

Institution: University of Hull		
Unit of Assessment: 19 Politics and International Studies		
Title of case study: Shaping UK and International Fisheries Law and Policy		
Period when the underpinning research was undertaken: 2006-2019		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Richard Barnes	Role(s) (e.g. job title): Professor of Law	Period(s) employed by submitting HEI: 1999 - 2020
Period when the claimed impact occurred: 2016-2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact		
<p>Fisheries are a critical part of the UK and global economy (reflected in UN SDG 14), worth \$130 billion globally, €7.5 billion in Europe and almost £1 billion in the UK. Research conducted by Professor Barnes and colleagues at the University of Hull is shaping domestic and international fisheries governance in two significant ways:</p> <ol style="list-style-type: none"> 1. by providing expert evidence to Parliamentary Committees and stakeholders, which is enabling scrutiny of Government policy, and shaping post-Brexit policy and legislation on fishing in a way that advances public benefits; and 2. by advising and influencing the policy position of the WWF, enabling them to leverage change in fishing policy and practices around the world. 		
2. Underpinning research		
<p>The operation of rights-based fisheries management and international legal barriers to reform have been marginalised within the broader literature on fisheries management. The Marine and Maritime Institute (MMI) at the University of Hull, with its strong maritime heritage and world-leading research, is advancing marine fisheries regulation. University of Hull research feeds into international research networks and has been pivotal in unpacking and explaining how social, economic and political forces shape regulation [R1, R2 & R6; G2-5]. Professor Barnes' research shows how law is instrumental in shaping fisheries management options and policy instruments (such as 'smart regulation'): how it can enable or constrain specific economic or political options for fisheries management and governance [R2]. He was first to establish and explain the structural limits and features of international law that determine what form specific rules may take, especially for shared resources [R2; G1], and proposed theories of change to facilitate interventions in fisheries management and governance [R6]. These key research findings underpin the impact:</p>		
Key research finding 1: Legislating for fisheries management and governance		
<p>The research broke new ground by showing how the regulation of fisheries must encompass certain public (policy) interests: meeting food supply needs, maintaining political and social order and protecting the interests of future generations [R2; G1]. It extended this analysis to high seas fisheries, providing new insights into the tragedy of the commons debate. It further articulated how requirements of co-operation and sustainability come from international fisheries law, and must be accommodated within domestic management regimes [R1]. By demonstrating how international law sets limits on which policy instruments can be adopted by States to manage fisheries, the findings showed how domestic legal frameworks can support or diminish the effectiveness of fisheries management [R3; R4].</p>		
Key research finding 2: Governance options for fisheries		
<p>Fisheries management is a typical wicked problem. In light of the limits of traditional regulatory approaches, Barnes' research shows how the rights-based approaches and techniques of 'smart regulation' can and should be applied to international fisheries management and governance [R6]. It therefore makes an important contribution to the new environmental policy instruments and new modes of governance literature [R1, 2, 4 & 6; C7]. This research was conducted as part of a WWF think tank [R4 & 5], with action research in two tracks: to seek out information from regional fishing concerns and to provide practical scalable advice for fishery managers and industry. The findings show how to implement rights-based approaches and instruments, which have been traditionally confined to domestic fisheries due to the institutional limitations of high seas fisheries. Barnes' research shows how excludability of access can be enabled in law [R2, R6]. Combining these</p>		

research findings with insights from partners on a UN Food and Agriculture Organisation project [R5], we show how combinations of legal/non-legal interventions in fishing practices can improve fisheries management on the high seas and contribute to UN SDG14 [R5; G1-3].

3. References to the research

[R1]. R. Barnes, 'Revisiting the Public Right to Fish in British Waters' (2011) 26 *International Journal of Marine and Coastal Law*, 433-461.

[R2]. R. Barnes, *Property Rights and Natural Resources* (Hart Publishing, Oxford, 2009) SLS Prize for Outstanding Legal Scholarship).

[R3]. R. Barnes, 'The Law of the Sea Convention: An effective framework for domestic fisheries regulation' in D. Freestone, R. Barnes and D. Ong (eds.), *The Law of the Sea: Progress and Prospects* (Oxford, OUP, 2006), 233-260.

[R4]. R. Barnes, *Assessing the Application of Innovative Incentive-Based Tools to Reform Highly Migratory Species from Regional to Global Scales* (WWF, Washington DC, 2018) 128pp.

[R5]. J. Anderson, F. Asche, R. Barnes, S. Bush, B. Gentner, C. Hufflett, G. Libecap, V. Maharaj, L. Nelson, W. Norris, G. Perotti, U. Tietze, K. Wachowicz, *Principles for Fisheries Management in Areas Beyond National Jurisdiction—the Essential Role of Incentive-Based Approaches* (WWF, 2018).

[R6]. R. Barnes, 'The pursuit of good regulatory design principles in international fisheries law: What possibility of smarter international regulation' in J. van Erp, M. Faure and A. Nollkaemper (eds.), *Smart mixes in relation to transboundary environmental harm: interactions between international, state, and private* (Cambridge University Press, Cambridge 2019), 97-125.

The high quality of the research is indicated by the selection of international quality outputs for the REF 2014 [R2 (SLS prize), R3] and REF 2021 [R7]. This is reinforced by the underpinning grants, which supported papers [R1, R4, R5, R6]:

[G1]. £25,000. WWF: *Tuna Regional Fisheries Management Organisation Reform* (2012)

[G2]. £252,544. EU FP7: *Vectors of Change in European Marine Ecosystems and their Environmental and Socio-Economic Impacts* (2011-2015) Co-Investigator with J. Atkins, M. Elliot and R. Wurzel (Hull)

[G3]. £281,003. EU H2020: *Climate Change and European Aquatic Resources* (2016-2020)

[G4]. £12,220. Department for Environment, Food and Rural Affairs: *Control of Damaging Activities in Natura 2000 sites* (2006-2007) with D. Burdon and S. Boyes (Hull)

[G5]. £88,600. Department for Environment, Food and Rural Affairs, Project ME4118: *Environmental indicators: a structured approach to the evaluation of impacts arising from human activities at sea* (2005-2008) with H. Rees (CEFAS)

4. Details of the impact

Through international, interdisciplinary research projects and networks [G1-5], the research enabled dialogue between academics, practitioners and policy-makers to better understand and address barriers to sustainable fisheries regulation [R4&6; G1&3]. This impact was manifest in two areas of policy/practice:

(1) Shaping UK fisheries policy

Barnes' research has influenced the UK government's post-Brexit fisheries policy. Due to his recognised expertise in domestic and international fisheries law [R1-7], Barnes was invited to provide expert evidence to Westminster and Welsh Assembly committee inquiries on eight occasions in respect of the policy and the content of the Fisheries Bill. The House of Lords 2016 [C1], the Northern Ireland Affairs Select Committee [C4], the Environment, Food and Rural Affairs (EFRA) Committee [C3] and the Welsh Assembly Climate Change, Environment and Rural Affairs Committee (CCERA) [C6], have all relied on this advice to inform: their scrutiny of Government policy on fisheries management post-Brexit; the content of the Bill; and the decision to give legislative consent to a Bill. Barnes is cited more than 50 times in their reports. This influence has advanced public benefit in three key ways:

(i) Embedding sustainable management and accountability in policy

New provisions in the Fisheries Act 2020 evidence the influence of the underpinning research [C12]. A critical element of this is advice [R2&3] on international obligations to cooperate in managing fisheries and ensuring the sustainable regulation of fishing: Commenting on the CFP and Law of the Sea Convention to the Lords European Union Committee, ‘Professor Barnes argued that fisheries management had to ‘proceed on the basis of co-operation, without which we will have to go back to situations of competitive overfishing.’ [C1: 85] This resulted in the Committee recommendation that: ‘The UK should not discard the positive elements of the CFP that successive Governments have worked hard to achieve, such as sustainability and regional co-operation.’ [C1: 87] In turn, this generated the Government response: ‘The Government ... [is] ready to co-operate with adjacent states to ensure that shared and straddling stocks are managed sustainably and effectively. We want to avoid the risk of over-fishing at all costs.’ [C2: 2]

Other key advice that was followed by the Lord’s Committee included: the need to avoid a regulatory deficit in withdrawing from the CFP and to align UK policy with the CFP post-Brexit [C1: 25& 52]; the need to address historic fishing rights [C1: 37&38]; the need to make access to surplus stocks available to other States [C1: 36]; the need to secure independent membership of RFMOs was accepted [C1: 198-199]; and the need for continued structural funding for the industry recognised [C4: 115]. Drawing on his research [R2&3], Barnes was a leading voice among academics whose advice, via the Committee findings, was accepted in the Government’s policy response on future UK fisheries management [C2: points 1, 2, 4, 11, 21, 22 & 34], with corresponding provisions in the Fisheries Act 2020.

The EFRA Committee accepted Barnes’ recommendation that the Bill should contain statutory duties [C3: 27]: ‘Professor Richard Barnes argued for restating the objectives in Clause 1 as duties, suggesting it would “aid decision-makers by providing a clear set of reference points that must be considered in the exercise of discretionary powers”’ [C3, 71]. In written evidence to the Public Bills Committee on the 2018 Fisheries Bill, Barnes called for a strengthening of the fisheries objectives and a greater focus on promoting public benefits [C11]. Government introduced a revised Fisheries Bill that restated these objectives as duties, thus strengthening the environmental credentials of the Bill and, ultimately the Fisheries Act, thereby providing a mechanism to hold decision-makers to account for the mismanagement of fisheries. It also included a new ‘national benefits objective’ [C12: clauses 1(8) and 6-11].

(ii) Enabling Parliamentary scrutiny

The research enabled critical scrutiny of government policy and legislation, by providing and presenting the evidence base to Parliamentary committees to challenge the government policy position. Specifically, the EFRA Committee adopted Barnes’s advice (underpinned by [R6]) that financial support must be linked to the coastal community development and sustainable fishing:

‘... Barnes suggested that the fisheries objectives would be enhanced by “linking the provisions on financial assistance under Clause 28 to the objectives in Clause 1” ... to “facilitate an alignment between developmental activities and the operational delivery of sustainable fisheries”’. [C: 84] This resulted in the recommendation that ‘The Government should also make direct reference to this issue in the Bill by expanding Clause 2 to make specific reference to economic regeneration of coastal communities.’ [C3: 90]

Additionally, the Welsh Assembly CCERA committee accepted Barnes’ advice (underpinned by [R3]) that the Fisheries Bill 2018 requires stronger oversight and should include management duties [C6: 44, 59 & Conclusion 7]. This resulted in a recommendation to give legislative consent to the Fisheries Bill by the Committee.

Furthermore, Barnes’ research enabled the Lords European Union Committee to challenge the government position on the separation of fishing and trade. The Committee juxtaposed Barnes’ comments on the need for access to EU markets for the seafood sector as a whole (underpinned by [R6]) against the Secretary of State for Environment’s position. Lord Teverson, the Chair of the Committee specifically drew upon Barnes’ evidence to challenge the Governments strategy/policy of trying to separate out trade and fisheries issues in the negotiations with the EU [C13: pp.5-6]. Barnes continues enable this legislative scrutiny, giving a private briefing to the EFRA Select Committee on key issues facing the UK in post-Brexit management of fishing, and receiving an invitation to give evidence to the Committee on the Future Relationship with the European Union.

(iii) Enabling stakeholder participation in legislative processes

The reach of the impact extends to the fishing industry. In his advice to the Welsh Assembly, the Chairman of the New Under Tens Fishermen's Association (the industry association representing thousands of inshore fishing vessels) directly relied upon Barnes calling for stronger controls on Fisheries Statements in the Fisheries Bill:

'With regard to the Joint Fisheries Statement, a more technical element of the draft Bill, we make no apologies for referring to the wise and erudite comments made by Professor Richard Barnes of Hull University in this respect. [...] his written comments ... we therefore copy below...' [C5]

Barnes' wider influence on the sector was enabled through a keynote address about the legal complications around leaving the CFP (underpinned by [R3 & 6]) to UK fishermen, hosted by the Blue Marine Foundation and the Worshipful Company of Fishmongers in May 2018 and numerous media engagements [C10].

(2) Changing fisheries management and governance on the high seas

In addition to shaping UK government fisheries policy, Barnes has engaged with key stakeholders to influence policies, procedures and practices in international waters. Through research services to the WWF, Barnes' research has enabled the WWF to develop strategies and action points that can be used by fisheries management bodies to improve sustainable fishing on the high seas. Barnes, as a consultant and member of a global think tank (GLOTT), advised the WWF on how it can leverage change in the practices of high seas tuna fisheries through legal instruments [R4 & 6; C7]. The GLOTT was part of a larger project on Tuna Fisheries and Areas Beyond National Jurisdiction (Tuna ABNJ). The WWF is a lead partner in this ongoing project. Research by Barnes has been taken up by the WWF and is being used by a network of WWF advisers to inform their work across 11 Regional Fisheries Management Organisations (RFMO), where the WWF is working to transform regional fisheries management so that RFMOs take sound policy decisions and adopt practices that help reduce harmful overfishing, illegal fishing and bycatch practices. Barnes' research [R2, R6] was used to shape WWF's position on 'Bellagio statement' on 'rights-based management' that led to a multimillion-dollar World Bank project on incentive-based change in tuna fisheries. Vishwanie Maharaj, Lead Economist - Oceans, WWF-US, states: '*Barnes' research, particularly his advice on the regulatory limitations of implementing right-based measures on the high seas, is used by our team, and has been helpful in shaping our policy and approach to advocating reform of fisheries management in the East Pacific Ocean/high seas*' [C8]. This has resulted in calls to reduce fleet capacity through rights-based mechanisms and incentive based tools in the Inter-American Tropical Tuna Commission where capacity is to reduce from a potential 296,415 m³ to a target of 158000m³ [C9]. An independent evaluation of the Tuna ABNJ project in 2020 states that the number of stocks managed under a harvest strategy (HS) or having a HS being developed increased from one to fourteen, while the number of overfished stocks decreased by more than 60%; The percentage of stocks fished at a sustainable level almost doubled, increasing from 43% to 78%. Although it was impossible to objective determine the precise contribution of the ABNJ Tuna Project, 'the project efforts undoubtedly have contributed significantly to this outcome'. [C10]

(3) Summary

Barnes' research [R 1, 2, 3&6] has shaped the development of UK fisheries law and policy, and improved its capacity to deliver sustainable management for the public benefit. It continues to influence the way fisheries are managed on the high seas.

5. Sources to corroborate the impact

[C1] House of Lords European Union Committee (2016). *Brexit: fisheries*. HL Paper 78
<https://publications.parliament.uk/pa/ld201617/ldselect/ldecom/78/78.pdf>

[C2] Government Response to House of Lords EU Energy and Environment Sub-Committee *Report into the future of fisheries in light of the vote to leave the EU*:
<https://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Gvt-Response.pdf>

- [C3] EFRA Committee. *Beyond the Common Fisheries Policy: Scrutiny of the Fisheries Bill*. 11th Report of Session 2017-19.
<https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/1722/1722.pdf>
- [C4] House of Commons Northern Ireland Affairs Committee. *Brexit and Northern Ireland: fisheries*. HC 878. Available at
<https://publications.parliament.uk/pa/cm201719/cmselect/cmniaf/878/878.pdf>
- [C5] Legislative Consent Memorandum on the UK Fisheries Bill. Evidence from the New Under Ten Fishermen's Association (NUTFA)
<http://www.senedd.assembly.wales/documents/s82877/Paper%20-%20New%20Under%20Ten%20Fishermens%20Association.pdf>
- [C6] National Assembly for Wales Climate Change, Environment and Rural Affairs Committee. *Report on the Legislative Consent Memorandum in Relation to the UK Fisheries Bill*.
<http://www.assembly.wales/laid%20documents/cr-ld12141/cr-ld12141-e.pdf>
- [C7] WWF, *Principles for Fisheries Management in Areas Beyond National Jurisdiction- the Essential role of Incentive Based Approaches* (WWF, 2018)
- [C8] WWF, Testimonial on the impact of Richard Barnes on WWF's tuna strategy, Lead Economist - Oceans, WWF-US, 26.2.2021
- [C9] WWF Position Statement for the 94th Meeting of the Inter-American Tropical Tuna Commission: https://www.iattc.org/Meetings/Meetings2019/IATTC-94/OtherDocs/English/IATTC-94-OTR_World%20Wide%20Fund%20Position%20statement.pdf
- [C10] *Report of the Seventh Project Steering Committee: Sustainable Management of Tuna Fisheries and Biodiversity Conservation in the ABNJ*. 27-8 Jan 2020, Rome, Italy. ABNJ-Tuna-PSC-Rep.
- [C11] Written Evidence submitted by Professor Richard Barnes, The School of Law and Politics, The University of Hull (FISH06):
<https://publications.parliament.uk/pa/cm201719/cmpublic/Fisheries/memo/FISH06.htm>
- [C12] Fisheries Act 2020, <https://www.legislation.gov.uk/ukpga/2020/22/contents/enacted>
- [C13] House of Lords European Union Committee, Letter to George Eustice MP,
<https://committees.parliament.uk/publications/346/documents/1366/default/>