



For The Attention Of:

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**Input in Response to the Call – Call for Inputs - The Right to Food and Securing Sustainable Small-Scale Fisheries – Questions 2 & 3**

- 2. What good practices could be shared from your country that has strengthened the recognition, protection and remedies for small-scale fishers and fish workers?**
- 3. To what extent small-scale fisheries, coastal communities, and fishery workers have been included in national and international policy processes related to the fisheries sector?**

1. For at least two thousand years, the reefs of the Caribbean Community (CARICOM) and the Organisation of Eastern Caribbean States (OECS) Caribbean (C&OC) have been fished (Pauly et al, 1998), meaning that the majority of small-scale fisheries (SSFs) predate colonisation in 1492. Fisherfolk occupy a unique and privileged position in both the colonial and contemporary social structure of in the C&OC (OECS, 2020; CDB, 2018), first as indigenous fishers and fishing slaves (Price, 1966), and later as indentured fisherfolk, most likely because colonial interests were primarily focused on terrestrial resources such as forests and agrarian lands, and fishers were not viewed as an immediate threat.
2. These circumstances permitted a particularly smooth transformation to a life as free fishers (Price, 1966), and fisheries transitioned into a prominent feature of the social economic and cultural life of the Region (Haughton, 2003). Additionally, fish, shellfish, and other seafood are the most available and important animal protein and nutrients for the subsistence populations in the Caribbean (Wing and Wing, 2000; Tambutti and Gómez, 2020), which is fundamental to the food, nutrition, and food sovereignty of Caribbean peoples. Fisheries, in particular small-scale fishing, also have a newfound role in the quest for a sustainable blue economy in the Caribbean Community (CARICOM) and the Organisation of Eastern Caribbean States.
3. Part of this integral role of SSFs in the C&OC, is the nexus between the fluidity in the C&OC's fisheries, and consequently its fishers, and its contribution to social-ecological complexities (Fanning et al 2011). The effects of these complexities have often prompted action at the regional level, such as the adoption in 2014 of a Caribbean Community Common Fisheries Policy (CCCFP) and a Protocol on Securing Sustainable Small-Scale Fisheries for Caribbean Community Fisherfolk and Societies (SSF Protocol) in 2018 (CRFM, 2020; 2018) in CARICOM, while the OECS adopted a common fisheries surveillance zone across parts of the sub-region (OECS, 1991).
4. Traditional fisheries exist side by side with developing commercial fisheries, and are unmechanised, and are mainly associated with in-shore reef and demersal fishing (Berleant-Schiller, 1981). As tourism developed over the past 40 years, traditional fishers have witnessed substantial reduction in the areas on which they are permitted to operate (Murray, 2016), and small-scale fishers have increasingly and progressively denied access to beachfront property and fishing grounds, and excluded from landing sites from which they can operate.
5. Additionally, this has been compounded by efforts aimed at fisheries and ocean governance created a pattern of exclusion and punitive measures, which largely persists in newer legislation and policy (Lancaster 2024 b). This is because coastal marine environments have been viewed as a national good, and unlike the case of indigenous lands, traditions fishing grounds – whether marine or riverine – are hardly acknowledged in contemporary governance structures in the C&OC. Mechanisms such as closed seasons, prohibition on type of gear and methods of fishing, regulations on catch sizes and area-based management tools (ABMTs), in particular, marine protected or marine management areas (MPAs or MMAs), are part of the suite of measures used in many Caribbean fisheries laws.

6. Additionally, because of the nexus between oceans and climate change, MPAs have emerged as a critical weapon in providing nature-based solutions, while managing fish stocks in consonance with many international agreements such as the Paris Agreement, Convention on Biological Diversity and the Protocol on Specially Protected Areas and Wildlife (SPA) of the Cartagena Convention. Barbados is embarking on a debt for climate swap in 2024, while both Barbados and Belize have embarked on ambitious debt for nature swaps, aimed at promoting marine spatial planning, more inclusive governance, and strengthening marine management.
7. There are contrasting examples in the C&OC of the impact on small-scale fishers. For example, legislation creating the Folkstone Marine Park and Reserve (FMPR) on Barbados' west coast expanded and demarcated the park and reserve as a no-take reserve, excluded fisheries within its boundaries. While species may be caught in the sea adjacent the reserve, Mahon and Mascia (2003) highlight that fishers were negatively impacted, and rather than serve to promote management and conservation, exclusion practices such as this drives fishers to feel 'justified' in engaging in illegal fishing practices (McConney, Mahon and Parker, 2003 ; Witbooi, 2020).
8. The examples in Barbados may be contrasted with the more successful approaches of including local fisherfolk, among other stakeholders in management and conservation planning, such as the Soufrière Marine Management Area (SMMA) in St. Lucia, and to a lesser extent, the Scott's Head-Soufrière Marine Management Area (SSMMA) in the Commonwealth of Dominica. Both states established marine management areas to facilitate the coexistence of stakeholders and to mitigate potential conflicts arising from equity and access. In the case of St. Lucia, the approach was to combine the use of the legal mechanism of zoning, with the quasi-legal memorandum of understanding (MoU) which brought public, private, NGO and community groups together in an agreed institutional arrangement to managing the marine coastal space, grounded in an established zoning plan of the area and its resources (CBD, 2002; CANARI, 2001).
9. Mayreau in St. Vincent of the Grenadines is a lesser known, but promising exemplar of community-driven fisheries diversification in response to the ecological, governance and other competing pressures on fisheries in the C&OC (Lancaster et. al., 2022). Historically, the island's populace relied primarily on fisheries and tourism, but the decline in fisheries, coupled with the designation of their entire traditional fishing grounds as Class I Waters<sup>1</sup> under the SPAW Protocol caused fishers to explore alternative ways of livelihood. This prompted a relatively successful diversification strategy of the marine farming of sea-moss (seaweed) (*Euचेuma spp.*) using a community-based approach for the benefit of the community, supported within a larger management and conservation process for the Tobago Cays (Lancaster et. al, 2022; Simmons and McConney, 2006). Additionally, there exist deep linkages between Mayreauian fishers and the descendants of the indigenous Garifuna whalers from Bequia who highly mobile nature (Chakalall, et. al., 1994).<sup>2</sup>

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<sup>1</sup> Class I Waters are defined in Annex III of the Protocolo Relativo a la Contaminación Procedente de Fuentes y Actividades Terrestres, and are marine waters where states extend added protection to both ecosystems and species from contaminación procedente de fuentes y actividades terrestres y marinas. Consequently, Class I Waters include protected areas listed under the Protocolo Relativo a las Areas y a la Flora y Fauna Silvestres y Fauna Silvestres. See Alana Malinde S.N. Lancaster (2013). "An Overview of Marine Management and Ocean Governance in the Caribbean Community and the Organisation of Eastern Caribbean Regions of the Caribbean." in Ed Couzens, Tuula Honkonen and Melissa Lewis (eds), 2012 UNEP-UEF International Environmental Law-making and Diplomaacy Review (Finland: UNEP-UEF), 137 – 160

<sup>2</sup> Bequia is the only C&OC island within the state of St. Vincent & the Grenadines, which retains the aboriginal exception on whaling by the International Whaling Convention. See See Animal Welfare Institute, 'Humpback Whaling in Bequia,

Seaweed is now a hot global commodity, because of its potential to help tame some of the hazards of the modern age, including climate change (Sengupta and Lee, New York Times, 2023), drive community-based fisheries (Lancaster et. al, 2022), support sustainable fisheries (Lancaster et. al, 2022; Bruno y Echem, 2019), the blue biotrade initiative in the C&OC (UNCTAD, 2020), and complement traditional fisheries value chains by creating an artificial nursery, which harbours high value chains such as the West Indian spiny lobster and other fish species (Pierre, 2019).

10. However, there is an increasing feeling of disenfranchisement by Caribbean natural resource stewards of being ‘outsiders’ in their own country, especially at the expense of tourists, expatriates, and affluent foreigners (Pugh, 2013). Dissatisfaction and defiance to incongruent laws has led to judicial efforts to rebel against the colonial notion of ownership and stewardship, or inadequate or ‘rubberstamped’ processes which do not include them, or actions which seek to impact traditional rights, property, or practices. For example, indigenous Mayas in *Cal*,<sup>3</sup> protested their continued exclusion from decision-making with respect to the issuing of leases, grants and concessions, without respecting their property rights and traditional land tenure, while *Belize Alliance of Non-Governmental Organisations v the Department of the Environment and Another (No. 2)*,<sup>4</sup> was the canary in the coalmine, as it relaxed the requirement for standing in public interest litigation and opened the floodgates across the region,<sup>5</sup> including an increasing number which include fishers. Examples include *Save Guana Cay Reef Association v Queen*,<sup>6</sup> *Fisherman and Friends of the Sea v The Environmental Management Authority and Atlantic LNG Co. of Trinidad & Tobago*<sup>7</sup> and *Bhadose Sooknanan and Fishermen and Friends of The Sea v. Environmental Management Authority and Minister of Energy And Energy Affairs*.<sup>8</sup> Additionally, in *Mussington and Another v Development Control Authority and 2 Others (Antigua and Barbuda)*, Barbudan fishing communities are currently waging a battle to prevent the revocation of their historical system of community tenure, aimed at confiscating their land, destroying their fishing grounds, and destroying a Ramsar Site.<sup>9</sup>

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St Vincent and the Grenadines The IWC’s Failed Responsibility’ (AWI: Washington DC, 2012), <<https://awionline.org/sites/default/files/uploads/documents/SVGReport072012.pdf>> accessed March 3, 2021

<sup>3</sup> *Aurelio Cal & Others v the Attorney General of Belize*<sup>3</sup>(2007) 71 W.I.R. 110

<sup>4</sup> (2004) 64 W.I.R. 68 (P.C.). Contrast *Ya’axché Conservation Trust v Wilber Sabido, Chief Forest Officer, Attorney General and Belize Hydroelectric Development and Management Company Limited* [2014] CCJ 14 (AJ)

<sup>5</sup> For example, *Belize Institute for Environmental Law and Policy v Chief Environmental Officer of the Department of the Environment* (2008) S.C. 13 (Belize), *Natural Resources Conservation Authority v Seafood and Ting International Ltd.* (1999) 58 W.I.R. 269, *Talisman (Trinidad)Petroleum Ltd v The Environmental Management Authority, Decision of the Environmental Commission, EA3 (2002) (Trinidad & Tobago)*, *Benjamin v Attorney General and the Development Control Authority* (2007) H.C. 54 (Antigua & Barbados); *National Trust for the Cayman Islands v The Planning Appeals Tribunal, St. Hill v Chief Town Planner and Attorney General* 2016 HC 33 (BB) (The Six Men’s Case)[2000] C.I.L.R. 521 (Cayman Islands), *Virgin Islands Environmental Council v Attorney General and Quorum Island BVI Limited, Claim No. BVIIHCV2007/0185 (Judgement September 21, 2009) (High Court) (BVI)*, and *Amarna Consult Ltd v Development Control Authority, SLUHCV2016/0822 (Judgement September 20, 2017) (St. Lucia)*

<sup>6</sup> [2009] UKPC 44. See also *Bimini Blue Coalition limited v. Christie Et Al* BS 2014 CA 92

<sup>7</sup> [2005] UKPC 30

<sup>8</sup> (HC 813/2014) (Trinidad & Tobago)

<sup>9</sup> See Alana Malinde S.N. Lancaster, ‘Out Of Their Depth & O-fishally At Sea? The Privy Council’s Judgement in *Framhein & Mussington*, and the Implications for Customary Users of the Ocean in Post-Colonial Caribbean States’ (2024) *International & Comparative Law Quarterly* (forthcoming)