

<b>Institution:</b> University of Lincoln		
<b>Unit of Assessment:</b> 18 - Law		
<b>Title of case study:</b> Developing the Integration and Effectiveness of Environmental Rights and Governance		
<b>Period when the underpinning research was undertaken:</b> 2014 - 2019		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b>  TURNER Stephen HALL Matthew	<b>Role(s) (e.g. job title):</b>  Senior Lecturer Professor of Law and Criminal Justice	<b>Period(s) employed by submitting HEI:</b>  1 Aug 14 – 31 Aug 19 1 Aug 14 – 31 Dec 20
<b>Period when the claimed impact occurred:</b> 2015 - 2020		
<b>Is this case study continued from a case study submitted in 2014?</b> N		
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)  Research by Turner and Hall contributed significantly to initiatives on the protection of the environment within major European and international bodies. In turn, this enabled these bodies to strengthen environmental policy making and practice. Turner's research contributed to the mandate of the United Nations Special Rapporteur for Human Rights and the Environment, and in particular to the drafting of the 2018 Framework Principles on Human Rights and the Environment, and to the decision for specific focus to be given to air pollution. Hall's research on environmental crimes shaped the work of the environmental prosecutors and practitioners through a pan-EU network and influenced practice in the prosecution and sentencing of environmental crimes across Europe.</p>		
<p><b>2. Underpinning research</b> (indicative maximum 500 words)  <i>Standards for Environmental Rights</i>  Over the last forty years, environmental rights discourse has emerged as a way of supplementing traditional environmental law discourse. Whilst the concept of environmental rights is well established and much debated, there has been a lack of understanding about how to actualise such rights. Turner (3.1) developed a method of macro analysis which he used to identify and analyse problems in the development of global environmental governance. This shows that decompartmentalising legal analysis can generate new insights into how environmental governance can be improved. Between 2015-19, Turner led the 'Standards in Environmental Rights Project' involving 21 international experts. The project pioneered analysis of how standards of protection can be directly associated with environmental rights around the globe. The project contributed to the development of the substantive content of environmental rights and identified options for their implementation within legal institutions so as to stimulate strategies and policies relating to the use of human rights for the protection of the environment. This research project resulted in a key publication: <i>Environmental Rights. The Development of Standards</i> (3.2), where Turner et al defined methods for the identification and development of standards within environmental rights. Synthesising the project findings, Turner specifically showed how such standards can be accommodated within existing institutional structures (3.3).</p> <p><i>Environmental Crimes</i>  In 2014, Hall identified that there was a lack of empirical evidence to demonstrate what interventions or support victims of environmental harm needed (3.4), and showed that our understanding of victim needs was based upon theoretical discussions. This led Hall to question whether criminal justice and administrative law systems were properly meeting victim needs or indeed the wider needs of a community. By drawing upon findings from a more established victimological literature, he concluded that remedies such as mere payments of money were unlikely address the impacts of environmental harm on victims (3.4). Hall's survey of the literature on civil, criminal, restorative and administrative justice showed the potential to bridge</p>		

this gap, but he argued that there were cultural reasons preventing the extension of a wider range of support to victims. Hall concluded that further empirical research was required. A more complete account of these arguments, tested over a wider range of activities and scenarios, including corporate harm and transnational crimes was provided in 3.5 (chapters 3 and 5). In this book, Hall advanced the state of knowledge by deconstructing the notion of environmental harm thereby enabling victims to be more readily identified and responses to wrongs developed (3.5, chapter 7). In other words, more calibrated constructions of harm and victim can be addressed through more carefully calibrated forms of environmental sanction (administrative, criminal or other).

This body of research fed into Hall's contribution to a major pan-European research project aimed at improving compliance with EU Environmental Law by Member States. Hall co-authored a report revealing specific gaps in data as well as gaps in policy frameworks in 28 EU Member States (3.6). Drawing on his earlier his research findings on how to respond to environmental transgressions (3.5, chapter 6), and which identified importance of securing data on the victims of crimes and of considering alternatives to traditional penalties (3.5, chapter 3), Hall specifically recommended: (i) the systematic recording of data into a shared repository; (ii) the development of coordinated concepts of components of crimes; (iii) changing the over-reliance on small fines as a means of punishing offenders; and (iv) targeting the activities of corporate actors and transnational crime groups (3.6).

### 3. References to the research (indicative maximum of six references)

- 3.1 SJ Turner, 'The Use of 'Macro' Legal Analysis in the Understanding and Development of Global Environmental Governance' (2017) 6 *Transnational Environmental Law* 237-57. <https://doi.org/10.1017/S2047102516000236>
- 3.2 SJ Turner, S Shelton, J Razzaque, O McIntyre and J May (eds), *Environmental Rights. The Development of Standards* (Cambridge University Press, 2019). <https://doi.org/10.1017/9781108612500>
- 3.3 SJ Turner, 'Conclusion: Analysing the Development of Standards in the Field of Environmental Rights' in Turner, et al, *Environmental Rights – The Development of Standards* (Cambridge University Press, 2019). <https://doi.org/10.1017/9781108612500>
- 3.4 M Hall, 'Victims of environmental crime: Routes for recognition, restitution and redress' in T Spapens, R White and R Kluin (eds), *Environmental crime and its victims: Perspectives within green criminology* (Routledge, 2014) 103-118. Available on request
- 3.5 M Hall, *Exploring green crime: introducing the legal, social and criminological contexts of environmental harm* (Palgrave MacMillan, 2015). Available on request.
- 3.6 M Hall and T Wyatt, *Tackling environmental crime in Europe. A LIFE-ENPE Capitalisation and Gap-filling Report* (2017). [https://www.environmentalprosecutors.eu/sites/default/files/document/Cap%20and%20Gap%20report\\_FINAL\\_Print.pdf](https://www.environmentalprosecutors.eu/sites/default/files/document/Cap%20and%20Gap%20report_FINAL_Print.pdf)

### 4. Details of the impact (indicative maximum 750 words)

Research conducted at the University of Lincoln shaped two areas of policy and practice: (i) international policy on environmental standards; and (ii) policy and practice in respect of environmental crimes across Europe.

#### (i) Enhancing Global Policy on the Use of Environmental Standards

The United Nations is committed to safeguarding the environment and human rights, and to achieving all 17 UNSDGs in the 2030 Agenda for Sustainable Development. This is a major

policy agenda cutting across the work of UNEP and UN Human Rights, as well as impacting on the practices of all States. The work of the UN Special Rapporteur on Human Rights and the Environment is central to this agenda. As recognised by the Special Rapporteur (5.5), Turner has played an influential, supporting role in this agenda by (a) generally informing the Special Rapporteur's mandate and (b) informing specific projects and reports undertaken by the Special Rapporteurs. This has helped enable the Special Rapporteurs to deliver an important part of their mandate to identify, promote and exchange views on good practices relating to human rights obligations and commitments to inform, support and strengthen environmental policy making specifically in the area of environmental protection (5.1).

*(a) Shaping Policy Mandates.*

Prior to the REF period (2012), the Human Rights Council appointed Professor John Knox as the first United Nations Independent Expert on Human Rights and the Environment. Between 2012 and 2015 his main focus was to study and report on the developing field of human rights and the environment. However this mandate came up for review in 2015. Professor Knox played an integral part in the early development of the 'Standards in Environmental Rights Project' led by Turner. Turner was then able to use the findings from the project (3.2; 3.3) to inform his representations to the Special Rapporteur through the UN Human Rights consultation processes. Turner demonstrated how environmental rights could be given clarity and tangible meaning through their equation with specific standards. In addition to informing the form and content of the Framework Principles (section b below), Turner et al's research informed Knox's renewed mandate. This is confirmed by the Special Rapporteur, who testifies that Turner's 'work on human rights and the environment has helped to inform my mandate generally' (5.5). When the mandate was renewed by the Human Rights Council in 2015, Knox's role was repurposed from Independent Expert into that of a Special Rapporteur, and the mandate now covers a wider and more purposeful remit to identify, promote and exchange views on good practices in the use of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (5.1). In line with Turner et al's research, the Special Rapporteur's new mandate specifically included a remit to identify challenges and obstacles to their full realization. Furthermore, the mandate shifted to focus more on implementation and compliance, which reflected the work of the 'Standards in Environmental Rights Project'.

Through a UN consultation process, Turner drew upon his expertise in environmental rights (3.1-3.3) to inform the new Special Rapporteur's (Dr Boyd) decision to make the focus of his first Thematic Report on 'Clean Air and the right to a healthy and sustainable environment' in 2019 (5.2). This specifically urged States to establish air quality legislation, regulation and standards. Turner was one of only two independent academic experts to supply evidence to Boyd. Drawing on his expertise on environmental rights (3.1-3.3), he specifically identified the need to target corporate actors and provided examples of good practice in respect of GHG reductions (5.3) for the Special Rapporteur's 2<sup>nd</sup> Thematic report on 'Safe Climate'. This informed the Special Rapporteur's analysis and final recommendations (5.4, para 16-25, 77(c) and 81).

*(b) Informing the Content of Global Policy Documents.*

In order to inform his preparation of a report to the UN Human Rights Council and composition of a set of Framework Principles on Human Rights and the Environment, the Special Rapporteur initiated a consultation process in October 2017. As an invited consultee, Turner submitted evidence to the Special Rapporteur highlighting gaps within existing environmental protection regimes and specifically on the lack of effective enforcement mechanisms. He expressly called for the Framework Principles to include obligations for states to legislate on 'standards' of environmental protection but also to ensure that enforcement and compliance mechanisms (of those standards) are fit for purpose. This evidence was influential in the decision of the Special Rapporteur to accommodate specific points within the Report and the 'Framework Principles'. Professor Knox confirms that Turner's submissions were 'among those that were most well-supported and that most influenced the process' (5.5). Turner's research is reflected in the text of two provisions of the Framework Principles (UN Doc. A/HRC/37/59): Principle 11 provides that 'States should establish and maintain substantive environmental standards that are non-discriminatory, non-retrogressive and otherwise respect, protect and fulfil human rights'.

Principle 12 provides that ‘States should ensure the effective enforcement of their environmental standards against public and private actors.’

Turner was consulted by the World Health Organization (WHO) in developing its ‘Global Strategy on Health, Environment and Climate Change’ 2018. His research assisted the WHO identify gaps in the legal framework as presented in previous WHO guidance concerning the responsibilities of states relating to environmental rights. As a result of this, the WHO strategy was revised to incorporate Turner’s advice (5.6). Drawing on the Standards in Environmental Rights Project’ and published research on quantitative environmental rights (3.2; 3.3), Turner also contributed to the drafting process of training materials to UN Environment for use in their Global Judges Programme. The influence and value of Turner’s contribution is confirmed by the training programme lead, Professor Daly (5.7). In addition to publication 3.4, Turner’s research informed a core training manual, the UN Environment ‘Global Judicial Handbook on Environmental Constitutionalism’. The UN Environment programme delivers training to judges from over 100 countries and the research on environmental standards is enhancing the capacity of judges to make use of international best practice in the exercise of their judicial function.

#### (ii) **Enhancing Prosecutors’ and Judicial Capacity to Address Environmental Crimes in Europe**

According to the European Environmental Bureau (Crime and Punishment Report March 2020), environmental crimes are estimated to cost \$258billion/year globally and €50billion in the EU. It is also one of the ten priority areas of the EU Policy Cycle in the fight against organised and serious international crime (2018-21).

Hall’s expertise led to significant activities with the Network of Environmental Prosecutors (ENPE). An informal network established in 2012, ENPE received funding in 2015 under the EU LIFE programme for a project to develop compliance with environmental law (the LIFE ENPE project). Drawing on Hall’s expertise (3.4-3.5), LIFE ENPE commissioned Hall to produce a baseline ‘Capitalisation and Gap-filling’ Report of what is known about environmental crime, and how it is being approached by prosecutors and judges in all 28 EU Member States. Hall and Wyatt’s subsequent Report identified key stakeholders and other users of training and information on environmental crime, providing a key contribution for ENPE in confirming a lack of consistent reviewable data on the reporting, prosecution and sanctioning of environmental crimes across Europe. (3.6; also 5.9, section 6.1) This was something suspected, but only here confirmed by research (see 5.9, section 6.1), and as the first principal project delivery for LIFE ENPE, Hall and Wyatt’s Report fundamentally informed the wider activities of the project. It specifically informed the conduct of other project activities, such the development of training needs analysis and delivery (5.9, section 6.1). The Report specifically identified themes and topics where training, guidance and awareness raising were most needed (5.9).

Hall’s research also facilitated the growth and formal establishment of ENPE into a new international not-for-profit association *ENPE aisbl* in 2016 (see <https://www.environmentalprosecutors.eu/background>). By confirming the paucity of data gathering and exchange, calling for improvements in data sharing and use practices, and identifying key stakeholders for this network, the Report (5.9) was a key piece of evidence in the drive to grow the network as a means of addressing these practical issues. Originally comprising eight members, it now comprises 45 member organisations from 30 countries. In addition, the sharing of the Report led to improved dialogue and links with other EU practitioner networks (such as the European Union Judges Forum for the Environment, the European Union Network for the Implementation and Enforcement of Environmental Law, and the Environmental Crime Network). This dialogue and collaboration with practitioners further improved the collation and dissemination of information on environmental crime across wider networks of practitioners (5.9, section 6.1). Second, as a training tool, the research is used to train judges and prosecutors, and through the ENPE led to harmonising of environmental law concepts and changed practitioner understandings of barriers to the prosecution of environmental crimes (5.10). Hall and Wyatt’s Report formed part of a resource toolkit used by sentencing practitioners in the across the EU dealing with environmental crimes, which has been delivered to over 430

organizations and 1000 individual environmental crime specialists through the ENPE (5.8). This is one of the largest pan-European environmental initiatives on crime practitioner awareness raising and training initiative to date. Third, through changed practices, the research has resulted in more effective and successful prosecutions for environmental crimes – and potential deterrence to harmful environmental activities (5.10).

**5. Sources to corroborate the impact** (indicative maximum of 10 references)

- 5.1 Human Rights Council Resolution 28/11, 7 April 2015.
- 5.2 Report of the Special Rapporteur on the Issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc. A/HRC/40/55, 8 Jan. 2019.
- 5.3 United Nations Human Rights, *Replies to the questionnaire safe climate and human rights* (2019).
- 5.4 Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc A/74/161, 15 July 2019.
- 5.5 Email: Knox Testimonial 18/8/2018.
- 5.6 Email: WHO testimonial 23/1/2019.
- 5.7 Email: Prof Erin Daily Testimonial 21/12/18.
- 5.8 ENPE Newsletter 17 July 2020.
- 5.9 LIFE-ENPE Final Report which was submitted to the EU Life Programme on 04/12/20.
- 5.10 LIFE-ENPE Layman's Report October 2020.