised an ASIO raid on East Timor's Australian lawyer Bernard Collaery, in which about a dozen agents entered his office and confiscated legal documents, electronic files and the statement by the former ASIS agent alleging the eavesdropping operation (Allard 2014).

In response to these actions, Australia was ordered to cease spying on East Timor and its legal advisors in a landmark decision by the International Court of Justice (ICJ). The ICJ is the United Nation's top court, and its decisions are binding on members. The court also ruled that the Australian government must seal documents and data seized in the December 2013 ASIO raid so that they cannot be accessed or used by the government (Allard 2014).

The Permanent Court of Arbitration agreed to take up the dispute between Timor-Leste and Australia over the oil and gas field. It ruled that the dispute should be settled under the United Nations Convention of the Law of the Sea (UNCLOS) rather than the 2006 Treaty which had been negotiated under suspect conditions (namely, spying by Australia). Australia withdrew from the compulsory dispute settlement procedures under UNCLOS in 2002, however, just two months before East Timor became independent (Cannane 2016c).

In January 2017, Timor-Leste dropped its spying case against Australia as part of 'good faith' negotiations to resolve the underlying disagreement over maritime boundaries (Everingham 2017). The CMATS treaty had earlier been terminated by Timor-Leste, a decision that Australia accepted. In September 2017, the Permanent Court of Arbitration in The Hague announced that Australia and Timor-Leste had resolved their dispute by reaching an agreement over the disputed territory. Details of the agreement remained confidential but the Court said that it addressed the legal status of the Greater Sunrise gas field and the sharing of the resulting revenue (Norman 2017). The deal was to be finalised in October 2017.

Mining

The mining industry is powerful and those involved with it are likewise in a position to gain substantial rewards. It is in this domain that we have a clear-cut instance of direct corruption, as well as continuing problems with morally corrupt decision-making.

The New South Wales Independent Commission Against Corruption (ICAC) prosecuted two former Labor ministers, Eddie Obeid and Ian Macdonald, in 2014. Macdonald was prosecuted for two alleged offences of misconduct in public office over the awarding of a mining license. Specifically, ICAC's Operation Acacia investigated the former resources minister's decision to award the Doyles Creek mining license in 2008 to the then-chairmen of Doyles Creek Mining, John Maitland, a former mining union boss, without a competitive tender and against departmental advice. Meanwhile, among other charges, Obeid was found to be corrupt for misusing his position as a Member of Parliament to benefit his family's financial interests in granting generous water licenses over their Bylong Valley farm (Carter 2016; Hoerr 2016).

The Doyles Creek mining license was subsequently cancelled in accordance with legislation passed in the NSW State parliament. The introduction of the Mining and Petroleum Legislation Amendment Bill 2014 came two months after the ICAC recommended licenses for three mines be cancelled, after corruption findings against former Labor MP Eddie Obeid, former mining minister Ian Macdonald and union official John Maitland. Doyles Creek licensee, NuCoal Resources, immediately threatened to mount a constitutional challenge to the bill, which would offer no compensation for the losses incurred. The legislation was designed to indemnify taxpayers from any possible claims relating to the issuing or cancellation of the licences.

The coal companies embroiled in the ICAC inquiry into the corrupt dealings around the granting of the licences had asked the state government not to strike out their mining licences. A High Court ruling in April 2015, however, upheld the New South Wales legislation that struck out their exploration licenses (Foschia 2015). Nonetheless, Doyles Creek owners, NuCoal Resources (which includes US-based investors), continued to pursue the matters through the NSW Supreme Court and under the US-Australia Free Trade Agreement.

The ICAC had found that former Labor mining minister Ian Macdonald had acted corruptly in 2008 by giving a coal exploration licence to Doyles Creek Mining, a company then chaired by his 'mate' and former union boss John Maitland. In addition, three other members of the company, Andrew Pool, Craig Ransley and Mike Chester were found to have acted corruptly by making or agreeing to Mr Maitland making 'false and misleading' statements about a proposed 'training mine' at the site to the Department of Primary Industries. Charges were subsequently filed against Pool and Ransley by the Department of Public Prosecutions. Another High Court ruling in 2015, however, opened the door for a challenge to these charges. The commission had long operated on the basis that 'corrupt conduct' as defined in the *ICAC Act 1988* (NSW) extended to cases in which private citizens misled or deceived public officials to gain an advantage. But the High Court ruled (in another case) that the public official must also be involved in wrongdoing. The ruling does not affect findings against former Ministers, such as Ian Macdonald and Eddie Obeid, because a different definition of corruption applies to public officials (Whitbourn 2015).

What these ongoing cases reveal is not only that unethical and immoral behaviour occurs but the protagonists will also do all they can to delay proceedings, to resist the labels, to file counter-suits, and to protect their commercial interests via multiple legal means. The technicalities of the law are the playground of the rich and powerful. Legal proceedings and courtroom battles form the lifeblood of contemporary capitalism. These extend to civil suits against critics and activists through to aggressive defence of sectoral and personal interests associated with particular industries.

Those who blow the whistle on corporate wrongdoing find that career and life afterwards is much more difficult. Sally McDow, a highly credentialed lawyer and former senior compliance manager of Origin Energy, found this to be the case after she had alleged management cover-ups. The wrongdoings consisted of serious non-compliance with regulations relating to safety and the environment, including for hundreds of wells in Australia and New Zealand that had not been maintained for more than 10 years, leaks of oil and gas, contaminations, and a failure to inform regulators or the Australian Stock Exchange of the breaches. The misconduct also included the material altering of reports to the board on risk and compliance issues (Ferguson 2017a, 2017b). Frequently it is the whistleblower who is vilified for taking a moral stance, not the offending company, as this lawyer was to subsequently experience.

Corruption comes in various guises and involves different sectors and stakeholders. This extends to the regulatory process as much as to breaches of the law *per se*. For instance, in August 2015, the federal Environment Department asked the Chief Executive and Australian head of Adani Mining, Jeyakumar Janakaraj, about the environmental history of its executive officers. Adani Mining is the key proponent of the multi-billion dollar Carmichael Mine in Central Queensland. The letter requested a range of information about the environmental history of Adani's executive officers, including:

- whether or not [any executive officer] has been the subject of any civil or criminal penalties or compliance-related finding, for breaches of, or non-compliance with, environmental laws;
- whether or not [any executive officer] has been an executive officer or a body during a time when that body was the subject of any civil and criminal penalties or compliance-related findings, for breaches of or non-compliance with environmental laws, and an explanation of the person's role or responsibility in relation to the conduct that led to those penalties or findings;
- information about his or her roles both in Australia and in other countries;
- information about both the executive officer's history with the relevant entity and with other entities, whether or not those entities are related to the Adani Group;

- any other matters which Adani Mining considers to be relevant to the executive officer's history in relation to environmental matters (Willacy 2015).

The information was needed for the Environment Minister's assessment of Adani's proposed \$16 billion Carmichael coal mine. The Minister approved the mega-mine in October 2015. After the approval, it was found that Mr Janakaraj had been the director of operations of the KCM copper mine in Zambia when the company pleaded guilty to four charges, including polluting the environment (discharging dangerous contaminants into a major river) and wilfully failing to report an incident of pollution (Willacy 2015). The failure to disclose this information, both in the original assessment and later as requested by the Environment Department, did not affect subsequent decisions affecting the mine's approval.

As a postscript to this story, in December 2016, it was reported that the business behind the planned Carmichael coal mine is facing multiple financial crime and corruption probes, with Indian authorities investigating Adani companies for siphoning money offshore and artificially inflating power prices at the expense of Indian consumers (Long 2016c). This was revealed just days after the Deputy Prime Minister, Barnaby Joyce, told the Queensland Media Club that the Carmichael coal mine and rail infrastructure was vital for the state's economy (Briggs 2016b; see also Burke and Clarke 2016). He also appeared to downplay concerns about Adani's eligibility for public finance (eligibility is determined on the basis that such assistance is critical to a project). Adani had applied for a AU\$1billion loan under the Northern Australia Infrastructure Facility (Briggs 2016c, 2016a). Meanwhile, during the same period, it was revealed that the Adani group had set up in Australia a complex network of companies and trusts, which are owned in one of the world's major tax havens, the Cayman Islands (Long 2016b, 2016a). In October 2017, a *Four Corners* investigation revealed troubling information about Adani's operations in India, with allegations that the company regularly flouted environmental regulations, had been involved in illegal mining and shipping, and had systematically bribed a host of regulators, public officials and politicians (ABC 2017).

As these brief case studies illustrate, there are numerous instances of direct and moral corruption across the natural resource sectors. Powerful interests are represented in the exploitation of natural resources, and the people involved are not only ruthless in their pursuit of advantage and profit but are also remarkably adept at evading, delaying and neutralising measures designed to hold them to account, whether this involves international or Australian courts, federal or state regulators, or whistleblowers from within the industry.

Conclusion

Securitisation refers to the efforts of the powerful to secure financial rewards by controlling access to and use of natural resources. This may be rationalised or justified under the rubric of the 'national interest' or the 'free market'. But, whether through fair means (that is, legal) or foul (that is, illegal and criminal), the net result is essentially the same: the exploitation of nature in ways that favour the interests of the powerful.

Gaining unfair advantage, protecting specific sectoral interests and over-riding existing environmental regulations are all features of moral and direct corruption associated with the exploitation of natural resources. The result is lack of transparency, a substantial democratic deficit, and expenditure of public monies, time, and resources in support of environmentally and socially dubious activities. Not all forms of corruption, as described here, are illegal, although all are immoral and problematic. They are, quite simply, wrong.

Yet the notion of environmental insecurity ('we need to protect our national interests'), linked to the notion of the need for jobs ('the winners are local communities'), provides a powerful platform upon which the legitimacy of such securitisation of nature is constructed. So, too, is the

notion that other countries are corrupt but countries such as Australia are governed by the rule of law and procedural fairness, and a political system that allows for periodic checks and balances on public officials. There is a certain wilful blindness here, one that fundamentally needs to be challenged and contested, since it hides the submerged truths that corruption is not only present but rampant in the exploitation of natural resources in Australia.

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¹ A small portion of the discussions of environmental security herein draw upon work that previously appeared in White RD (2014) Environmental security and fortress mentality. *International Affairs* 90(4): 835-851. DOI: 10.1111/1468-2346.12143.

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