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Perceptions and law enforcement of illegal and legal wolf killing in Norway: organized crime or folk crime?

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ABSTRACT On 20 April 2015, five men were convicted in a Norwegian court for breaching the penal law, namely for attempting to reduce the natural population of a protected endangered species on 15 February 2014. One was also charged with having killed a wolf on 14 March 2014. The sentences were the strictest ever imposed for similar crimes in Norway, with 20 months' imprisonment for the main offender, partly because they were charged with organized crime—an aggravating circumstance. The verdict was appealed and a new conviction made on 5 April 2016, where the prison sentences for the five convicted men were considerably reduced, the strictest from 20 to 9 months, and with the law applied differently. The state appealed the decision from the Appeal Court to the Supreme Court [Høyesterett], concerning the application of law, and there four of the men were again found guilty of attempting to reduce the population of an endangered species. These verdicts invite discussion of how such crimes should be perceived-as serious organized crime or as "folk crimes". This article argues that either way such acts should be regarded as theriocides that breach the Animal Welfare Act and its statement that animals have intrinsic value, and further that they cannot be viewed in isolation but must be seen in the context of state policy towards large predators. The crimes are thus discussed from a green criminology perspective, concentrating on seeing these theriocides as crimes, not "only" harms.

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Introduction

In this article I will discuss the possible connection between legalized (state) and illegal wolf theriocide[1] (Beirne, 2014; Sollund, 2016a, b), taking as my point of departure the analysis of verdicts from three Norwegian Courts: first made in Sør-Østerdal tingrett (2015), appealed to Eidsivating lagmannsrett (2016) and concluded in Norges Høyesterett (Norway's Supreme Court) (2016). The verdicts raise several questions about Norwegian wildlife management,[2] national and international obligations and legal and illegal hunting. My aim is further to discuss how such acts should be perceived and whether concepts like "folk crime" or "organized crime" are adequate in portraying the harms of such acts, from a species justice approach (for example, White, 2013). In positioning the research within the field of green criminology I will address the crimes committed and other theriocides connected to the illegal wolf theriocides.

The case concerns an attempt to kill a wolf family and the theriocide of one wolf, and was appealed all the way to the Supreme Court, regarding the application of law, by the specialist police Eco Crime Unit [Økokrim (http://www.okokrim.no/artikler/in-english)], which handles cases about environmental (and economic) crimes of particular importance. The Supreme Court agreed with the instance of the first court, Sør-Østerdal tingrett, that the correct law to apply was §152b, second part of the penal law.[3] This act states that: "Those who with purpose or who by severe negligence reduce a natural population of living organisms that are nationally or internationally protected […] shall be punished with up to 6 years imprisonment", cf. the Nature Diversity Act [Naturmangfoldsloven] §75, first and second parts, concerning punishment for destruction of natural diversity. In the Supreme Court, Eidsivating lagmannsrett's acquittal of one of the men was suspended. Central in the courts was whether or not the crimes could be defined as organized. According to the Norwegian penal law §60a, if a punishable act is performed as part of the activities of an organized criminal group, the maximum punishment will be doubled, to a maximum of 5 additional years. The term "organized criminal group" indicates cooperation between three or more persons with the main purpose of committing an act punishable with more than 3 years' imprisonment, or cooperation where a not insignificant part of their activities consists of committing such acts (https://lovdata.no/dokument/NLO/lov/1902-05-22-10/KAPITTEL_1-7#§53). This definition largely follows that of the UN, defining as an organized criminal group: a group of three or more persons [that] was not *randomly* formed; exists for a period of time; acts in concert with the aim of committing at least one crime punishable by at least 4 years' incarceration; in order to obtain, directly or indirectly, a financial or other material benefit (UNODC, 2017).

Another legal clarification concerns the Norwegian animal welfare legislation. According to §3 of the Animal Welfare Act's: "Animals have intrinsic value independent of their value for humans. Animals shall be treated well and protected against danger of unnecessary (sic) stresses and strains". This law is seldom applied to free-born animals in Norwegian courts (Sollund, 2016a), suggesting that domesticated animals have more protection than free-born animals[4], which are regarded as "valuable" only when their species become threatened. The law however also encompasses free born animals, and in §14 it is prohibited to commit *violence* against animals. Paradoxically, being the victim of hunt is evidently not regarded as violence, since in §20, it states that animals must only be hunted in "animal welfare responsible ways" (For discussion of the incompatibility of being killed and fare well, see Francione (2014); Sollund (2014).

I will first describe the current wolf management regime as background, and then give a brief account of the circumstances leading up to the first trial based on the first (130 page) verdict, before exploring the judges' arguments for the sentencing. With this approach I look particularly for what kind of attitudes to nature and "wildlife"[5] appear, appreciating that words construct social reality (Jørgensen and Phillips, 2002), and that words describing nature and nonhuman animals have connotations that may be indicative of attitudes forming the foundation for wildlife management. With this I aim to reveal the role of discursive practice in court cases that serves to maintain unequal relations of power such as the human-nonhuman animal relationship. For example, it is an anthropocentric perception that nature needs to be "managed" (Bekoff, 2013).

I will go into depth on the issue which most stirred the public in Norway: whether this crime was organized crime meriting a stricter punishment, and possible benefits of redefining a crime from illegal hunting to organized crime. Or, can these crimes be perceived as "folk crimes" and crimes of dissent, rather than organized crime, and can local and hunter/farmer participation in deciding conservation measures be preventative? Are such conceptualisations of crimes against endangered animal species at all fruitful, if the goal is to protect them? For example, while organized crime may highlight that the act is indeed legally a crime and therefore morally reproachable, the concept of folk crime may rather euphemistically imply accepting that free born animals may be used instrumentally, to state a point of protest.

Norwegian state policy towards wolves

An important background to the trials and convictions is the Norwegian state policy towards large predators (Sollund, 2016a, b). Just after the final decision in the Supreme Court the Norwegian predator boards[6] decided that 47 of the now 65–68 Norwegian wolves should be killed in licensed hunts in the winter of 2016–2017. The decision was supported by the Norwegian Environment Agency, but the minister of climate and environment, Vidar Helgesen (from the conservative party Høyre), decided on December 20 that 32 of the wolves, that is, four packs, three within the wolf zone and one on the margins,[7] should be spared. These wolves have never taken sheep, contradicting the boards' arguments that this cull should be executed to prevent wolf damage. Helgesen had consulted with the Law Department of the Ministry of Justice and Public Security to assess the legality of the cull, and it concluded that neither in the Nature Diversity Act [Naturmangfoldsloven] nor in the Bern Convention was there statutory authority to kill wolves in these four wolf pack territories: the potential harm caused to livestock and domesticated reindeer was insufficiently documented. Both the Bern Convention and the Nature Diversity Act demand that no alternative to killing must exist, and this prerequisite was not fulfilled. Nine individual wolves were still to be killed, and the quota for the licensed wolf hunt was reduced from 47 to 15 (https://www.regjeringen.no/no/aktuelt/ikke-hjemmel-for-lisensfelling-av-ulv/id2524951/).

The boards' decision and the minister's objection both created uproar. More than 60,000 signatures against the wolf cull were sent to the Ministry of Climate and Environment, while the overruled members of the boards in Hedmark and Oppland withdrew from their positions on the boards in protest. The reason for the uproar on both sides is the conflictual relationship certain groups in Norway (hunters, farmers, and forest owners with hunting rights, in addition to people with irrational wolf fear) have to the large predators, and on the other hand the majority who want Norway to preserve the large predator species, which the country is obliged to as signatory to the Bern convention.

The hunt of the remaining wolves in the quota (and others added to after), and the heated debate that has arisen on Norwegian predator policy in general, are important in the analysis of the prosecution of offenders who kill wolves *illegally* and how this is perceived in Norwegian courts. Persons who sign up for and partake in licensed hunts have been convicted for illegal killing (Sollund, 2016a, b). This raises the issue of whether there is a discrepancy between how these crimes are perceived by the judicial system and by the perpetrators, and whether the latter may be influenced by the state's large predator policy.

Extract of the crimes as described in the verdicts

In 2013 Økokrim was contacted about illegal wolf hunting in Trysil. Six men were accused (one was later acquitted). The crimes were supposedly part of the activities of an organized criminal group punishable by the Norwegian penal law's §60a, charges which allowed the police to conduct communication monitoring during the investigation.

On 20 March 2014, the police tapped into a phone conversation which implied that one of the suspects had killed a wolf. The accused was arrested the same evening but released shortly after. In a coordinated action against 12 men on 8 April, he was arrested again. The evidence in the case pertained largely to results of the communication monitoring and confiscated material.

The first charge involved all the accused and concerned an attempt to kill a wolf family on 15 February 2014. Four of the accused participated in the hunt, while the fifth attempted to contribute by contacting another person who could bring dogs for the hunt.

According to the offenders' accounts, two were hunting foxes that day. A third was out to hunt hares (together with the accused who was later acquitted), but was afraid to release the dogs because there were wolf trails. The fifth man had joined the others in the morning, but went on to hunt foxes on his own.

Speaking with another of the offenders at 1:30 pm, the main accused said: "[…] someone shot at a bunch of wolves repeatedly". One of the accused further explained that he had received a phone call from the main accused on Friday, 14 February saying there were three wolves in the area. He then contacted another of the men because he knew he had dogs he wanted to train for wolf trails, as he thought licensed hunts might be initiated outside the wolf zones.

Part of the communication revealed in the verdict shows attempts were made to shoot the wolves: "Almost got the wolves over the weekend." Shot at them four times" […] "There are three left now, so we decided we would hunt them when the female bleeds [when she is fertile]." (Sør-Østerdal tingrett, 2015: 39).

All denied being part of an organized criminal group.

The second charge concerned both attempts to kill wolves, and killing a wolf on Friday, 14 March. The 11-month-old wolf was first shot in his right shoulder after being baited [with a dead elk]. 6–7 h later, at 7:30 in the morning, the offender shot him again, fatally. The wolf was killed within a designated wolf zone.

According to the offender's account in Sør-Østerdal tingrett, the events leading up to the theriocide were as follows:

> From the evening of Thursday, March 13, to Friday morning, he was hunting [foxes] with bait. The offender used a hunter barrack on wheels with a small hatch for the weapon. He settled in his armchair in the barrack, taking advantage of the full moon. He claimed to have discovered the first fox around 7 pm and explained he shot at 3 or 4 foxes during the night as they approached the bait, missing one. He went to sleep for a few hours and woke up at 2 am and discovered an animal with the bait. He sat up, shot it, then went back to sleep. In the morning he saw there was a wolf in a pit in the snow. He then phoned his friends and said he had shot several foxes and that "there was a wolf as well". He got his other gun and killed the wolf. The autopsy report confirms the wolf was alive until the last shots finally killed him. The wolf had an injury to his shoulder which prevented him from escaping after the first shot. The offender said in telephone communication with one of his co-offenders that the wolf was breathing heavily, which is consistent with the injuries to his lung found in the autopsy. The accused claimed that at no time did he think he could have shot a wolf; he thought it was yet another fox, and would never have returned to sleep had he known.

The court did not believe the offender's explanations, and also noted that he should have learnt from a mistake made a couple of years earlier when he killed a neighbour's German Shepherd instead of a fox. The court argued there is a considerable difference between a fox, usually weighing 5–10 kg, 15 at most, and a wolf weighing 38–40, as well as their silhouette, length and height. There was enough moonlight to see the difference.

The court further discussed the possibility that the offenders may have caused other reductions of the wolf population in the area, as the attending wolf expert, Petter Wabakken, said there had been suspiciously little growth in the wolf population there, with no litters. The court connected this with the statement that the offenders wanted to take the wolf female when she was ready to mate so as to prevent her from producing a litter.

The convictions and the main topics addressed in the appeal courts

In the first verdict the main offender was convicted for breaching §152b, 2nd part, for reducing the population of a threatened species, and for breaching §60 concerning organized crime, and sentenced to 1 year and 8 months' imprisonment. He was also convicted for breaches of the weapon law and sentenced to have two weapons and ammunition confiscated. The second offender was sentenced to 10 months' imprisonment, the third to 1 year's and fourth to 10 months'. The fifth was convicted for breaching the weapon law, in addition to (alongside the others) §152 and §60, and sentenced to 6 months' imprisonment and also to have three rifles confiscated.

The convictions regarding the weapons law concerned a failure to keep weapons properly locked up. All the convicted men were also sentenced to pay procedural costs of 6000 NOK each, and to lose hunting rights, the first for 5 years, the second, third and fourth for 3 years, and the fifth for 2 years.

The first court found after a joint assessment of the data from the communication monitoring that several participants had cooperated in an organized activity whereby they had observed, pursued, and worked to encircle and hunt wolves on 15 February 2014.

All the convicted men appealed the verdict from Sør-Østerdal tingrett. The appeal case in Eidsivating lagmannsrett concerned the conviction for organized crime, §60 in the penal law, and attempt to reduce the population of an endangered species, §152b. The first offender appealed for re-evaluation of the evidence regarding the breaching of §152b and the weapons law. The second, third and fourth appealed for re-evaluation of the evidence and the application of law, and by extension the punishment. The fifth, in addition to appealing for re-evaluation of the evidence, also appealed the confiscation of the weapons, subsidiary the punishment. His appeal of the confiscations was rejected; the rest were permitted and processed by the court.

The Eidsivating lagmannsrett sentence discusses the meaning of "reduction" [minsking] of a natural population and thus the application of §152b, concluding that killing three wolves (that is, the attempted killing) would *not* threaten the species even though the three were mates and a pup. The court built this argument on an assessment of the entire Scandinavian wolf population and Norwegian wolf management. About this regime the court said:

> Norwegian wolf management is directed by so-called population goals [bestandsmål] of three yearly litters within wolf zones. Litters in border zones do not count. If they occur, in practice they will be eliminated. The same applies to individual, wandering wolves that leave the wolf zones. This regime implies that the Norwegian wolf population will never reach a level where, according to the red list criteria [the IUCN vulnerable species listing], they will not be critically endangered (Eidsivating lagmannsrett, 2016: 17–18).

Thus, the judges decided that the first offender should be convicted for one *attempt* to breach the Nature Diversity Act and for one act of *negligent gross violation* of it, and two breaches of the weapons law. He was sentenced to 9 months' imprisonment and lost hunting rights for 5 years. The second, third and fourth offenders were convicted for breaching the Nature Diversity Act and the weapons law, and sentenced to 5 months' imprisonment (4 for the third and fourth) and lost hunting rights for 3 years. The fifth was acquitted of charges of attempts to reduce the wolf population, but had to pay a fine for breaching the weapons law.

In the Supreme Court, the issue was which law should apply; §74 (cf. §15) of the Nature Diversity Act, for which they were convicted in Eidsivating lagmannsrett, or §152b of the Norwegian penal law, for which they were convicted in Sør-Østerdal tingrett. The prosecutor appealed to the Supreme Court on the basis of Eidsivating lagmannsrett's interpretation of §152b concerning a wrong understanding of "reducing" implying that "the reduction must be *so significant* that it with time may have a negative influence on the population's chances to evade extinction". The Supreme Court concluded that in the case of all five accused, they should be convicted for breaching §152b 2nd part, cf. §49 (concerning an attempt to commit a crime). This court found that the previous court had imposed an overly lenient punishment in light of previous Supreme Court sentences, and that for purposes of general deterrence they should be treated harshly, in part because the attempt concerned three wolves, of which two were claiming territory and were a breeding pair. The court argued that the intention of introducing §152 to the penal law in 1993 had been to increase legal protection of the environment, particularly against the most serious forms of environmental crime. Concerning the term "reduce", it referred to the law's preparatory work (Ot.prp.nr.92 (1992–1993): 13), arguing that to remove even one individual is to reduce the population. Therefore the Court rejected Eidsivating lagmannsrett's interpretation of the law.

Note that whether or not the crime was organized was not the issue, and the accused are *not* convicted for *organized crime* in the final Supreme Court verdict, despite the judge stating that:

> In measuring the punishment in this case, I emphasize that the hunt was *planned and well-organized* [author's emphasis], that the intention was to eliminate a group of three animals of which two were mates, and that the hunt took place during breeding season. Attempts are punished more leniently than completed crimes, cf. the penal law §51. It must nevertheless be regarded as significant for the punishment that no wolves were killed. At the same time I will state that when the attempt is part of an *organized and long-lasting hunt* [author's emphasis], the individual legal blame is quite independent of whether the group together manages to complete the hunt (Norges Høyesterett, p. 10).

The Supreme Court's final verdict rejected the offenders' appeals; Eidsivating lagmannsrett's acquittal of the fifth offender was suspended. Compared with the Eidsivating lagmannsrett verdict, the offenders had their prison sentences increased, but they were far more lenient than in Sør-Østerdal tingrett. The first offender was sentenced to 1 year's imprisonment for breaching §152b of the penal law and §75 of the Nature Diversity Act and for breaching the weapons law. The second offender was sentenced to 6 months' imprisonment, the third offender to 5 months' and the fourth offender to 4 months'. All lost hunting rights for 3 years. The maximum sentence for breaching §152b in the penal law, 2nd part, is 6 years' imprisonment.

"Organized crime"?

The organized crime charges were the reason the police could conduct communication monitoring of the accused. Their benefit was unlikely to be economic/material, but they probably found some other benefit in the illegal hunt; for example, removing a potential threat to their dogs and a competitor for prey. I largely leave aside possible emotional motivations, for example, that perpetrators who kill wolves may feel hatred for them (Hagstedt and Korsell, 2012), and that many hunters kill for the thrill of the hunt, for example, playing out ideals of masculinity and so on (Nurse, 2011, 2016; Presser and Taylor, 2011; von Essen and Allen, 2014; White, 2013; Sollund, 2016a). Irrational fear of wolves attached to cultural superstitions may also be a contributing factor (Kohm and Greenhill, 2013).[8]

Undoubtedly, the men put great effort into the planning and unsuccessful attempts to kill the family group, and according to the first verdict, such activities may have gone on for years. Seldom is this kind of crime regarded as organized, a concept evocative of mafia-like crime syndicates. Most crimes require some level of planning, and, for example, youth delinquencies will often be committed by several persons.

Wildlife trafficking is often spoken of within the organized crime rhetoric (for example, Nurse, 2011; Schneider, 2012; Wyatt, 2013; UNODC, 2016; Runhovde, 2017), and discussed in relation to, among others, drug crimes and terrorist groups. Such rhetoric may provoke higher prioritization by control and law enforcement agencies, as well as awareness among the public, and consequently have a deterrent effect when such crimes are publically punished.

van Uhm (2016), lacking a unifying, precise definition of organized crime, applies in his case studies of wildlife trafficking the concept of *networks* which facilitate cooperation to enable the success of different parts of the trafficking process (van Uhm, 2016: 63–66). He approaches the criminal networks in their socio-economic and cultural context to understand the motivation behind the acts and their network structures. Instead of focusing on the acts and how they were committed, as the judges in the courts must do, van Uhm considers the social and cultural environment of the offenders and how they are embedded.

Rather than portraying and perceiving this group of men as an organized crime group they may thus be understood as a subculture (see, for example, Nurse, 2016). They share common values and lifestyles that include hunting, and reject the state predator policy insofar as it protects endangered large predators that may threaten their dogs or sheep, and also live off the prey the hunters seek to kill. While neutralization theory is often applied to illegal hunting (Nurse, 2011; von Essen *et al.*, 2014), those who find nothing wrong with their behaviour because their

harmful acts are part of doxa (Sollund, 2012), or affirmed through their social subculture network, need not resort to neutralisation techniques (for example, Nurse, 2011; von Essen *et al.*, 2014: 638). Several elements may contribute to the creation of such illegal hunting subcultures through which their actions may also be perceived from the perspective of radicalisation: a sense of superiority and/or injustice, distrust of the government and feelings of vulnerability, that is, they feel a threat to their lifestyle (Copes and Williams, 2007, cited in von Essen *et al.*, 2014: 644). Little is said in the courts of the men's motivations; rather, they detail the course of events. Nevertheless, distrust towards, and rejection of, state policy seem likely (Holmes, 2007; Skogen *et al.*, 2010; von Essen and Allen, 2014). As exemplified in the court cases, the crime of killing a wolf may be perceived as a serious *crime*, while at the same time being an act that is permitted and encouraged by the authorities. This duality may also explain why such crimes euphemistically are perceived as "folk crime".

"Folk crime?"

"Organized crime" stands in sharp contrast to "folk crime", often used to describe crimes by ordinary people whom most people don't think of as "criminals", nor of their acts as "crimes" (Holmes, 2016; von Essen *et al.*, 2016; White, 2013). So-called "poaching" is often named a folk crime, regarded as a socio-political crime of dissent in opposition to conservation policies an so on, because of offenders' feelings of being marginalized, (for example, Holmes, 2007; Nurse, 2016; von Essen and Allen, 2017). The character of folk crime, though, particularly concerning the illegal killing of wildlife, naturally will be culturally and contextually conditioned. In Norway, when hunters kill wolves claiming to protect sheep, this may be regarded as an illegitimate excuse since only 1.5% of the two million sheep released to graze every year in Norway are taken by predators, whereas 6.5% are lost (Grønli, 2004) and few farmers herd their sheep. The motivations behind such crimes thus deviate from other folk crimes that may be subsistence driven.

That the crimes in question were committed *merely* as a means of protest is unlikely. The offenders denied their implication in the crimes, and thus any intention of killing *wolves.* Should such crimes be identified as crimes of dissent given that offender hunters in Norway usually try to keep their crimes hidden, as in the present case, in what is known as "shooting, shovelling, and shutting up" (Liberg *et al.*, 2012)? They may perhaps be referred to as crimes not of overt, but of covert dissent, although the theriocides may also be regarded as a way of asserting a "right"—an implicit resistance with less, if any, political content (Holmes, 2007: 193–194).

Certainly, the offenders perceived the wolves as a threat to be removed lest they disturb their hunting activities; the offenders kill hares (using dogs), elk and foxes. The local people in the county of Hedmark, where the crimes took place and which serves as the habitat for the four spared wolf packs, also see the wolves as threats and competitors. As a consequence of the minister of climate and environment's decision, roughly 30 members of the local county resigned from their party affiliation (Høyre) in protest. The former second leader of the Høyre municipal board in Åmot stated that the decision failed to take into account the landowners' hunting rights: "We yearly feed the wolves 500 elk" (https://www.nrk.no/norge/_-vi-bor-i-et-ulvere servat-1.13292795).

This is an interesting statement: it neglects that hunters yearly kill 35,000–40,000 elk in Norway, and that the forests are overpopulated with elk which consequently form a risk to ecosystems. Furthermore, it presents the people in Åmot as *owners* of elk, the elk as food and the wolves' hunting of elk as interfering with the "rights" of the people in Åmot to kill these elk.

In the view of the Norwegian majority, who are in favour of wolves (Tangeland *et al.*, 2010), illegal wolf-killing can hardly be defined as a "folk crime". Rather, it must, in line with §152b, be defined as a serious crime against individual nonhuman animals, even belonging to an endangered species, and consequently, against the environment.

The harm versus the crime of theriocide

In regard to the first verdict, according to several of the offenders it is important for dog owners to know whether there are wolves in an area, an argument supported by the judges: "Free hunting [with free-running dogs] or releasing a dog at all in areas with wolves *can easily be the end of the dog, with* ***animal*** *suffering, and* ***human emotional*** *and* ***material loss****, as a consequence*" (Sør-Østerdal tingrett, 2015: 96).

This statement makes an interesting contrast to the lack of care shown for the other victims of these offenders, that is, the foxes, that according to the sentence were "piled up" as the killer came out and overviewed his deed in the morning. Concerning the wolf who was killed, the verdict states that the offender, counter to his own statement, "[…] had plenty of time to assess the shot before he fired since the wolf was eating from the bait, not approaching it and thus moving. He could therefore have acted according to the wildlife law's §19[9] concerning humane killing." The court could here have referred also to the Animal welfare act's § 3 concerning intrinsic value.

The Supreme Court rejected Eidsivating lagmannsrett's argument that the reduction of a species must be seen in relation to the state policy of keeping wolves on the brink of extinction, because: "Licensed hunts are legal and not a breach of law due to the public permission on which it is based and are therefore *not* (author's emphasis) a breach of the penal law §152, 2nd part nr. 1". This is a tautological argument; licensed hunts are legal *because* permission is given, but this ruling fails to consider the act and its consequences. Nevertheless, the argument in Eidsivating lagmannsrett had a moral level, implying that the offenders and the state were *equally culpable*, doing the same kind of harm. Conversely, the Supreme Court emphasized that when the *state* licenses hunts (regardless of whether it reduces the population), it is not illegal, and hence these acts are incomparable to the acts committed by the offenders in this case.

Killing animals of critically endangered species is an act well-suited to interpretation from the perspective of green criminology. Here the concept of "crime" encompasses harmful acts which are not legally defined as criminal, but which are equally harmful (for example, Beirne and South, 2007; Sollund, 2008, 2015a; Lynch and Stretesky, 2014; White, 2013). When the concept of crime includes legal acts, a normative message is conveyed which can be perceived in light of the distinction between crimes that are *mal in se* and those that are *mal prohibita* (Sykes and Matza, 1957). In green criminology it is acknowledged that acts that are criminalised in a legal sense are often *mal in se*, but also that harms that are not currently criminalized—thus *mal prohibita*—but which may *become* criminalised because of their harm are also *mal in se.* Actions that are *mal in se* may be criminalised on some occasions but not others, for example, when economic interests or stakeholders' abuse of power take precedence (Lynch and Stretesky, 2014; Sollund, 2012). When focusing on *harm* rather than *crime*, the only difference is that when the state organizes hunts on critically endangered species, it is not punishable.

In Norway, nearly 20% of men are registered in the hunter register, and this number is increasing (Statistics Norway, 2016).

There is a relatively broad consensus on hunting (Sollund, 2016a, b), as reflected in the verdicts. Killing wolves (and lynxes, wolverines, golden eagles and brown bears—which are all endangered species in Norway and therefore protected by both national and international legislation) is usually illegal, but regularly licensed and thus encouraged, and this is an example of why criminalization versus legalization does not define or characterize the acts, and why they are *mal in se* (Sollund, 2012). When the state organizes licensed hunts on endangered species, this may also *legitimate* the illegal killing (Sollund, 2016a, b), as suggested in the Eidsivating lagmannsrett verdict. Concerning the central discussion in Eidsivating lagmannsrett of the attempt to kill the family group, the issue is, as mentioned, whether or not this would *reduce* the national population of an endangered species, and whether the species is threatened with extinction. The court decided that had the offenders succeeded in this, it would still not have threatened the Norwegian [as part of the Scandinavian] wolf population. The Supreme Court overruled this. Yet while an attempt to kill *three* wolves is regarded as a threat to the species, when the state will kill 15 in the winter of 2016–2017, this is *not* to be a breach of §152b and Norway's commitment to the Bern Convention. From a green criminology perspective, undoubtedly, whether or not a breach of law, the theriocides of wolves are breach of species justice.

These licensed hunts may even be seen as *inviting* illegal hunting (Sollund, 2016a, b): A quantitative study from Wisconsin that investigated whether governments' granting local authorities flexibility to initiate culling of wolves would actually, as often claimed, reduce the illegal killing, rather confirmed that the illegal killing increased. They concluded liberalizing wolf culling may have sent a negative message about the value of wolves or acceptability of "poaching". "[….] granting management flexibility for endangered species to address illegal behavior may instead promote such behavior" (Chapron and Treves, 2016).

Another question is whether licensed hunts may reduce the conflict between rural groups, who oppose nature conservation and the protection of endangered predator species, and state and predator enthusiasts on the other side.

Wolf hunts and local codetermination as a conflict reducing measure?

When scholars refer to wildlife crimes as "folk crimes", crimes not perceived as genuinely criminal by the general population or its individual segments (for example, von Essen and Allen, 2015, Holmes, 2016; Pohja-Mykrä, 2016; von Essen *et al.*, 2016, White, 2013), they discuss whether such offenders are "common criminals" who can be deterred through penal sanctions, or dissenters whose crimes partly seek to publicize injustices in wildlife and hunting regulations (see also Holmes, 2007; Nurse, 2016). It is argued that one must pay attention to the social justice conditions and problems of legitimacy that encourage illegal hunting. This, they suggest, could be done by means of dialogical uptake; restoring social validity to laws remains the only viable option for a long-term solution to illegal hunting (von Essen and Allen, 2015, von Essen *et al.*, 2016).

Illegal killing of wolves is also categorized as an urban-rural conflict (Pohja-Mykrä, 2016; von Essen *et al.*, 2016), which, at least in Norway, is not so straightforward (Skogen *et al.*, 2010). Implicitly this literature also seems to see these crimes as legitimate acts of protest against unfair conservation policies which deprive rural people of their traditional customs and rights.

Measures have been suggested for making the offending hunter accept the legitimacy of the conservation regulations, but it is debatable whether it is possible to restore, or rather create, social validity for norms that imply criminalization of killing wolves, as suggested, for example, by von Essen *et al.* (2016), von Essen and Allen (2015) and Pohja-Mykrä (2016), while these nonhuman animals are cast as enemies. What would be regarded as legitimate or not would again, however, be contextually contingent. If hatred of predators is strong, and the hunter offenders feel that the basis for criminalization is unjust because cultural practices and norms previously permitted such acts (Norwegian policy towards the large predators was until the '70s an extinction policy (Sollund, 2016a)), then such laws will be unlikely to gain legitimacy among them. It is an open question whether dialogue could change offender hunters' attitudes towards public conservation measures.[10] This is a case in which the law and its enforcement can be used to affect the normative climate concerning wildlife protection, rather than seeking legitimacy within the groups least likely to abide by these laws.

Both von Essen *et al.* (2016) and Pohja-Mykrä (2016) suggest that management actions should prioritize local-level socio-cultural needs and incorporate local people as noteworthy actors in the policy-making process. Still, to allow a minority of people who are against protection of endangered species have the last saying in their survival is unlikely the best take on it. This is precisely what is being done in Norway, through the down-grading of the administrative and academic aspects of the state in favour of politician-controlled selection based on county representation; the regional predator boards. Often members of these boards are themselves sheep owners and hunters. It was their decision to have 47 of the 67 wolves in Norway killed. 11,000 hunters had signed up for the ecocide (South, 2010; Larsen, 2012). After the decision was made it was clear that the matter was not only about protection of livestock; rather the hunters who had prepared for this organized state-licensed theriocide (Sollund, 2016a) said through the Norwegian Fishers' and Hunters' Association [Norsk jeger og fiskerforbund, NJFF] they were "frustrated, bewildered and angry" [frustrerte, forundret og forbannet] because, despite their preparations, the hunt was stopped. They stated that "the will and the interest to participate in the hunt has been great", and also as claimed by von Essen *et al.* (2016) and Pohja-Mykrä (2016), that to reduce the "wolf conflict" it is important that stake holders, such as locals living with great predators and hunters, have a role in policy making. According to NJFF leader Runar Rugtvedt and the local leader of the NJFF in Hedmark, Knut Arne Gjems:

> The government's policy results in the establishment of wolf reservations where **normal conditions** don't apply. Many forms of hunting are swept away and considerations of people's quality of life are reduced. Norway has rich traditions for managing nature, of which humans are a natural part. Wildlife is **harvested** in line with long traditions**. It is a conflict-reducing strategy. Participation in (wolf) management through hunting creates understanding of nature management among the citizens**, builds quality of life for the rural population and stimulates entrepreneurial development among the real estate owners. [Author's translation and emphasis] (Rugtvedt and Gjems, 2016).

This quotation forms a rich basis for analysis: First, what are "normal conditions"? Is this a situation where large predators do not exist and consequently do not interfere with the hunters' interests? It is also quite clear the quality of life at stake is that of the *hunters*, and not that of the many people who enjoy the presence of wolves in nature.

The "rich traditions" pertain to an andro-anthropocentric hunting culture, which has developed from men killing animals out of need to people (mostly men) killing animals for pleasure

(see for example, Kheel, 2007; Nurse, 2013, 2016; Presser and Taylor, 2011), as in the present case. As said, part of these traditions was also to drive the Norwegian large predator species to extinction.

When it is claimed that licensed hunting creates understanding of predator management, rather one could claim this is a means by which hunters are trained and permitted to kill endangered species by the state, which also legitimates illegal killing. Rather than management, this is destruction. Entrepreneurial development refers here to landowners who sell hunting rights, raising the question of the moral legitimacy of people owning nature (Zaffaroni, 2012) and wildlife being property.

Lastly, they claim the hunts reduce conflict. Conflict can be defined as violence or the threat of violence stemming from incompatibilities in stakeholders' interests, priorities, values or understanding (Brisman *et al.*, 2015: 1). In this case, the issue is unlikely to concern physical violence between humans, although the debate in social media is harsh, irreconcilable and even threatening. It definitely concerns potential violence against wolves, who may be victims of both legal and illegal theriocide. By licensing hunts to reduce inter-human conflict, one accepts that wolves and other large predators are killed *instrumentally*, to solve conflicts in which they often do not have a part (that is, they form no threat to sheep), but rather are used as scapegoats.

The argument that wolf culls promote the general acceptance of wolves and consequently reduce human-animal conflict, human-human conflict and illegal killing has also been proven wrong. In Wisconsin researchers found that "poaching" *increased* with legal culls:

"When the government kills a protected species, the perceived value of each individual of that species may decline. Liberalizing wolf culling may have sent a negative message about the value of wolves or that poaching prohibitions would not be enforced. (…) Indeed, liberalizing killing appears to be a conservation strategy that may achieve the opposite outcome than that intended" (Chapron and Treves, 2016: 5).

The heated debate in Norway in 2016–2017 has conclusively established that the decision to shoot 70% of the Norwegian wolf population has not reduced any conflict but increased it. While the hunters' association claims that killing the majority of the wolf population would reduce conflict, what it would reduce is only the *hunters*' anger at the protection of the wolves, while increasing human-animal violence. Although many hunters (as well as many farmers and the Senterpartiet political party) want the large predators in Norway extinct, this is not the general attitude, and contrary to popular claims, even people in rural areas and wolf zones want to keep the wolves, seeing them as enriching nature (Skogen *et al.*, 2010).[11]

Consequently, yes, the state earns legitimacy and huge support among hunters and farmers who want to kill the wolves, but its management policy loses legitimacy among the rest—the majority of the population.

Contrary to von Essen *et al.*, 2016; von Essen and Allen (2015) and Pohja-Mykrä (2016), who find strong justification for dialogue-based participatory natural resource management, I believe that in view of the situation in Norway, the farmer/hunter/local politician stakeholders here cannot be trusted with this responsibility.

Conclusion

The conflict concerning the large predators in Norway and how they should be, and at times are, protected has prevailed since their reappearance in Norway, since Norway stopped its extinction policy and signed the Bern Convention. It takes the form of both covert and overt action and protest, including the illegal killing of wolves, as seen from the verdicts analysed in this article (see also Sollund, 2016a, b, for further cases). There currently seems to be no way for those who oppose wolves, principally hunters and farmers, to be satisfied within today's regime, despite the fact that all the large predators are constantly being kept on the brink of extinction. When illegal killing takes place in addition to the legal killing, this unquestionably places the wolf population in Norway in severe danger.

When hunting endangered predators is both encouraged through licensed hunts and regarded as serious crime, this may reduce the potential deterrent effect of punishment (already weak due to the low risk of detection) and even increase illegal hunting. Licensing hunting of endangered predator species in Norway, whether of lynx, wolverine, brown bears, golden eagles or wolves sends a strong normative message that while usually prohibited by law, this killing is still acceptable. As shown it is claimed that by allowing people who want to kill wolves the opportunity to kill them legally, this will prevent them from doing this when the act is criminalized, To explore the moral validity and the logic of such a claim, one could look to the analogy of speciesism, racism and sexism (Nibert, 2002). A minority of sexist men are opposing gender equality; is it then a good idea to allow them to commit acts of sexual harassment or rape, so as to prevent them from committing such acts again, and to create higher standards for gender equality in a society? And for racists; is it a good idea to allow them to commit some hate crimes against ethnic minorities, to prevent them from committing further such crimes? Of course not. In no other area would the right to commit serious crimes be authorized to potential offenders in order to prevent crime.

The suggestion of including stakeholders such as hunters and farmers in policy-making (and execution) of predator management seems, although good in theory, not to work in practice when it comes to the decision-making of the local predator boards in Norway.

The responses of the police and the judicial system have recently been relatively harsh, defining these crimes as organized crimes to be punished with prison sentences. This is a consequence of the increasing priority of environmental crimes (Riksadvokaten, 2013). When crimes against wildlife are referred to as *organized crime*, it may say little specifically about the acts involved, but it gives a double normative emphasis of their seriousness and harmfulness (Nurse, 2011: 41; Nurse, 2013). It may therefore have a deterrent effect. By contrast, the concept of "folk crime" reduces them to being not "real crime" and a more or less "legitimate" form of protest and seriously downplays the crime and harm involved in such acts. It is good practice that hunters who breach laws protecting wildlife are usually sentenced to lose hunting rights, but a lifetime ban would be likely to be a better deterrent for these groups than relatively short prison sentences, and also protect wildlife from harm to a greater degree.

To strengthen the protection of endangered predator species, the Norwegian state should first itself comply with the Bern Convention, since this would have a double effect: giving genuine protection to the large predators and sending a signal of same. Having done so, the Norwegian state could further try to stretch to ideals such as those present in compassionate conservation (Bekoff, 2013), whereby free-born nonhuman animals are accorded intrinsic *and* bio/eco-centric value which consequently should warrant protection, both as species and as individuals.

Notes

1 "Theriocide refers to those diverse human actions that cause the deaths of animals. (…) theriocide may be socially acceptable or unacceptable, legal or illegal. It may be intentional or unintentional. It may involve active maltreatment or passive neglect. Theriocides may occur one-on-one, in small groups or in large-scale social

institutions. The numerous sites of theriocide include intensive rearing regimes; hunting; trafficking; vivisection; militarism; pollution; and human-induced climate change" (Beirne, 2014: 55).

2 "Management" is a euphemism often implying the killing of free-born nonhuman animals.

3 Also referred to as *generaklausulen mot faunakriminalitet* [the general clause against fauna crime] in the Eidsivating lagmannsrett and Supreme Court verdict, and see Istad (2008).

4 The subordination of domesticated animals humans exploit entails the exploitation is subject to more rules setting limits to the pain they may be subject to, although as define what is "necessary suffering", of course also limits their protection (see, for example, Beirne (1999), Sollund (2008)).

5 "Wildlife" is an anthropocentric, alienating term which neglects the individual intrinsic value of free-born nonhuman animals, but I use it for simplicity.

6 The Norwegian Parliament has decided that eight regional predator boards [rovviltnemnder] have primary responsibility for carrying out the national policy concerning large predators in their regions. The boards consist of 5-6 members who are appointed by the Ministry of Climate and Environment based on suggestions from the counties involved (Rovviltportalen, 2015).

7 An agreement was made in *Stortinget* (the Parliament) in June 2011, renewing an agreement from 2004 (Tønnessen, 2013) that predators can settle only within small patches of designated zones. Predators either wandering or attempting to establish themselves outside these zones may be killed.

8 There is only one documented case of a wolf killing a human in Norway: a 6-year-old girl in 1800 (Linnell and Bjerke, 2002: 4).

9 § 19. Humane hunt. Hunting and catching must be done in ways that do not cause unnecessary suffering for wildlife so that no humans, livestock or property risk being damaged. https://lovdata.no/dokument/NL/lov/1981-05-29-38.

10 For example, in the current debate in Norway concerning the wolves a man posted on facebook: "Take the case in your own hands, have you not heard of poisoned bait?" On 6 January 2016, a wolf cadaver was found, apparently illegally shot in the summer.

11 See, for example, the organization Bygdefolk for rovdyr [Rural people for predators]. http://www.bfrnorge.com/.

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Data availability

Data sharing is not applicable to this article as no datasets were analysed or generated.

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