

Braithwaite John (Orcid ID: 0000-0001-8538-2404)

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John Braithwaite, Honeye Hojabrosadati, Miranda Forsyth

John Braithwaite

Australian National University - RegNet

Fellows Road, Coombs Extension ANU , Canberra, Australian Capital Territory 0200

Australia

Email: john.braithwaite@anu.edu.au

Honeye Hojabrosadati

Mashhad, Iran

Email: hun_hun_fun@yahoo.com

Miranda Forsyth

Australian National University - RegNet School of Regulation and Governance

Canberra, Australian Capital Territory

Australia

Email: miranda.forsyth@anu.edu.au

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Restorative Nodes of Governance in the Anthropocene: Iran's Kashaf River

John Braithwaite, Honeye Hojabrosadati, and Miranda Forsyth

This article describes an environmental crisis in Iran that is actually a multidimensional crisis of law and policy. The article explores the restorative nodal governance response to such polycentric problems by weaving together five related ideas originating from criminologist and regulatory scholar Clifford Shearing: nodal governance; regulatory culture as a storybook (rather than a rulebook); justice as a better future; networked discovery of Awareness, Motivation, and Pathways for transformation; and a green ethic of care to guide transformation. We use an imaginary of a river to learn from a confluence of these ideas. They involve nodes of local governance organized by front-line workers who restored intertwined problems with an ethic of care. The challenge uncovered is that restorative micro-strategies proved promising when steering powerless actors, but frayed when faced with factory owners. More aggressive strategies of nodal governance may bring forth more responsive escalation in order to confront privilege. Yet such strategies might be more creatively escalated as nodes of conversational regulation that reconfigure Shearing's five insights to transform landscapes of power. A coherence discovered inductively across these insights revolves on restorative nodal contestation of hegemony. Even lives as infused with domination as those found along the Kashaf River in Iran, where our case study is set, can be restored in counterhegemonic ways.

Keywords: Environment, regulation, restorative, Iran, Shearing, ethic of care

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Introduction

Desertification, climate change, and water pollution drive environmental collapse along Iran's once mighty Kashaf River. The river's boundaries contain a concentrated nest of intertwined crises, including urban squatting, drug abuse, crime, poor public health, marginalization, and ecological destruction. Coupled with constraints on state and urban planning and underfunded public health, these crises present growing threats to the legitimacy and survival of the state itself. We examine how this seemingly unpromising context offers insights into a better future, and how it achieves this by uncovering the restorative potential of restoring old ways of framing both problems and solutions.

This article is not a study of the global south as "primarily a place of parochial wisdom, of antiquarian traditions, of exotic ways and means" (Comaroff & Comaroff, 2016: 14). Instead, we argue that the more extreme environmental and geopolitical pressures from markets that Iran faces can help the West comprehend western nested crises of the Anthropocene. The Anthropocene is the era of human domination/destruction of Earth systems. Nested ecological and economic threats to the legitimacy and survival of the state could provide insight, transposing the Comaroffs, on "How Euro-America is Evolving Toward Iran." It remains to be seen how either Iran or Euro-America will as threats shuttle between the everyday and the epic in future crisis management.

We bring together diverse strands of decades of scholarship by the South African criminologist and regulatory scholar Clifford Shearing. Some of Shearing's influence on our article flows not directly from his academic pieces but from his character as a conversational colleague who seeds ideas into the work of others by posing both micro questions, such as on mediation of conflict, and macro questions, such as on species extinction in the Anthropocene. This article instantiates that influence. We show how in the confluence of his different streams of ideas, there lies a holistic vision of ways to understand and address complex problems. This new conceptualization of nodal environmental restoration arose through our case study of a polycentric restorative response to crisis in Mashad, a major city situated in North/Central Iran and through which the Kashaf River flows.

The case study reveals how the sheer scale and scope of the crisis has meant that the usual regulatory failures of risk-shifting, heavy-handed targeting of crisis victims, corruption, capture, regulatory ritualism, and legitimation crises did not signal an unsatisfying end to the story. Rather, what emerged was a restorative response, mobilized largely through one of Mashad's prosecutor's offices, that gradually expanded the variety and agency of those involved in their roles as victims, offenders, and regulators. We articulate the ways in which this restorative response is best understood through drawing upon five streams of Shearing's scholarship, cohering the ongoing challenges of reconfiguring landscapes of inequality. These five streams are: nodal governance; regulatory culture as a storybook (rather than a rulebook); justice as a better future; networked discovery of Awareness, Motivation, and Pathways for transformation; and a green ethic of care to guide transformation.

Critically, we show how addressing macro-scale problems such as climate change and large-scale corporate pollution can be productively entangled with the restored restorative approach used at a micro level to steer powerless actors away from harmful

conduct. This potential points to an ecological restorative approach to environmental harm able to illuminate the interconnections between justice at many scales, and to evoke new imaginaries out of interconnected crises.

We offer the entire Kashaf River narrative as one that “walks” with non-Western scholars and thinkers (and practitioners and activists) from whom we can learn and “co-produce new responses to the Anthropocene challenge” (Harrington & Shearing, 2017, 138). The Kashaf River prosecutors set aside prosecutors’ usual construction of reality, namely that their job responds to illegality with proportionality of force under the rule of law. They restoried this script to instead display an ethic of care toward marginalized people trapped in an ecological vortex by aiming for “justice as a better future” (Froestad & Shearing, 2012).

We structure this article as follows. First, we outline five of Shearing’s contributions that serve as our analytical focus. Part two then narrates the unfolding layers of crisis that Shearing’s five insights help us to see. Third, we demonstrate how these five insights enable us to reframe different layers of regulatory failure across a span of several decades. The fourth section identifies particularly decisive moments of transformation of the regulatory storybook for the Kashaf River. This transformation grew significantly from the nodal leadership of a prosecutor’s office, with a new restorative narrative grounded in the enduring traditions of mediation in both Persian society and Islam.ⁱ Limits of this transformation’s accomplishments are documented, as well as its restorative promise. In particular, we describe how restorative approaches adopted by less empowered members of society that appear to work in averting their acts of environmental can be resisted by elites. More optimistically, we point to how the momentum for transformation established through iterative restorative approaches can reach outwards and upwards to diverse sources of power. Drawing decision-makers and impacted, but less empowered parties into restorative circles can bolster the momentum needed to make headway against even powerful local actors.

Background and Methods: Iterative Surfacing

By way of background, both the research findings and Shearing’s theoretical relevance were serendipitous. In 2016, Braithwaite went on a speaking tour of a dozen cities in Iran. After asking to visit places in which innovative justice work was being done, Braithwaite was introduced to the creative Kashaf River restorative work discussed herein. This was a centerpiece of the Mashad visit led by Hojabrosadati. There was no intent to target this site or test Shearing’s theories. Restorative nodal governance of this river just happened to surface as the most intellectually engaging of the diverse restorative innovations discovered across Iran. One reason it excited the authors lay in how it revealed the relevance of Shearing’s seemingly diverse insights and inductively revealed ways in which they were interconnected and coherent that were not made apparent in previous research (not even by even by Shearing himself, who commented that his insights were “implicit rather than explicit”ⁱⁱ in reference to previous sites of less complex intersections of crisis than the Kashaf River). Hojabrosadati and Braithwaite joined a second fieldwork trip to the Kashaf River in 2017. Forsyth joined Hojabrosadati for the third field visit in 2018. A fourth round of fieldwork was completed by Hojabrosadati alone in 2018-19.

The data were derived from observations, as well as from opportunities to ask questions at stakeholder meetings, including one long meeting involving twenty Mashad judges and prosecutors, along with 38 other interviews with 51 respondents. Those interviewed included prosecutors, judges, mediators, volunteers, religious leaders, employees of environmental NGOs, managers and inspectors of regulatory agencies, businesspeople, and people of the Kashaf River. Selection for the first wave of interviewees was serendipitous; for the next three waves, selection was aimed at interviewing the most nodally significant or revelatory actors. In addition, 51 official media reports, 39 reports from underground media, several dozen Persian language publications, and confidential research reports on pollution levels, including government reports, were accessed, reviewed, and included in our document analysis.

Part 1. A Restorative Nodal Governance Approach to Transforming Landscapes of Power: Five Integrated Shearing Insights

This part explores the five insights from Clifford Shearing's work that animate this article, showing how microdynamics might foster macrolevel transformation of interconnected crises.ⁱⁱⁱ The five insights or ideas that we draw out from Shearing's work are:

- (1) Nodal governance;
- (2) Regulatory culture as storybook;
- (3) Justice as a better future;
- (4) Awareness, motivation, pathways; and
- (5) Security and entanglements in the Anthropocene.

1.1 Nodal Governance

Nodal governance (Burris, Drahos, & Shearing, 2005; Johnston & Shearing, 2003; Shearing, 2001; Shearing & Wood, 2003; Wood & Shearing, 2013;) draws on Foucault's (1990, 93) dictum that "power comes from everywhere." Hence, power can be drawn from across networks that are pulled together at nodes of coordination. Nodes are simply points where flows of power intersect. A node is a site where knowledge, capacity, and resources are mobilized to steer the flow of events (Burris, Drahos, & Shearing 2005). Nodes of governance restory mentalities (ways of thinking) about governance. In the case study, we conceive of the prosecutor's office in the Kashaf River case as a node that scaled up governance to address a multilevel problem. At the same time, it told the story of a response to crisis that took the form of care and engagement rather than punishment and domination.

1.2 Regulatory Culture as a Storybook

Nodal governance has the ability to restory mentalities of governance. This insight has its origins in Shearing and Ericson's (1991) analysis of police culture not as a rulebook, but as a storybook. Somewhat akin to universities, police agencies, too, have volumes of policies and procedures for most problems their agents are likely to confront. While useful as guidance in difficult situations, it is likely that many busy police officers and

academics rarely read them all or have only a dim awareness of their contents as they perform their daily work. A fallacious belief often held by management is that the way to change such organizations is to change their rulebook. The Shearing and Ericson storybook insight reveals that to transform organizations in ways that gain traction, you must change their storybook—the stories they tell one another in the lunchroom, in the patrol car or on the beat. Mentalities are formed through this storytelling. So are imaginaries for creative and lateral ways of solving practical work problems. In the case study, this storytelling insight is reflected in how Shari's stories and principles allowed Prosecutor Mohebi's office to replace bulldozers with a restorative legal imaginary.

1.3 Justice as a Better Future

Shearing and Braithwaite have long talked about the idea of “justice as a better future” going back to at least from the time of Braithwaite's visit to Shearing's Zwelathemba project in the late 1990s. Shearing, together with Jan Froestad, found empirically that what Zwelathemba's South African “PeaceMaking Gatherings” members wanted more than other forms of justice was justice that would “make for a better tomorrow” (Froestad & Shearing, 2007). This confirmed Braithwaite's observations of Shearing's South African fieldwork sites. This bottom-up Southern vision was an inspiring one. Froestad, along with Shearing, further contributed invaluable documentation and analysis of the Zwelethemba model of forward-looking justice through peace (Froestad & Shearing 2012, following up on Froestad & Shearing, 2007). Each of these contributions has informed our conceptualization of this third insight.

The degree to which the Zwelethemba conception of justice should or should not be seen as having a family resemblance to restorative justice occupies the interest of many scholars, including Froestad and Shearing (2007). Resolving this is not so important to our analysis here, for reasons made evident in the following example. Prosecutors who were key catalysts of restorying the Kashaf River intervention strategy continued overwhelmingly to be practitioners of backward-looking punitive criminal prosecution with little resemblance to restorative justice. Yet, when it came to the Kashaf River, the problem was so deep, its layers so complex and challenging, that the prosecutors flipped to a forward-looking restorying of the kind of justice that was needed to make a better future. In the process, they happened to conceive of this shift to some degree in restorative terms, to some degree in Islamic terms, and to some degree in traditional Iranian terms (at least implicitly). What is fundamental to our analysis, however, is the overarching idea that for *Security in the Anthropocene* (Harrington & Shearing, 2017), fiddling with backward-looking justice while the planet burns is a poor choice compared to a choice made in favor of governance toward a better future along the Kashaf River. In this multiscale and multi-temporal circumstance, as opposed to a more mundane legal circumstance like theft, “How do we make a better tomorrow?” (Froestad & Shearing, 2007) became a more inescapable question.

1.4 Awareness, Motivation, Pathways

Under this heading, we consider the Shearing idea of transformation as requiring wide circuits of conversation across civil society and multiple levels of governance to constitute Awareness, Motivation, and Pathways (AMP) to transformation. Honig et al. (2015) developed the AMP framework from African cases of environmental threats.

Their inductive empirical insight was that interventions aimed at protecting the environment commonly succeeded in building Awareness but then failed to improve environmental outcomes, because Motivation or Pathways were missing. Or, Awareness and Motivation were both accomplished, but actors could not imagine and lay down a workable Pathway to effect change. Awareness in Honig et al. (2015) is given a broad Shearingesque meaning to include altered mentalities and capacities to reframe. This is AMP's link to Shearing's restorying idea. Motivations could take the form of an intrinsic love of nature, or extrinsic payoffs. Pathways means courses to action. Opening up opportunity structures can require resources and unlocking the skill-sets of Aware and Motivated individuals.

1.5 Security and Entanglements in the Anthropocene

Finally, we consider the idea of a reconfigured ethic of care for the Anthropocene. This ethic of care provides one overarching integration within which nestle the other four ideas. This line of thought is explicit in Harrington and Shearing (2017), but it evolves from earlier work (for example, Shearing, Gunningham, & Holley 2013). For Harrington and Shearing (2017, 115), *Security in the Anthropocene* requires acknowledgement of "our careless failures to recognize our entanglements." This means reckless entanglements of humans with ecosystems and their human and non-human inhabitants. They see a green ethic of care—one that "emphasizes the relational practices that underpin the survival and flourishing of life" (Harrington & Shearing 2017, 117)—as the remedy.

As our discussion will show, such a recognition of carelessness with nature and with the marginalized people who suffer the most from its degradation, as well as engagement with an ethic of care, was evident in the restoried restorative approach of the Mashad prosecutors, mediators, and the network of support they mobilized. After decades of punitive responses toward the marginalized, combined with captured impunity for the well-connected, this restorative and responsive transformation began to realize the Harrington and Shearing (2017, 111) ideal that "[r]esponsibility entails an ongoing responsiveness to the entanglements of self and other" (see also Hong & You, 2018). The transformation was nodal, drawing sustenance from "indigenous philosophies [of the imams, greybeards, and greyhairs discussed below] that emphasize different relational ontologies and cosmologies" (Harrington and Shearing 2017, 116). The volunteers working in the prosecutor's office who put their own money toward victim support exemplified the supplanting of punitiveness with a spirit of empathy in order "to engage in gift-giving and to feel gratitude in the midst of ongoing, seemingly perpetual, social, and ecological crises" (Harrington & Shearing 2017, 127). Volunteers were not the only gift-giving actors involved in this multiplex problem-solving endeavor. A recent example of this approach by one prosecutor is an initiative to deal with the problem of illegal alcohol and drug factories located far from the city hub. Recognizing that regular patrols of the area would be too costly, after knocking down the illegal buildings, the government planted barberries and other traditional plants used in Iranian cuisine. The intention was to revegetate the area, connect city dwellers with traditional Iranian harvesting rituals, and also ensure the regular passage of passersby in order to disrupt any attempted re-establishment of the illegal stills and meth factories.

In sum, what the Shearing insights are pointing us to is the importance and possibility of moving from the "business as usual" conceptions of governance and power as solid,

homogenous and fixed, to a framing that is far more liquid and diffuse. Rather than seeing governance as bound within a state, we see it as existing everywhere. Rather than seeing rules as the only source of ruling, we recognize the regulatory power of stories and imagination to govern as well. Rather than conceiving of justice as producing a particular result, a concept of justice is opened up to all that is encompassed by striving for “a better tomorrow.” The concept of the Anthropocene points us toward the realization, long understood by Indigenous peoples around the globe, that complex problems, including those concerning the environment, require liquid governance responses. Liquid governance responses embody organic, living responsiveness to the complex patterning of power and the ways in which power produces both landscapes of inequality and equality. The AMP model shows us one way to move from a solid to a liquid approach that targets multi-level, multi-sited regulatory problems; we explore this transition in the extended case study of the Kashaf River below.

In the rest of this article we use the term “restorative nodal governance” as a shorthand for this confluence of Shearing insights. Below, and especially in the last section, we draw out the theoretical insights and opportunities for the new forms of praxis they engender, and particularly for the way they can advance Mouffe’s (2013) approach to pluralist contestation of landscapes of inequality. While we focus primarily upon the coherence of restorative nodal governance for human survival in the Anthropocene, this all-encompassing survival pressure is rooted in tackling more tractable challenges nodally and restoratively by, for instance, finding homes for squatters, improving food safety, implementing less violent police practices, and finding alternative employment pathways for sex workers. We will show how marginalized people learned to take a restorative approach to managing problems of more immediate and practical concern to them, and how this catalyzed restorative nodal governance, which in turn helped teach factory owners to be more restorative and responsive to ecological injustice (albeit with partial success).

In his comment on this article, Shearing conceived of its accomplishment as being to:

uncover an underlying unity that integrates [the five] themes. This unity arises from a recognition that these hitherto siloed themes arise out of, and reflect, a pervasive underlying theoretical agenda focused on understanding landscapes of power and the structural inequalities they produce.^{iv}

Part 2: Layers of Crisis and Levels of Governance

Here we document the pollution crisis of the Kashad River and its intersection with larger crises of regional water depletion and global warming. The river is drying up and suffering from catastrophic heavy metal pollution (Sheikh, Rezaei, and Nasserri 2013). This proves to be not only an environmental challenge, but also socially and politically complex. Its gradual demise has played out against the background of the 1979 Islamic Revolution, in an Iran that has been increasingly cut off from, and sanctioned by, the rest of the world as it has transformed into a messianic Shari’a law state.

[Figure 1 *Map of Mashad* inserted here]

Over time, Mashad city’s social “residuum” (Stedman-Jones, 1971)—superfluous people who received no benefit from any rising tide of economic development

(particularly the homeless, but also drug addicts, sex workers, and desperate unemployed squatters)—were shifted away from the gaze of respectable citizens and pilgrims. They were forced to squat outside of town near the Kashaf River's edge. The Shearingsque storying of the river in our interviews reveals a narrative in which environmental pressure shifted marginal farmers who could no longer afford to buy arable land or pay for irrigation, leaving them with no other choice than to squat beside the Kashaf River alongside its other beleaguered squatters. In order to continue farming, they irrigate illegally, either from the river or from the effluent pipes and drains from factories that empty into it. At another level, this is also a story of shifting marginal, polluting factories, such as tanneries and carpet washing, out of the city to a river that shifts pollution downstream. These marginal factories provided marginal employment for the marginal residuum pushed riverside. Big business then awoke to the advantages of locating in a vicinity with low environmental expectations (at least initially). Each shift in use made the river's problems more complex and more intractable. Later, state help to treat effluent after it left their plants amplified the attraction for big business; crisis attracted business subsidies. So this is a story of the interactions among an urban social residuum, a rural residuum, and industrial residue in a single dumping ground. So many intertwined problems thus came to be seen by elites as posing a social stability threat, even to the state itself.

In Part 3, we will identify recurring themes of the regulatory literature that appear as the story unfolds. Yet the problems remain; the wider dimensions of crisis get frighteningly worse, yet some real progress is made in the interstices of state governance. Facing worsening environmental and underclass calamities, we find Mashad, Iran to be an unlikely locale for incipient progress toward confronting crises of the Anthropocene. Before we can examine this aspect, however, we first unpack the layers acting as the catalyst for crisis.

2.1 Layers of a Multi-Layered Problem

2.1.1 Climate Change

Global warming has gradually increased evaporation from an already-parched Iran. More water evaporates from Iran's tributaries, only then to rain elsewhere. Climate change has meant that less snowmelt feeds the flow into the Kashaf River (Qanbarzadeh & Jafarpour, 2004, 64). Less snow means reduced underground water inputs, causing wells to dry up—wells that were once 25 meters deep are now dug 200 meters to reach the water table (Interview 041710). Climate change is the structural context that exacerbates all the crises that follow.

2.1.2 Urban Squatters

Urban planning policies in the late decades of the twentieth century effectively drove large numbers of squatters out of Iran's second most populous city, Mashad, to the banks of the Kashaf River. Methods used to drive out squatters included cutting off municipal services and mobilizing police to dismantle their dwellings. Squatters were seen as a threat to urban amenity and to the lifestyle, safety, and property values of middle and upper class citizens. A tourism hub, Mashad attracts 20 million pilgrims annually to its immensely beautiful Holy Shrine (Saghaei & Javanbakht, 2013, 79). Elites are keen to keep the city clean and presentable for these tourists. Mashad's

massive slums have been proliferating for decades as sites of inequality (Hoad, 2018). An important early contributor to the Kashaf River crisis from the 1980s was the release of raw sewerage and household waste from squatter settlements into the river (ISNA, 2017). In part, this was what destroyed the livelihoods of those who once fished the river, in combination with global warming drying up its flow. The poverty of squatters was exacerbated by health impacts on their children, who played in polluted, sometimes malaria-infested ponds that had once been clean parts of the river. Some of these ponds were created by their forebears diverting water from the river (Alizadeh, Haghnia, & Danesh, 1990, 93-97).

2.1.3 Marginal Farmers

Simultaneously, rural families dispossessed by drought, population pressures on remaining arable land, and a plummeting water table headed to cities like Mashad in search of work. As squatting opportunities in the city dwindled, squatting outside on the banks of the Kashaf River, using its water and wells to grow fruit, vegetables, wheat, and livestock for the urban market, became attractive for displaced farmers (Eshqi & Servati, 2003, 150–157).

2.1.4 Crime, Drug Addicts/Dealers, Sex Workers

Urban police were attracted to reducing crime on their beat by using the same planning pressure applied to urban squatters to also drive out the drug addicts and street dealers who were not integrated into organized crime groups with which the police felt they could work. They applied these tactics to sex workers as well, especially those from the squatting class who plied their trade on the streets, as opposed to sex work tucked away inside more elegant premises under the wing of organized crime groups. These were the push factors; the pull factor was that for decades, criminals had become increasingly attracted to the Kashaf River squatter settlements because it remained a large, unregulated space, with no police station until 2014. For example, semi-organized car theft gangs in the city would often bring stolen vehicles back to their bases in riverbank areas.

These different layers of the problem—the urban squatter class layer, marginalized farmers, and the criminal class—were intertwined. Marginal factories would go on to form yet another layer that became intertwined with these existing layers.

2.1.5 Marginal Factories

Environmental regulation in Mashad increased the attraction of the initially unregulated space of the Kashaf River squatter settlements for economically marginal industries that craved the kind of cheap labour that the desperately under-employed poor of the Kashaf River settlement could supply, such as carpet washing and oppressive metallurgy work like plating. Tanneries built on the banks of the river created unhealthy working conditions, and the tanning process used used chemical inputs (notably chromium), that for many years ran directly into the river. While more recent environmental reforms are now improving regulation of this problem, the Iranian leather industry is huge in terms of both output and footprint: few places have more gifted masters of leathercraft than Iran.

Environmental risk shifting to the Kashaf River is more global than simply a matter of how environmental regulation works in Iran. It is also a function of how it works across Europe, where tanneries have largely disappeared. European markets rely on leather imports from places like the Kashaf River because the costs of protecting workers and rivers from chromium and other risks make profitable EU production difficult. It was alleged in interviews with regulators that tanneries in “leather city” had sold water polluted with chromium to farmers alongside the Kashaf River. One theme in Shearing’s work on the geo-economics of the Anthropocene is how dominant metropolises shift crises to more marginal spaces, onto the backs of more marginalized people, and onto endangered species. We have seen that these strands of Shearing’s oeuvre are structurally conditioned by climate change, such that the river is initially attractive to the residuum, who then decimate it as they work for globally marginalized capital, only to experience over time the river that originally attracted them progressively evaporating.

Not all of the marginal industries that moved to the Kashaf River were heavy polluters through products like leather and cement. One environmentally friendly industry involved low-tech recycling and reprocessing plants that recycled products like plastic in a labor-intensive way, cashing in on the large supply of cheap labor by the river. One waste separation plant that has now moved inland from the river to the large, state-planned, industrial estate of Tous (see Figure 1) employs 1000 women as waste separators. Many are former sex workers who are given a path to an alternative livelihood through this work as part of a set of newer, more restorative strategies for tackling the locale’s intertwined crises (Interview 041707). While former sex workers get low-skilled recycling work here, they are also provided with vocational training, which is reflective of a transition to a “justice as a better future” vision of local capacity-building (Froestad & Shearing, 2007). Traditional weaving is a popular choice for these vocational transitions. It reconnects women to rich Persian, Turkmen, or Afghan craft traditions that are popular with tourists and locals alike.

2.1.6 Big Factories

Our research discovered that most of today’s pollution is not caused by high-impact small businesses but by the larger factories that came later to the district (Interviews 081703; 091701-8). The scale of the factory problem is huge, with the area containing 230 factories of almost every kind known to industrial capitalism, plus many smaller plants that make a contribution to pollution, all located along a 45-kilometer stretch of the river in the vicinity of Mashad. While most of the factories are small and marginal, a good many now are large: one has 12,000 workers, the kind of factory almost impossible to find in the West today. The scale of pollution can also be large, as in one recent case where it was alleged, thanks to the undercover monitoring of environmental NGOs, that 300 to 600 tanker loads of polluted waste had been dumped into the river in a single night (Interview 041709). Shocking photographic evidence of this dumping from trucks was shown to us.

Slightly back from the river, Tous has expanded to become the largest industrial area in the region. Cobalt, sodium, zinc and lead are among the pollutants its factories spew into the river and the underground water supply. Forty different problem pollutants have been identified in the river. Well-connected factory owners have received state

authorization for their polluting factories, and over time this has become the biggest part of the problem.

The scale of factory growth over the past 30 years has expanded the population in the vicinity of the river significantly, such that 300,000-400,000 people now reside in a marginalized city at the margins of the metropolis. Factories owned by economically weak operators struggle to comply with environmental laws and cannot obtain licences from the state. Although these factories enjoy neither a state license nor a social license from a Mashad community incensed by the environmental crisis, the state is reluctant to close them for fear of rioting by their marginalized employees and fear that organized criminals might push out current owners, making the regulatory crisis even more intractable.

Part 3. Layers of Early Regulatory Failure

Early responses to the regulatory crises of the Kashaf River evoked classic pathologies repeatedly documented in the regulatory literature. The following sections address both these responses and relevant topics from the literature: the greater political appeal of risk shifting over risk management; regulatory ritualism; persistent resilience of vested interests in environmental harm; corruption; capture; a legitimation crisis; and the challenges of coordinating multi-level governance to make a response work.

3.1 Risk Shifting with Illegal Wells

A prominent theme in the literature on the roots of the 2008 global financial crisis is the danger of moving from managing risks to risk shifting, as Western banks did in the 2000s by slicing and dicing high risk loans, then selling them as securities (Lewis, 2011). This was an alternative to managing the risks of their bad loans, as they had done in the past. We have seen already that the Kashaf River crisis was fundamentally about structures of inequality that shifted risks posed by marginalized people and marginal industries to the river's edge rather than managing those risks in place. In the end, risks displaced to an unregulated space created even bigger risks, ones that ultimately threaten the Earth system and the legitimacy of the state.

We have not yet described, however, one of the most environmentally disastrous of these risks. In the under-regulated spaces along the river, countless poor farmers, as well as wealthy people and factories craving water, dug illegal wells. Iran's has an environmental imperative to close these illegal wells; they use water wastefully, driving the water table ever deeper and widening domains of desertification. Iran's courts have seen thousands of enforcement actions to seal illegal wells. These cases are a massive part of the workload of the national courts, and by 2015, the courts had enforced the closure of 2,300 illegal wells. While this seems and is a huge enforcement workload, green NGOs argue that there are 500,000 illegal wells in Iran (Interview 041708). The NGOs that we interviewed—including Water Saviour Population, Sound of Water Association, Water Lovers, and Water Protectors—want a total ban on all new wells and the mass closure of existing wells, in order to facilitate the recycling of all water under public regulatory control.

In response to such court cases, farmers have been driven to move dozens of kilometres downriver in order to establish new farm settlements and dig new illegal wells. This, combined with failures to close most old wells because of enforcement overload and corruption, means that the risk-shifting dynamic has made Iran's water crisis worse rather than better.

The Mashad reach of the Kashaf River is at the base of a large bowl, so water (and pollutants) that run into the river here find their way into the groundwater. At one level, there was progress when the massive newer industrial city of Tous drew factories away from the river. At another level, Tous became a new attractor of unsightly factories that the city did not want downtown; at the same time, it attracted them to a site that endangered the groundwater system because Tous is still close to Mashad and to the once-great river. This makes Tous far from an ideal location for an industrial estate. Hence, at a structural level, the creation of Tous as an industrial city was still an instance of risk-shifting, rather than one of optimal environmental risk management.

3.2 Heavy-Handed Targeting of Crisis Victims

Over time, the risk shifting that created concentrations of drug dealers and other semi-organized criminals outside the city created opportunity structures for new kinds of crime. Eventually, this clustering came back to bite respectable Mashad society, through, for example, the emergence of gangs that stole expensive cars. This aspect of the riverbank's nest of problems worsened as the city limits expanded toward the squatter settlements. Also noticeable to respectable society was the fact that the beautiful Kashaf River, once attractive for boating and fishing, was now devastated.

At this point in the story, the very forces of urban planning law that had helped create the squatter settlements in 1992 again arrived on the scene to newly oppress the marginalized. Courts issued orders to move houses and farms back from the river. Police moved in to protect bulldozers executing the court orders. Squatters were bludgeoned and bulldozed away from riverbank areas. They resisted the police, trying to stay in their homes. When police shot a 12-year-old student, the dispossessed rioted. They marched on May 30, 1992, to the center of Mashad and burned down police headquarters, the city headquarters of at least two major banks, among other buildings. In total, perhaps 15 buildings in total were burned down during the rioting (Interview 041709), and six people were killed (Hashemi Rafsanjani, 2016, 89–113; Orlando Sentinel, 1992). The Iranian state continues to fear that uprisings like this might spread popular discontent across the country (Interview 041706). Mashad has become one critical focus of that fear: a 2017 cascade of popular protests against the regime that spread across many cities began in Mashad (BBC, 2017). The “crowd in history” (Rudé 1964), with its revolutionary sentiment on the streets, has been a major factor in recent and ancient Iranian political history. Below, we show how this fear of the crowd in history and of the residuum (Stedman-Jones, 1971) created space for the justice system to propose a creative alternative approach to the heavy-handed bulldozing of the marginalized.

3.3 Corruption and Capture

There are some public—and many private—documentary sources showing that corruption and regulatory capture by business interests is widespread in the regulation of the multilevel problems of the Kashaf River (see Freedom Messenger, 2016; ISNA, 2016; Tasnim News Agency, 2018). Nearly all those we interviewed said that corruption and capture constituted a problem. Respondents differed only in whether they believed that corruption and capture were root causes of the crisis, or only an occasional problem for some agencies (albeit not their own!) (Interviews 091701, 111702). We were told of instances in which inspectors were diverted from filing negative reports on factory pollution through payments for their children's weddings, gifts of LCD TVs, or even trips to Dubai.

3.4 *Regulatory Ritualism*

Sealing some illegal wells, and then looking the other way as farmers move downriver to dig more, is an example of regulatory ritualism as well as risk shifting. Ritualism involves acceptance of institutionalized means for securing regulatory goals while losing all focus on achieving the goals or outcomes themselves (Merton, 1968). Theoretical work on regulatory ritualism owes a debt to Foucault (1977) because so many of the regulatory rituals identified in the empirical work that grounds the theory of regulatory ritualism are rituals of discipline that oppress vulnerable actors (Braithwaite, Makkai, & Braithwaite, 2007). This ritualism was evident initially along the Kashaf River when the wells of the marginalized, but not the well-connected, were sealed.

The most common forms of ritualism along the river were modalities recurrently documented in the regulatory literature. Front stage, politicians make robust announcements about how they will stick with the problem until it is fixed; back stage, they settle for occasional dramatic legal actions against a few less well-connected law breakers, then walk away from the problem when the media and public attention cycle moves on. Levying slap-on-the-wrist monetary fines for factories has been, and still is, a routine form of ritualism along the Kashaf River. Years later, exactly the same kind of environmental offending by the same factory recurs, and the same kind of slap-on-the-wrist fine is applied again, without escalating regulatory pressure until the problem is fixed (Interview 041709). As discussed further below, in comparison to this ritualistic enforcement, there proved to be more promise in environmental activism for restorative engagement with business, backed by escalation to less ritualistic remedies than small fines, such as closing down factories or moving them away from rivers (Braithwaite, Makkai, & Braithwaite, 2007).

3.5 *Legitimation Crisis*

Climate change continues to put pressure on Iran's water table, threatening future waves of drought and ultimately jeopardizing the security of the state. Far beyond Iran, such crises of entangled fragility create "the potential for global-scale political upheaval" (Harrington & Shearing 2017, 141). For Habermas (1975), a legitimation crisis is an identity crisis for citizens that arises when confidence in government administration collapses as a result of interacting subsystems of the administrative apparatus failing to solve the problems for which they were designed. Resilient ritualism is one kind of administrative pathology that can foment a legitimation crisis. Merton's (1968) *Social Theory and Social Structure* laid one foundation for

Habermas's conception of a legitimation crisis by showing that the stability of states depends on citizens accepting that public administration uses legitimate means to achieve legitimated goals. For Merton, securing legitimate means but not goals can create a crisis of ritualism. Securing goals without legitimate means can create a crisis of illegitimate innovation. When neither are secured, Merton conceives this as "rebellion" toward goals and means, with rebels rejecting goals, means, and legitimacy for the entire social order. Crises of confidence in the state arise, according to Habermas, because of contradictory imperatives pursued by different subsystems, such as subsystems for urban planning, industrial planning, banking, water management, policing, and the judiciary, as is happening along the Kashaf River.

The impending risks of a legitimation crisis was made palpable by farmers from the riverside burning banks and police headquarters in the metropolis, as well as by middle class angst about pollution and food safety. In May 2009 (Mehr News, 2009), many fell sick, including the Iranian author of this article, from eating melons irrigated with water polluted by Kashaf River factory effluent. In another incident, two people died after eating mutton from polluted farms along the river (ISNA, 2009).

For Habermas, a legitimation crisis is not one that necessarily brings down a regime, but one that signals a systemically-driven state of jeopardy with respect to the capability of the regime to deliver for citizens. The incoherence among regulatory subsystems and the loss of political will created by risk-shifting led to a state of jeopardy for the state along the Kashaf River. At least, this was true until a surprising node of governance came to the state's rescue to accomplish coherence and restore political will.

Part 4. Paradoxes of Restorative Justice in Multilevel Governance

4.1 Layers of Governance

A longer SSRN version of this paper (Hojabrosadati, Forsyth, & Braithwaite, 2019) details the role of different levels of environmental governance involved in the Kashaf River: international, national, provincial, city, district, and NGO governance. The international level included help pursuant to the reconciliation of Iran with the European Union as a response to the Iran Nuclear Deal and the lifting of sanctions. The Europeans provided technical assistance to remedy the area's history of drawing water into production systems, polluting it, then sending it back into the water table through effluent released into the river. Transforming the metabolism of cities, from linear degradation to circular renewal, is fundamental to water re-use assistance (World Future Council 2010). We saw practical immediate benefits from restoring a river when European and Iranian actors sat around a table of help. This had laid a foundation for restorative integration of Iran into more distant global projects of environmental restoration. Iran signing the 2015 Paris Climate Agreement was the most important example of reintegration of Iran relevant to the root causes of the Kashaf River crisis.

Environmental NGOs played a somewhat truncated role because the state must approve the registration of NGOs. A certain degree of circumspection (in raising allegations of regulatory corruption, for example) is required to sustain registration. This means that most NGO applicants are shut down. Even so, environmental NGOs did play constructive roles in the governance of this crisis. It was green NGOs that took the the Kashaf River crisis to the press for the first time (Interview 041709) and exposed some

of the worst environmental abuses. The new criminal procedure law of 2015 allowed NGOs for the first time to launch criminal actions against corporate offenders. One recent NGO criminal suit alleged that criminal managers in two regulatory agencies failed to implement industrial waste water laws (Khabaronline, 2015; Interviews 111701-111703). Sometimes representatives of environmental NGOs are permitted to accompany state regulatory inspectors on site, although this is far from routine (Interview 041709). The most important environmental NGOs working to save the river are Saviour of Waters, Environmental Lovers of Iran, the Sound of Water Association, Water Lovers, and Water Protectors.

The Mayor of Mashad's office, an organization it sponsored called Green Space, local branches of the Environment Agency and the Water Agency, urban planning and police agencies, industry associations, local banks who lent favorably to support relocation, and the national Ministry of Environmental Affairs all played nodal governance roles in bringing an end to earlier crude policies, which had simply bulldozed paths to non-solutions (for more on this kind of nodal governance function in the regulatory literature, see Shearing, 2001).

Most evocatively for our theoretical frame, the chief prosecutor's office of the Judicial Agency in the relevant district played a surprisingly catalytic role as a strategic node of multilevel governance coordination. This role really began when the office responded restoratively to many Mashad firms that had cut corners with the law in order to stay afloat in the face of European sanctions during the early years of this century.

4.2 Paradoxes of Restorative Justice

Our interviews^v revealed that the prosecutors evolved a surprisingly restorative approach to confronting economic crisis and job losses. They approached some 1000 cases involving 270 factories with a posture of sympathy for executives who had been put in impossible positions after their markets dried up or supply chains were cut due to international sanctions. Mediators from the prosecutor's office approached banks, for example, to help companies secure extended loans to save jobs while meeting minimum regulatory requirements. In interviews, it was made explicit that factories resuming production was seen as a restorative outcome (Interviews, 051627). The prosecutor, Bakhshi Mohebi, noted in 2016 that his Mediation Council had resolved 600 cases in a restorative way in 2015. His restorative approach to corporate crime enforcement (Parker, 2004), which made up the bulk of his office's workload, opened the door to a restorative approach in the Kashaf River environmental cases. Here we conceive of Prosecutor Mohebi's office not only as a decisively restorative node of governance in Shearing's sense but also as a node that draws on structurally restorative background features of Shari'a law and Persian culture.

Certain features of Shari'a law are structurally restorative in general (Osanloo 2020), but particularly in application to corporate law. One is that the needs of victims of crime are temporally privileged, and more privileged in emphasis, than is the case in Western law. Hence in the case of safety, health, and environmental crimes, the needs of a worker who has lost a leg or a fisher who has lost a livelihood as a result of the crime should be remedied first. It is a structurally egalitarian feature of this approach to law that the victim's story gets the first opportunity to shape the narrative of the case. A corporate prosecution will not proceed until mediations and court hearings have first

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decided on what support and compensation will be delivered to those victims by the corporation. This victim support function of the prosecutor is so important that the Mashad prosecutor's office uses its considerable clout in the Iranian system of governance to call welfare offices, public housing offices, workers' compensation insurers, state licensing offices, and other government offices to clear logjams that delay the provision of assistance to victims. Volunteer victim supporters at the Mediation Council were unpaid and sometimes provided victims with money out of their their own pockets to help them meet desperate needs. These vounteers were widely recognized in our interviews as playing a helpful role in assuring that the criminal process was conducted with justice and dignity.

Islamic principles also infused the approach to bread and butter Kashaf River cases such as those involving farmers who dug illegal wells. Mediators and prosecutors frequently viewed such farmers as both offenders against environmental laws and victims with hungry families. This meant that the restorative doctrine of necessity in Shari'a law applied. This ancient doctrine states clearly that one is permitted to steal if one is starving (Al-Hilali & Khan, 2018; The Qur'an 5:3; The Qur'an 6:119). Using this approach, a single prosecutor's office had mediated 300 water well cases, searching for creative helping solutions such as ensuring that treated water from factories was used for fruit trees while polluted water was used for non-fruit trees. Prosecutor Mohebi's nodal restorying of the the networked governance of the river is illustrated by the fact that he meets weekly with the concerned NGOs that form part of the social movement to save the river and its community (Interview 051627).

Up to a point, Iranian law empowers victims with a right to forgive that prosecutors cannot ignore or completely overrule, although this does not apply to all crimes (Osanloo, 2020). Hence, if the victims of a corporation choose to forgive its executives after receiving compensation, apology, and support, this reduces criminal sentences in proportion to those parts of the sentences that are allocated to private crimes against victims. In one Mashad prosecutor's office, more emphasis is placed on a court order that secures corporate reforms that prevent reoffending than on proportionate punishment, although the latter is also important. Our interviews with staff at other Iranian Judicial Agency offices outside Mashad made it clear that a production line of punitive sentences was much more standard than the ethic of care and prevention evidenced in the approach taken by these Mashad prosecutorial reformers. Certain Shari'a principles of Iranian law create space for innovation, however, such as compassion, mercy, *azadi* (freedom), and forgiveness, as does the general Islamic principle of the Golden Rule (Do unto others as you would have them do unto you). The Golden Rule can trump the specificity of Iranian contract rules, for example, in a way not dissimilar to the way the principles of equity trump common law rules in the English legal tradition (Samet, 2018).

A prominent jurist and religious leader explained that responsiveness was also a fundamental principle of Shari'a law in the sense that rules must be interpreted in such a way that they are responsive to the times and the people (Interview 051608). We could have been interviewing Philip Selznick (1992) about his conception of the imperative for evolution toward responsive law (Hong & You, 2018). For our interviewee jurist, this was about the general direction in which the law should head; it was not about absolutes, because absolute attainment of responsiveness is impossible. The principle of *Istihsan* (Jamaludin & Buang, 2013; Kayadibi, 2007) means adaptation of law to the

changing needs of society for justice and equity, as well as adaptation in terms of the way in which it secures a merciful Islamic spirit within the law.

One consequence of the politicized closure of secular courts and their replacement with *shariat* (Islamic) courts after the 1979 revolution was the revival of mediation and ancient *shora* (consultation) traditions. Traditional mediation helped to manage complaints that were beyond the capacity of a disintegrating post-revolution judiciary. The regime noticed that mediation's speedier, cheaper resolution of cases than the courts had enabled made it popular, especially in rural areas where people wanted to reconnect to tribal and Shari'a traditions. This return to mediation traditions was therefore legitimating for the revolutionary legal system. At all stages of Iranian history, traditional mediation fits many of the definitional features of what is today called restorative justice; it even allows for the participation of women as mediators, whereas women are formally and universally excluded as judges in the court system. Local greyhairs (respected elder women) collaborating with greybeards also galvanized networks of women toward engagement with environmental reform (many were interviewed: for example, Interview 051615).

Mohebi's pitch to his superiors when his office became overwhelmed by cases from the Kashaf River crisis was: "Why not try a more caring, 'restorative' approach?" At first, his superiors pushed back against such unconventional thinking. They said that his job as a prosecutor was to enforce the law, and thus he was obligated to clear the river area of illegal activities. Mohebi persisted, however, arguing that the last time the full force of the law had been used to bulldoze through this complex of problems in 1992, the blowback for the state was hugely politically destabilizing when the immiserated rioted. This persuaded Tehran to allow him to try restorative justice and multiparty problem-solving (Interview 041707).

From this prosecutorial node of governance, a "Saviour of the Kashaf River Committee" was convened to engage civil society and business. The committee was a node of governance in the Shearing sense, one that embraced all of the relevant regulatory, industrial, and civil society organizations. However, it, and the prosecutor's office that convened it, were less than "superstructural nodes," insofar as such nodes are "command centre[s] of networked governance" (Burriss, Drahos, & Shearing, 2005). Being in the judicial as opposed to the executive branch, of governance, the prosecutor's office could hardly be allowed by the state to become superstructural. But perhaps the nodes that matter most are not superstructural—perhaps the critical nodes are nodes of multidimensional problem-solving by frontline workers who "proceed until they are apprehended"; they are not significantly empowered in any top-down sense, but they cobble together power that can be found everywhere (Foucault 1990). It would be a pity if nodal governance were to replicate the tendency of Weberian bureaucracy toward managerialism by placing emphasis on a different kind of "head office" mentality. Our data reveal that nodes of local people working at the frontlines of particular problems—in this case, the nodes of those working on the frontline of action concerning the Kashaf River area—are what matter most.

More than 84 representatives were selected by the Saviour of the Kashaf River Committee and sent to many different hamlets along the river to convene regulatory conversations that ran for as long as five hours. The leaders of the NGOs involved saw their role as trying to build trust with the people. One way they did this was to discover

the peoples' demands and communicate these to the government and the judicial branch. They also gathered relevant scientific information about the impacts of the polluted water on health and communicated this to target groups (such as mothers). They used a variety of processes, including night meetings, mutual dialogues, circles, debates, and even the screening of a documentary about underground water. Social networks and social media were used to inform people and network them.

One widespread response involved planting large numbers of (non-fruiting) trees to be harvested at a later date for timber; the space these trees occupied would prevent fruit and vegetables from being grown using polluted water. Prosecutor Bakshi commented that at first no one was confident that this action would stop illegal farming, but it has. Moreover, the police were not involved—instead people in the Mayor's office and those who had originally engaged in illegal planting contributed their labour. These farmers remain engaged in ongoing volunteer work as water quality monitors, working closely with the relevant government offices. According to Bakshi, their main motivation is to keep the area free from criminals.

Restorative justice cases did not only involve farmers and the factories that produced the pollution. We learned of one restorative justice case for the foreman of a large farm who had accepted a bribe from a factory to take irrigation water tainted with pollutants. The foreman lacked awareness of why this was a serious crime; he felt remorse, and he is now a champion for environmental citizenship within the Kashaf River community. This was one of a number of restorative cases that motivated the production of a video to educate farmers about why it is so wrong to become part of the "water mafia."

During negotiations, farmers were given options rather than edicts; the farmers themselves were able to propose options. In Shearing's terms, the process attempted to frame a caring path to "justice as a better future" (Froestad & Shearing, 2012), as opposed to the previous approach of brutally legalistic bulldozing. In addition, in Shearing's terms, this was an AMP process that moved from Awareness to Motivation to a Pathway to a less bleak future (Honig et al., 2015). We were told of one example in which government officers were trying to encourage people living in the unauthorized buildings along the river to move into the new accommodations that had been repurposed for them. One man refused to budge, concerned about his pregnant wife and his opportunities to make a living. The prosecutor called a prosecutor in the man's original city and asked if he could help to find him some work. Once arranged, the man returned to his hometown; some months later, he called the prosecutor and told him that he had named his son after him in gratitude.

Awareness was built in both Persian and Muslim ways. Many meetings occurred in the prayerful setting of the mosque, with appeals from locally respected religious leaders for polluters to respond with an Islamic spirit to the suffering of fellow citizens who were falling sick from consuming polluted food and to their obligations to ensure the health of their own children. The "good Muslim" and "good citizen of Iran" scripts were much discussed by all sides in a kind of motivational interviewing (Lundahl et al 2010). The motivational interviewing "rolled with the resistance," to move from Awareness to farmers finding their own Motivation. New resources often had to be brought into the circle in order for farmers to be able to see a Pathway that would really be helping them to have a better future. For example, farmers were assisted in installing water treatment systems. Appeals in the restorative circles to citizenship obligations

also helped to mobilize large numbers of local volunteers as “Guardians of the River” to patrol for incidents and engage in pollution consciousness-raising conversations with farmers and others. This strategy instantiated the World Future Council’s (2010, 12) vision of restorative cities that encourage “all citizens to take a stake in restorative development.”

At the more macro level of participatory restorative and responsive deliberation (Hong & You, 2018), farmer and industry associations, factory managers, and green NGOs were represented in the mediation process created to come up with a new river management plan.

The mosque used for restorative circles is sometimes the mosque located in the Judicial Agency office in Mashad city. This site melds a spiritual attitude of calm and care with the aura of judicial authority. Whether they are local or associated with the Judicial Agency, mosques’ association with ancient greybeard traditions of mediation implies a dynamic escalation quality to meetings that can run for weeks. The traditional path of escalation is to bring into the meeting progressively more senior and more respected religious leaders or greybeards. While this does involve an escalation pyramid to greater authority to demand action and repair of harm, it also involves an increased ability to mobilize resources for problem-solving purposes, as well as wider circles of care.

Greybeards and religious leader mediators sometimes attended the ritual occasions of families entangled in conflicts, such as weddings and funerals, to escalate the empathic engagement with the family by the most admired members of their community, even if the families were humble farmers or lowly members of that community. Such rituals of everyday life magnify compassion. Sometimes mediators organize a community work party in order to help a farmer get some large work project done on the farm or to overcome some setback.

Greybeard traditions are not as alive in their traditional form in Mashad as they are in some of the provinces visited during the research, such as Lorestan. Our argument here, following Harrington and Shearing (2017), is that these ancient traditions are in the background in Mashad, waiting to be appropriated by contemporary innovation in an ethic of care that will help farmers and factories to adapt to the Anthropocene, to love their fellow citizens, and to love their river.

None of this is to deny that many farmers, as well as some factory owners, were left worse off (particularly when required to relocate). Even then, they could sometimes see that the devastation to their futures was less than it would have been had the full force of the law being used to simply bulldoze through those futures. How much worse or better off people were depended on how rich were the resources of care and support brought into the circle, particularly the funding support and the state-leveraged bank loans to treat waste and shift productive activity to less ecologically destructive locations. In many cases, however, the risk-shifting path of creating the same problems by farming and digging new wells downstream was the path to a temporarily better, yet ultimately unsustainable, future.

The effort to persuade factories to destroy their polluting machines and practices and to retool with in-plant waste treatment, even after many days of multi-party restorative

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negotiations, was less successful than the effort to persuade farmers to destroy their dangerous vegetables and rise to the creative challenge of modifying their farms and wells (Interview 041709). However, with state help, there has been a willingness to link to state-funded treatment plants that serve multiple factories. Many small factories were persuaded to move away from the river by offers of relocation assistance and access to government-funded wastewater treatment by the same kinds of discussion circles the farmers experienced in the mosque to shape up Awareness, Motivation and Pathways. Although regulatory agencies claim that these plants meet international standards, all of the NGO staff whom we interviewed expressed doubts as to whether this was true. Relocated factories were provided assistance to connect their effluent to five water purification and recycling plants funded by the state. Farmers and factories alike have been persuaded to move back 45 kilometers from the riverbanks, which are now becoming covered with trees.

Part 5. Limits of Restorative Nodal Governance in Regulating Corporate Power

On the one hand, this is a redemptive story of genuine movement from the brutal bulldozing tactics of 1992 to motivating restorative pathways for the poor away from poverty. On the other, part of the story is bribes by the rich for pathways to their interests. Unfortunately, pathways to elite interests have more path-dependence than pathways in resilient service of the poor. Interviews with factory managers revealed they had maintained large large wells that been long protected by bribed inspectors, who were in turn protected by politicians. These factory managers continue to ignore the appeals of environmental NGOs and regulators. While much polluted water has been diverted to irrigation for tree planting, many factories continue to sell their polluted waste water illegally to farmers for food irrigation. At the same time, small illegal wells owned by poor farmers are sealed by enforcement action. Networks and nodes of governance need to be intensified rather than abandoned, because, as one leader (Dr Yazadi) in the fight to save the river explained:

The main thing is there is a very big mafia in almost everything, including the water problem, and unless we destroy that mafia, we cannot do anything useful. That mafia is so powerful that if we want to understand it, we have to go to the centre of it. Like a bird flying in the sky cannot see what is in the sea, you have to be a fish to see there (Yazdi 2016).

This corruption destroys the river and undermines the trust and relationships built up between state and citizens through repeated restorative processes. Given the extent of corruption, disenchantment about the use of restorative justice would be expected for problems with such a deeply structural character. Yet, we were astonished when one of the most active leaders in the movement argued completely the contrary. Rather like Dr Yazadi quoted above, this leader argued that restorative justice was the *only* way forward given the imbalance of power involved. She noted that restorative justice had been important in allowing the movement's leaders to get to where they are now in their understanding of the issues and the parties. Had they not done all that talking and relationship building, they could not have found "the unseen helping hands behind the scenes."

In other words, there are people within government and private organizations who are opposed to the corruption and are looking for ways to support a better approach; reformers were able to find each other through the long restorative dialogue. In addition, in our interviewee's opinion, if the usual penal approach had been followed, it would not have identified the roots of the problem—there would not have been discussion about the different layers of pollution, and it would just have dealt with some specific illegality apparent on the surface. Citizens had not been aware of the deep sources of the problem; they thought it was one of seasonal workers and small-scale farmers. Today they see these as only making up roughly 20 percent of the problem, with 80 percent of the problem being factories and other large-scale polluters. Our conclusion is therefore that restorative nodal governance is less effective with crimes of the powerful, although it is still helpful for agonistic (Mouffe, 2013) contestation of hegemony that leads to prosecutions and popular protests, while in other moments it also leads to restorative settlements.

More strands may be needed to reinforce those networks. As one weak reed after another in a network of governance is snapped by corporate power, more strands in the web of governance can be woven into place to strengthen the fabric. Some of those strands must be made of tougher stuff. As regulatory scholars have long shown (Braithwaite, 2008; Gunningham, Grabosky, & Sinclair 1998), complex problems require a complex regulatory mix that must be innovatively and responsively applied when the powerful continue to dominate. When restorative justice repeatedly fails, escalation to more punitive forms of justice to protect the environment is imperative. Our discussion here is intended to show how rather than seeing restorative justice and punitive justice as either/or, we should see them as with/and. Restorative justice can be made more effective when it is woven together with punitive justice, and, in turn punitive justice can be made more effective in the presence of restorative justice options.

In relation to the Kashaf River, it seems necessary for some corporate executives to be put in prison and for their companies to suffer large penalties or even be taken over by the state. Regulatory officials who take bribes must feel they are at risk of criminal prosecution. The entrenched capture and corruption we have described makes this easier said than done. However, the Iranian criminal procedure law of 2015, which now allows NGOs to launch criminal actions against corporate offenders, already shows promise, as does a recent NGO criminal suit that alleged criminality against managers in regulatory agencies regarding industrial wastewater enforcement. An even stronger strand to add to such networked regulation of pollution would be to give NGOs and whistleblowers access to a percentage of the fines imposed in such cases.

Another way to weave together stronger strands is to widen the restorative circle, reaching out not only horizontally into state departments and institutions where there are hidden allies, but also vertically into the international realm. Hence, there has been an effort to strategically strengthen linkages with international NGOs and the United Nations in order to bring about some kind of accountability on the part of government actors and the powerful business interests they protect from the ongoing struggles to clean the Kashaf River.

We have argued that a complex nest of problems requires constant elaboration and the development of a multilevel response that comes from many nodes of governance.

While we do see that fabric being repeatedly torn by corporate power, the most realistic remedy may be to keep sewing it back together with new threads that have the strength to repair the weaker fabric that was so readily torn. It is unlikely that adding more horizontal restorative strands will ever be sufficient for that purpose. Without the specter of vertical escalation to tougher enforcement, it is hard to imagine factory owners who lack an environmental conscience sitting up to take notice. By the same token, vertical state enforcement may remain illusory without pressure being brought to bear by broader international engagement or bottom-up pressure coming from restorative and other locally driven processes. This need for diverse input provides one more reason to resist any geopolitics that excludes and polarizes, that stigmatizes Iran and closes off spaces for widening restorative circles in the international domain.

Turning back again to Shearing, one main agenda of his scholarship has been exploration of how landscapes of inequality are produced and reproduced and how they might be reconfigured as landscapes of equality. Shearing's own reflections on the insights about power arising from the restorative approach to the Kashaf River crisis that we detailed here are as follows:

- The nodal governance perspective directs attention to assemblages of power and contests between these assemblages;
- The storybook focus identifies the narrative structures that maintain power differentials and considers how these might be challenged and refigured;
- The justice as a better future theme directs attention to a normative focus on shifting power architectures that moves away from backward-looking accountability;
- The AMP focus explores how shifts in architectures of Awareness, Motivation, and Pathways to empowerment of the poor might challenge path-dependencies that favor entrenched power;
- The ethic of care theme recognizes human entanglements with other earthlings and the importance of appreciating the broader power structures inherent in these relationships, which can either trap the powerless or be harnessed for liberation along the riverbanks.

Coherence forged by the integration of concepts shared between normative and explanatory theory is likewise central to Pettit's (1999) republican theory of freedom as non-domination. Braithwaite (2007) argues that through empirical studies of landscapes of the denizenship of places, he learned from Pettit that regulation remains misunderstood and dangerous unless moored to normative commitment to domination reduction. We can therefore integrate Shearing's five insights as nodally restored non-domination.

Conclusion

In the Kashaf River corridor, we discovered, somewhat surprisingly, a coherence in five strands of Shearing's thought that has not been apparent in previous research. Nodal governance of the river tackles nests of problems as diverse as homelessness, ill-health, crime, employment, state tyranny and ecological crisis. To deliver on these multiplex fronts, nodal governance needed to do more than create Awareness and Motivation for reform; it also needed to uncover Pathways to a transformative geo-

politics of place that involved a restorative ethic of care. That could not be accomplished without patient, participatory restorying of the river by its peoples, a restorying that connected to Shari'a and to the Persian traditions of these particular peoples in counterhegemonic ways. The power of the people was feeble relative to the power of the factory owners and police bulldozers until it mobilized the muscle of the mosque, the prosecutor, NGOs, and the mayor at other nodes that were locally strategic. Justice as a better future was an imaginary that opened glimmers of possibility for river people who wanted homes, jobs, and freedom from fear of crime; for middle class city-dwellers who feared food contaminated by the river; for a mayor, a police force, and a state for whom rioting citizens burning banks and police headquarters was not the destabilized future they wanted; and for religious leaders who wanted a better future of justice with a merciful Shari'a face. Surprisingly, European diplomats also play a part in our story. Their justice as a better future for the Anthropocene involves an Iran that commits to the Paris agreement on climate change and that receives a caring ethic of practical help from Europe to keep its rivers clean and flowing. This is in the hope that crisis in Iran will not push it over a cliff into threatening a regional nuclear conflagration, which would represent a desolate future for Europe, as well as for the people of Iran.

Fuller (1964, 33) argued that the full judicial process is only good for two types of questions: yes/no ("Did she do it?") and more/less ("How much should be paid?") questions. Polanyi (1951, 174–84) distinguished these from polycentric problems that require multidimensional negotiation of interacting complexity. While the Fuller/Polanyi insight remains a rich one, we have seen that it does not preclude a judicial agency from becoming a node of governance that helps to solve polycentric problems with polycentric (nodal) governance. It does not preclude a judicial agency from hiring mediators, recruiting victim support volunteers, and networking multiple layers of governance and civil society using a restorative and responsive strategy that is also capable of escalating up to imprisonment of factory owners. It does not preclude a totally patriarchal male judicial branch from catalyzing women mediators to participate in restorative nodal governance. Critics could argue that perhaps the catalytic node of governance here was not the office of Bakhshi Mohebi, but the Saviour of Kashaf River Committee, or even the mayor's office. These are not unreasonable ways of seeing the Kashaf River community's history.

Our reflections on this narrative attract us to the hypothesis that institutional structures do not prevent new nodes of governance of polycentric problems from being energized almost anywhere and under almost any circumstance of democratization. New nodes can emerge in the most authoritarian region of an authoritarian society. This is possible because of Shearing and Ericson's (1991) insight that restorying a problem-solving imaginary can occur in the most implausible of authoritarian locales, including the lunchrooms of local police stations where police share stories of how they worked with others to stick with a problem and fix it. Rewriting institutional rulebooks is important intellectual work and rightly attracts scholarly attention. Rewriting storybooks at local nodes of governance that happen to be populated by reformers with a transformative imagination attracts less interest—but it too deserves similar attention.

Decades from now, the Kashaf River may be seen as a site of deep desertification. Fear of that does not mean that wealthy city-dwellers should be content to nestle with their grandchildren in the temporary comfort of their city while failing to engage with

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experiments in new modalities of governance that attempt to hold back the desert from rolling over the grandchildren of the river. Mashad citizens can and are attempting to keep some clean water flowing for future generations. The survival threats of the Anthropocene demand learning from experimentation. These threats present the meager public policy treatments of the Holocene with what amounts to multiple-drug resistance. Proximate human extinction is likely without experiments in restorying our future. It is plausible that accidental cascading of a nuclear weapons exchange from Pakistan or Israel (Braithwaite & D'Costa, 2018) could wipe out the people of the Kashaf River long before the desert rolls over them. We must not be nihilistic about their struggle, even if that struggle makes life better only temporarily. Due to the complexity of polycentric crises, there is an imperative to pursue new ideas for seeding disparate problem-solving imaginaries on many fronts at once. The plural assemblage of thought proposed by Clifford Shearing is just one such possible method of experimental bricolage. A method of searching out other spaces of extreme depth and complexity with respect to polycentric problems could uncover other multidimensional solutions that prove theoretically coherent in least-likely cases and at least-likely sites (Eckstein, 2000).

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ENDNOTES

ⁱ Western definitions of restorative justice should perhaps not be of central relevance given that the restorative narrative here is grounded in Persian and Islamic traditions. Nevertheless, these practices fit a definition of restorative justice as a relational process in which all stakeholders in an injustice have an opportunity to come together to discuss who has been harmed and what should be done to repair the harm and meet their needs.

ⁱⁱ We first sent our article to Shearing for comment during its revision phase. We are grateful for his feedback.

ⁱⁱⁱ Each involved collaborations with nodes of Shearing co-authors—more than a dozen—who were critical to their development. We mean no disrespect to them. It is just that our work forges links across all five “Shearing insights”; Shearing is the only author of all five, and none of his co-authors recur across the different insights.

^{iv} Refer to endnote 3.

^v Relevant interviews were with a dozen Mediation Council mediators, prosecutors, and judges operating through that office (Interview 051627), businesses affected by court enforcement actions (Interview 091707), and environmental and other NGOs involved in some of the cases.