

# Regional Marine Governance Architecture- Towards Environmental Justice In The Caribbean

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## **Abstract**

This paper looks at the architecture of marine environmental governance in the Caribbean, in particular it examines the Caribbean Sea Commission of the Association of Caribbean States and the Caribbean Environmental Program administered through the United Nations Environmental Program, to assess the extent to which they are suited to promoting environmental justice and long term environmental sustainability. Both institutions are evidence that States of the Region are cognisant of the importance of shared governance of a common space. These institutions may be strengthened, however, by institutionalising more participatory mechanisms and by the streamlining and sharing of national efforts at the regional level to avoid duplication. These changes would help foster environmental justice.

## **Introduction**

The Caribbean Sea is the world's second largest sea (2.5 million square kilometres) with a coastline 55,383 km long and is home to 116 million people. Thirty six states with very different capacities have legal claims

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in this geo-economic, political, social, cultural and environmental space.<sup>1</sup> This brings challenges in formulating and executing common regional marine policy. In addition, the singular nature of this space, forged over centuries of geological and political vagaries, leave the region both rich in ecosystems and vulnerable to the consequences of its degradation.<sup>2</sup>

The marine ecosystem and shoreline of these states are both vital in terms of economic resources<sup>3</sup> and threatened by activities such as shipping<sup>4</sup> and tourism.<sup>5</sup> Traditionally Caribbean states have been able to dedicate very limited resources to marine environmental governance. Populations tend to be low - ranging from approximately eleven million in Cuba to almost 38,000 persons in St. Kitts and Nevis and the Caribbean Small Island Developing States (SIDS) share many of the challenges of other SIDS. These include weak and vulnerable economies which are largely dependent on external drivers for development. They also suffer from insularity and vulnerability to devastating almost annual hurricanes and limited institutional capacity.<sup>6</sup>

All of the States would therefore benefit from a strong marine governance regime which would enable them to both manage and utilise one of their greatest assets sustainably, equitably and effectively. As this paper demonstrates, however, the current architecture is rather weak and this creates problems for ensuring environmental justice is delivered. The paper ends by suggesting options to strengthen existing structures to ensure environmental justice, improved governance and environmental sustainability.

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<sup>1</sup> On the American Continent: Belize, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, and Venezuela. Small Island developing states: Antigua & Barbuda, Barbados, Cuba, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, St Kitts & Nevis, St Vincent & Grenadines, St. Lucia, Trinidad and Tobago. Overseas Territories (OTs): Guadeloupe, Martinique, St Martin, Saint Barthélemy (of France); Aruba, Bonaire, Curaçao, St. Eustatius, St. Marteen (of The Netherlands); Anguilla, British Virgin Islands (BVI), Cayman Islands, Montserrat (of the United Kingdom); United States Virgin Islands (USVI), Puerto Rico (of the USA).

<sup>2</sup> J. Agard, A. Cropper, K. Garcia, "Caribbean Sea Ecosystem Assessment. A Sub-global Component of the Millennium Ecosystem Assessment", (Caribbean Marine Studies, Special Edition 2007).

<sup>3</sup> J. L. Machinea, *Inserción Internacional y Políticas de Desarrollo Productivo in Visiones del Desarrollo en América Latina*. Edited by J.L. Machinea and N. Serra (ECLAC, 2007) 357.

<sup>4</sup> A. Singh, *Governance in the Caribbean Sea: Implications for Sustainable Development*. (Research Paper, United Nations/Nippon Foundation Fellowship, 2008).

[http://www.un.org/depts/los/nippon/unnff\\_programme\\_home/fellows\\_pages/fellows\\_papers/singh\\_0809\\_guyana.pdf](http://www.un.org/depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/singh_0809_guyana.pdf). Accessed January 6, 2011.

<sup>5</sup> Ocean Conservancy, Cruise Control: a Report on How Cruise Ships Affect the Marine Environment. (The Ocean Conservancy, 2002) 68.

<sup>6</sup> L. Briguglio, B. Persaud, B. and R. Stern, *Toward an Outward-Oriented Development Strategy for Small States: Issues, Opportunities, and Resilience Building* (World Bank, 2006).

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## Existing Marine Governance

Jörg and VanDeever, in their analysis of regional sea governance schemes, consider the development of regional seas governance as a three stage process. The first stage is to overcome cooperation challenges to develop an international institution for scientific and technical work. The second stage is to adopt actual multilateral policy making and the third stage involves improving implementation and monitoring of environmental targets.<sup>7</sup>

In the Caribbean, the first two stages are in operation through two main governance mechanisms: the Caribbean Sea Commission<sup>8</sup> (CSC) and the Caribbean Environmental Programme<sup>9</sup> (CEP). The third stage is however yet to be managed in a coordinated and sustainable way and it is this that presents a real threat to delivering environmental justice.

The CSC dates to 2006 and was created by the Association of Caribbean States (ACS).<sup>10</sup> It promotes international recognition for the Caribbean Sea as a "special area" within the context of sustainable development. This initiative arose out of the Barbados Program of Action adopted in 1994 after the first Global Conference on the Sustainable Development of Small Island Developing States.<sup>11</sup> Member states through the CSC engage in regional and multilateral processes relating to the preservation of the resources of the Caribbean Sea such as the Caribbean Large Marine Ecosystem (LME) Project<sup>12</sup> and the United Nations (UN) Regular Process.<sup>13</sup> The Commission is composed of a Bureau, a Budget Committee and three Sub-Commissions (scientific and technical, governance, public information and outreach and legal). It is still to be fully operationalized and steps are being taken to establish a Secretariat to advance the Commission's work.<sup>14</sup>

The CSC's main goals in the short and medium term are: obtaining a UNGA resolution which outlines special area designation; an Organisation of American States Resolution which facilitates the process towards the

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<sup>7</sup> B. Jörg and S D. VanDeever. "Regional Governance and Environmental Problems," R.A. Denmark (ed.) *The International Studies Encyclopedia*. (Blackwell Publishing, 2010).

<sup>8</sup> L.F. Andrade "The Role of the Caribbean Sea Commission (CSC) in Regional Governance". *Expert Consultation on Operationalisation of the Caribbean Sea Commission*. (Association of Caribbean States. [http://www.acs-aec.org/Events/CSea\\_Experts\\_Seminar.htm](http://www.acs-aec.org/Events/CSea_Experts_Seminar.htm).) Accessed 8 September, 2011.

<sup>9</sup> CEP. "About us". <http://www.cep.unep.org/about-us>. Accessed 1 June, 2011.

<sup>10</sup> N. Girvan. "The Caribbean Sea is Special. The Greater Caribbean This Week". 2002. <http://www.acs-aec.org/column/index43.htm>. Accessed 1 June, 2011.

<sup>11</sup> R. Insanally. "The Caribbean Sea: Our Common Patrimony". [http://www.acs-aec.org/About/SG/Girvan/Speeches/Caribbean\\_Sea.htm#\\_ftn1](http://www.acs-aec.org/About/SG/Girvan/Speeches/Caribbean_Sea.htm#_ftn1). Accessed 1 June, 2011.

<sup>12</sup> Andrade, *supra* note 8 This project is also supported by the UNEP-Caribbean Environment Programme's Regional Coordinating Unit (UNEP-CAR/RCU) which also supports other regional GEF environmental projects including Invasive Species and Ballast Water management and monitoring.

<sup>13</sup> ACS/CERMES-UWI. *Report of the Expert Consultation on the Operationalisation of the Caribbean Sea Commission: Building a Science-policy Interface for Ocean Governance in the Wider Caribbean*. CERMES Technical Report No. 33, 2010 at 14.

<sup>14</sup> *Ibid.*

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implementation of the CSI at the wider hemispheric level; the establishment of a common Caribbean ocean policy; increased participation of regional organisations in the work of the CSC and the participation of the CSC in other ocean governance processes. The Commission's goals have to date been aligned with the Global Environmental Facility funded Caribbean Large Marine Ecosystem Project.<sup>15</sup> It has also garnered the support of the UN General Assembly in a resolution recognising the need to support its work- known as The Caribbean Sea Initiative (CSI).<sup>16</sup> In 2011 the Organisation of American States General Assembly also passed a resolution in support of the CSI<sup>17</sup> and towards the end of 2011 the CSC developed a Memorandum of Understanding with the regional University of the West Indies to begin common work to support the Initiative.<sup>18</sup> In addition the Food and Agriculture Organisation has invited the CSC to be part of its Fisheries Process.

The Commission has therefore made progress in delivering the second stage of Jörg and VanDeever's scheme for the development of regional seas programmes, but progress has been slow in the development of a focused work program. This is in large part because the Commission still cannot count on the financial, human and technical support from member states necessary to establish the Secretariat. Nor does it seem to have the mandate for monitoring and implementation of targets. It has instead a mandate to promote information sharing, assist in the development of policy and to garner international support for regional projects.

The CEP in turn was established in 1981 when Caribbean States sought the assistance of UNEP to protect marine and coastal ecosystems of the Wider Caribbean Region within the UNEP Regional Seas Program.<sup>19</sup> Its role is to promote regional cooperation to protect and ensure the sustainable development of the region's marine environment and coastal and marine resources. It is buttressed by the regional framework agreement: the 1986 Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (the Cartagena Convention) and its accompanying Protocols on Oil Spills, Biodiversity and Land Based Sources of Marine Pollution.<sup>20</sup> The CEP is mainly involved in information management and exchange, environmental education, capacity building and technology transfer and

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<sup>15</sup> *Ibid.*

<sup>16</sup> UN Resolution A/RES/65/155 (**Annex II**) *Towards the Sustainable Development of the Caribbean Sea for Present and Future Generations* 25 February 2011.

<sup>17</sup> ACS. OAS Approves Resolution "Support for the Work of the Caribbean Sea Commission." ACS News Release. NR/010/2011 <http://www.acs-aec.org>. Accessed 1 June 2011.

<sup>18</sup> ACS. "Signing of a Memorandum of Understanding Between the Association of Caribbean States (ACS) and the University of the West Indies (UWI)" ACS News Release. NR/004/2011 <http://www.acs-aec.org>. Accessed 1 June 2011.

<sup>19</sup> The Wider Caribbean Region (WCR) includes 33 island and continental countries - insular and coastal States and Territories with coasts on the Caribbean Sea and Gulf of Mexico and the waters of the Atlantic Ocean adjacent to these States and Territories.

<sup>20</sup> Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region; Protocol Concerning Specially Protected Areas and Wildlife (SPAW) in the Wider Caribbean Region; Protocol Concerning Pollution from Land-Based Sources and Activities. See CEP "About the Cartagena Convention". <http://www.cep.unep.org/cartagena-convention>. Accessed 1 June 2011.

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training. It facilitates the production of technical guidelines and manuals, integrated management plans and national contingency plans for marine emergencies such as oil spills. The CEP's recent projects - funded through the Global Environmental Facility (GEF) - include the Demonstration of Innovative Approaches to the Rehabilitation of Contaminated Bays in the Wider Caribbean Region, Reducing Contamination of the Caribbean Sea in Central America by Pesticide Run Off and Integrating Watershed and Coastal Area Management in Caribbean SIDS.

The CEP's two main governing bodies are the Intergovernmental Meeting (IGM) on the Action Plan and the Meeting of the Contracting Parties of the Cartagena Convention. The former provides policy guidance and general oversight and approves the biennial work plan and meets every two years, jointly with the latter. The two coexist because states resolved at the establishment of the Cartagena Convention that the IGM, which predates the Convention, should continue to exist alongside the Cartagena Meeting of Contracting Parties. Similarly there are two monitoring bodies within the CEP which also meet jointly and biennially - the Monitoring Committee to the Action Plan and the Bureau of Contracting Parties to the Convention. These bodies provide recommendations to the IGM. The Convention's Protocols also have their scientific and technical meetings.

In practice it would be fair to say that although the CEP is sustained by a legally binding framework and the Caribbean Action Plan (which demarcates regional policy), it facilitates only technical cooperation and does not have a mandate for wider environmental governance. That is, it has no mandate to institute monitoring, target setting or enforcement. It also lacks the political commitment and regular involvement of states and resources needed to make it a strong monitoring and implementation agency.

## Social And Environmental Justice - The Caribbean

Environmental justice requires special attention to low-income and disadvantaged communities which are disproportionately at risk and traditionally likely to receive fewer benefits from natural resources and development efforts.<sup>21</sup> It thus fits well with the debate on marine governance in the Caribbean which brings together both SIDS and the overseas territories of some powerful developed States. Four key considerations are relevant to embed environmental justice into the regional architectures in the Caribbean: capacity building for better governance; greater focus on social equity issues; the need to address issues of intergenerational equity across specific issue areas such as health and the environment; and structured participatory mechanisms.

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<sup>21</sup> G. Bryner, "Environmental Justice" In Denemark *supra* note 7.

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Falk and Strauss and others argue that states continue to be the principal agents in environmental governance and that they should be strengthened to be able to guide the process.<sup>22</sup> This is particularly true in the Caribbean. States are best placed to effectively harness financial and legal resources to facilitate compensatory justice through their legislature and executive by ensuring compliance with international environmental law and principles, especially in favour of the economically and socially marginalised. There have also been positive signs of good governance initiatives at the domestic level that promote inclusiveness and the institutionalised participation of stakeholders, but these have had varying degrees of effectiveness.<sup>23</sup> Generally the challenge of improving traditional systems of single party parliamentary government that tend to preclude inclusiveness, transparency and accountability remains in place. There is therefore a need for regional governance initiatives to include capacity building programmes to help strengthen both national and regional governance structures. These efforts should focus on ensuring equity and participatory decision making which includes stakeholders and draws *inter alia* on local ecological knowledge.<sup>24</sup>

Second, governance should be sensitive to the particularities of environmental injustice in the region. Bullard highlighted the importance of class and race in framing the social inequity issues related to the environment.<sup>25</sup> In the Caribbean class and race shape much of the economic and social discourse related to social equity.<sup>26</sup> Lloyd Best, prominent Caribbean economist, argued that the region has not yet departed from post-independence constructs that perpetuate the oppression of the lower classes.<sup>27</sup> Protecting

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<sup>22</sup> F. Falk and A. Strauss, "Toward Global Parliament", (2001) 80 *Foreign Affairs* 212. L. Elliot, "Transnational Environmental Harm, Inequity and the Cosmopolitan Response" in P. Dauvergne (eds) *Handbook of Global Environmental Politics*. (Edward Elgar Publishing, 2005).

<sup>23</sup> See for example the Jamaican National Council on Ocean and Coastal Zone Management and the recent success of the Coastal Zone Management Unit of Barbados that has rehabilitated important beaches on the island. The National Council on Ocean and Coastal Zone Management. "Towards Ocean and Coastal Zone Management in Jamaica" <http://www.nepa.gov.jm>. Accessed 1 December, 2011; Barbados Ministry of the Energy and the Environment-. "Director's Message: 25 Years and Counting" (August 2009) 7(1) *On and Offshore: The Newsletter of the Coastal Zone Management Unit* 1.

<sup>24</sup> P. McConney, and S. Salas, "Why Incorporate Social Considerations into Marine EBM?" in L. Fanning, R. Mahon, P. McConney (eds) *Towards Marine Ecosystem-Based Management in the Wider Caribbean*. (Amsterdam University Press, 2011). See also, on the role of institutions, L. Fanning, R. Mahon, P. McConney, I. Angulo, F. Burrows, B. Chakalall, D. Gil M Haughton, S Heileman, S Martinez, O. L'ouverture, A. Oviedo, S. Parsons, T. Phillips, C. Santizo Arroya, B. Simmons and C. Toro, "A Large Marine Ecosystem Governance Framework" in (2007) 31 *Marine Policy* 434—443; on the importance of culture in participatory governance, J Palacio. C Coral and H. Hidalgo, "Territoriality, Technical Revitalisation and Symbolism in Indigenous Communities" in Y. Breton, D. Brown, B. Davy, M. Haughton, L. Ovares. (eds.) *Coastal Resource Management in Wider Caribbean: Resilience, Adaptation and Community Diversity* (Ian Randle Publishers, 2006).

<sup>25</sup> R. D. Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality*. (Westview, 1990) and R. D. Bullard, "Levelling the Playing Field through Environmental Justice" (1998-1999) 23 *Vermont Law Review* 453.

<sup>26</sup> S. Ryan "Social Stratification in Trinidad and Tobago: Lloyd Braithwaite Revisited" in S. Ryan (ed), *Social and Occupational Stratification in Contemporary Trinidad and Tobago* (The Institute for Social and Economic Research, 1991).

<sup>27</sup> L. Best, *Race, Class and Ethnicity: A Caribbean Interpretation* (Centre for Research on Latin America and the Caribbean, York University, 2009).

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society and the environment are two sides of the same coin.<sup>28</sup> One illustration of the problem is the perceived inequity in the region's tourism industry where profits stay with large cruise liners and hotels run by multinationals or the domestic private sector while poor local populations have limited access to bathing beaches or work under inequitable labour conditions in the sector.<sup>29</sup> Both distributive justice<sup>30</sup> and procedural justice<sup>31</sup> must form an important part of the regional marine governance mandate to remove even the perception that those historically marginalised classes and races lack equal access to environmental decision making and ecosystem services.

Third, the issues of intra- and inter-generational equity must be addressed. These issues are widely recognised and enshrined in the 1948 United Nations Universal Declaration on Human Rights<sup>32</sup> (Article 29), the 1992 Rio Declaration on Environment and Development of the United Nations Conference on Environment and Development<sup>33</sup> (Principle 6) and several environmental treaties.<sup>34</sup> For the Caribbean SIDS this means determining the best way to use limited national budgets to ensure short term social welfare (basic sanitation, infrastructure, health, education) while investing in cleaner technologies and monitoring and surveillance efforts that will transform these countries into blue and green economies.

Fourth, structured participatory mechanisms are necessary to draw in non-state actors to decision making. The value of participatory decision making is now widely recognised,<sup>35</sup> but while it has been advanced in areas such as the European Union<sup>36</sup> it is also particularly important in the Caribbean where weak political will often is more a function of limited capacity within government ministries to handle multiple portfolios than an unwillingness to apply good environmental governance.<sup>37</sup> Participatory decision making could in

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<sup>28</sup> F. Berkes, and A.C. Folke, "Back to the Future: Ecosystem Dynamics and Local Knowledge" in L.H. Gunderson and C.S. Holling (eds), *Panarchy: Understanding Transformations in Human and Natural Systems* (Island Press, 2002) 121.

<sup>29</sup> See for example the attempt made by a beach front property owner in Barbados in 2010 to block wider access to the beach: "Paynes Bay beach access being blocked". *Nation News*. 30. September 2010.

<sup>30</sup> T. Frank, *Fairness in International Law and Institutions* (Clarendon Press, 1995).

<sup>31</sup> J. Paavola and L. Ian, *Environmental Values in a Globalising World: Nature, Justice and Governance*. (Routledge, 2005) and D. Shelton. "Equity" in D. Bodansky, J. Brunnée and E. Hey (eds), *The Oxford Handbook of International Environmental Law* (Oxford University Press, 2007) 640.

<sup>32</sup> UN General Assembly Resolution 217 A (III).

<sup>33</sup> A/CONF.151/26 (Vol. I) Chapter I, Annex I.

<sup>34</sup> E. B. Weiss. "Intergenerational Equity: a Legal Framework for Global Environmental Change" in *Environmental Change and International Law: New Challenges and Dimensions*, (ed) E. B. Weiss, Tokyo: United Nations University Press, 1992.

<sup>35</sup> See most notably the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark, on 25 June 1998 <http://www.unece.org/env/pp/welcome.html>. Accessed 9 March 2012.

<sup>36</sup> Public Participation Directive, Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003.

<sup>37</sup> P. McConney. "National Level Interactions with Regional Organisations" *Expert Consultation on Operationalisation of the Caribbean Sea Commission* (Association of Caribbean States [http://www.acs-aec.org/Events/CSea\\_Experts\\_Seminar.htm](http://www.acs-aec.org/Events/CSea_Experts_Seminar.htm)). Accessed 8 September, 2011.

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this context also ensure that the much needed scientific, technical and logistical support in policy formulation, monitoring and implementation is provided.

## Proposals To Enhance Existing Structures

As indicated earlier, the CEP through its biennial IGM, develops general regional policy, but its secretariat is in no way a surveillance and enforcement agency. The CSC is still to be operationalized and does not, at least in the short to medium term, contemplate such governance mechanisms. What is proposed here are three additions or modifications to existing structures and a new type of policy. The first modification is the creation of a more inclusive policy formulation body (an “environmental council” that benefits from non-regional resources via a “group of friends”). The second is a better resourced regional environmental executive through issue specific sub committees for more efficient use of limited regional resources. The third is a legal and judicial enforcement mechanism to ensure compliance and thus support the work of governance. The fourth element is that a clearer articulation of a common regional environmental policy be given.

At present policy formulation at both the CEP and the CSC is the purview of states. The proposed Council, if it becomes the main environmental policy and decision making body for the region, can work for consensus from among all relevant stakeholders to enhance one of the key aspects of procedural justice in the environmental context - participatory decision making. It is assumed that these stakeholders would include the scientific community,<sup>38</sup> issue specific regional environmental and development organisations (such as the Caribbean Environmental Health Institute, the Caribbean Community Climate Change Centre, the Organization of Fishing and Aquaculture in Central America etc.), government ministries, urban and coastal community based organisations, fisheries, specially disadvantaged groups, infrastructure development agencies, environmental NGOs, multilateral development banks (Caribbean Development Bank, the Inter-American Development Bank) and industry (shipping, tourism etc.). Regional policy and environmental targets can then emerge from shared discussion among the region’s representative groups providing greater legitimacy in the decision making process. This more stable structure institutionalises the ad-hoc consultation with local communities and interest groups now practiced at the implementation stage for some projects. The challenge here is to ensure fair representation and active participation, especially from disadvantaged groups.

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<sup>38</sup> The importance of the scientific and technical communities at this level cannot be overstated. They enhance legitimacy and provide the empirical justification for the Council’s decisions. P. Haas, “Protecting the Baltic and North Seas” in P. Haas, R. Keohane, and M. Levy (eds), *Institutions for the Earth: Sources of Effective International Environmental Protection*. (MIT Press, 1993), 133

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The workings of this Council could be enhanced by providing a mechanism for global participation through for example a “Group of Friends of the Caribbean Sea”, which could, at the request of the Environmental Council provide technical and financial assistance and could be an advisory body to the Council. Participation would be open to non-regional states, international institutions, multinational corporations and non-state actors that have historic, commercial or philanthropic links with the Caribbean. Such a group may facilitate global distributive justice by providing a permanent forum for international assistance to the region. It would provide an institutionalised framework allowing wealthier global communities, states and groups outside the region to assist low income communities in their efforts to ensure that ecosystem services in the region are available to themselves and to future generations. Although this group would not have voting rights, its participation in and contribution to deliberations may provide much needed insight into best practices and sources of funding that can facilitate regional work and projects.

The second level of governance to strengthen the CEP or the CSC would be issue specific Sub Committees which have a strong implementation mandate. While the CSC contemplates these sub-committees and the CEP has Scientific and Technical Advisory Committees (STACs) under the Specially Protected Areas and Wildlife and Land-based Sources and Activities Protocols, these Committees are largely advisory bodies with no executive mandate and limited human, technical and financial resources. What is proposed is that these committees should implement policy through and with the resources of environmental agencies of member states and regional organisations, supported by the scientific community. Distributive justice demands more than good intentions and this novel proposal focuses on the reality facing SIDS in facilitating distributive justice. At present the countries of the region, though willing to address inter- and intra-generational inequity lack the capacity to apply the measures and deploy the mechanisms to ensure environmental justice is achieved on an individual basis. The goal here would be to have a regional environmental executive that can work across states and agencies and thus avoid duplication of resources. National agencies may specialise across the region in areas of environmental conservation, surveillance and protection through the creation of clusters that work together with local authorities to implement domestic and regional projects. These Sub Committees, acting like a regional environmental executive can benefit from the support (technical and financial) of the Group of Friends and implement the specific decisions of the Environmental Council on a day to day basis.

The third level is a Legal and Monitoring Committee. It should report to the Environmental Council and work with issue specific Sub- Committees to monitor and ensure compliance with international and regional agreements, Council targets and environmental principles. This Committee, working with and through the issue specific sub-committees, should have powers to take timely action to prevent, mitigate and ensure that compensation is given (by recourse to dispute settlement procedures in international or domestic forums) in cases of breaches of environmental law in maritime matters. The inclusiveness of the Council

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will allow the socially or economically marginalised access to a complaints and dispute resolution system and will thus be the guardian of regional environmental justice

The fourth element of governance that is necessary is a common regional environmental foreign policy that is implementation driven. This is needed especially to address competing values within the region and to ensure that the environment receives the attention that it deserves within policy making more generally. This has traditionally been a challenge for the Caribbean.<sup>39</sup> While some states depend heavily on tourist revenue from cruise ship visitors, others are transhipment ports while others are engaged in mining or oil production each of which carries its own risks to marine ecosystems. In addition, Caribbean foreign policy is influenced by what Alons calls "interest mediation".<sup>40</sup> In this context this means that, as a result of multidirectional mobilisation by the non-governmental sector, environmentalists have less of a chance to shape foreign policy in favour of the environment. Instead government attention and finance have been drawn to issues such as culture, women's rights, health and education.<sup>41</sup> A common regional environmental policy, that clearly articulates a common implementation path to redress social and environmental injustice, would help address this issue at the regional and then domestic levels. While the Caribbean has the Action Plan articulated through the CEP, greater commitment to specific targets, clear lines of accountability and timeframes for execution will enhance this regional policy.

It would be simplistic to assume that these proposals may be easily implemented. While an overview of a possible system has been presented, its details should be the fruit of consensus among stakeholders. Above all, strong political will to develop regional maritime governance and a willingness to cede elements of sovereignty for the execution of projects is needed.<sup>42</sup> Some of the discussions within the Caribbean Sea Commission through the Caribbean Sea Initiative do show a willingness of states to move beyond existing structures to greater cohesiveness in regional maritime governance. More is, however, needed to ensure an inclusive governance system able to deliver environmental justice across the regime.

## Conclusion

There is growing political will for and non-state interest in a stronger regional marine governance framework for the Caribbean. The region's present environmental governance architecture should however be reworked to rest more firmly upon a foundation of social and environmental justice that

<sup>39</sup> F. Jackman, "Future Directions of Caribbean Foreign Policy: The Oceans" in K. Hall and M. Chuck-A-Sang (eds) *CARICOM: Policy Options for International Engagement* (Ian Randle Publishers, 2010).

<sup>40</sup> G.C. Alons, "Predicting a State's Foreign Policy: State Preferences between Domestic and International Constraints" (2007) 3 *Foreign Policy Analysis* 211

<sup>41</sup> UNEP Regional Office for Latin America and the Caribbean, Mexico. *GEO Latin America and the Caribbean: Environment Outlook 2003*. (UNEP, 2003) at 282.

<sup>42</sup> On the difficult issues of sharing sovereignty in the Caribbean see D.E.E. Pollard, "Unincorporated Treaties and Small States" (2007) 33 *Commonwealth Law Bulletin* 420.

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weighs heavily in favour of inclusiveness for both those responsible and those suffering from environmental harm. Regional development in environmental governance is however stymied by the inherent vulnerabilities and handicaps of SIDS. The proposals contained herein suggest a way to work around limitations to secure a protected marine environment for future generations.