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for the Gulf and Caribbean Fisheries Institute



Legal Frameworks for MPA Enforcement in the Caribbean: *Challenges and Opportunities*

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THE GULF AND CARIBBEAN FISHERIES INSTITUTE (GCFI) is a regional organization that works in the countries of the Gulf of Mexico and Wider Caribbean region, with government authorities, non-government organizations, fishers, community groups and universities that play a role in the management of marine resources, including coral reefs and marine protected areas (MPAs). GCFI's mission is to promote the exchange of current information on the sustainable use and management of marine resources in the Gulf and Caribbean region. From its beginning, GCFI has endeavored to involve scientific, governmental, and commercial sectors to provide a broad perspective on relevant issues, and to encourage dialogue among groups that often operate in relative isolation from one another. Since 2011, GCFI in partnership with NOAA's Coral Reef Conservation Program (CRCP) have been helping Caribbean MPAs to address their highest priority management needs. CRCP's support for this effort follows their international strategy to work with regional initiatives to develop and implement long-term MPA capacity building programs based on capacity assessments. Through this report, GCFI and NOAA CRCP seek to continue building capacity for MPA management in the Caribbean.

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Introduction

In 2012, with support from NOAA's Coral Reef Conservation Program (CRCP), the Gulf and Caribbean Fisheries Institute (GCFI) organized the first regional peer-to-peer workshop on 'Building Compliance and Enhancing Enforcement for Marine Protected Areas in the Caribbean', hosted by the Florida Keys National Marine Sanctuary and facilitated by MPA Enforcement International. Twenty-two MPA managers from fourteen countries and territories attended. In the course of the workshop, the participating MPA managers identified a common need to better understand best practices in MPA legislation. They expressed an interest in comparing MPA legislation across the Caribbean and in promoting the adoption of successful legislative techniques in their home countries so as to help achieve a more uniform approach to MPA enforcement throughout the region. This report seeks to address this need and to inform future efforts by Caribbean MPA managers and policy-makers to strengthen MPA enforcement.

The Environmental Law Institute (ELI) conducted a review of laws and regulations related to MPA enforcement in the following eight Caribbean nations (Fig. 1).

- Antigua and Barbuda
- The Bahamas
- British Virgin Islands
- Dominican Republic
- Grenada
- Saint Lucia
- Saint Vincent and the Grenadines
- Turks and Caicos Islands

This study reviews MPA laws in these nations based on the types of regulated activities allowed in MPAs and the enforcement authorities they include. Based on this country-by-country legal review, the study preliminarily identifies similarities and differences among enforcement authorities in the region and highlights model approaches that may assist enforcement reform in this area.

This report provides a foundation to enable regional approaches to MPA enforcement in the Caribbean. Specifically, this study can facilitate more detailed comparisons among MPA enforcement authorities in the region and can serve as a foundation for or recommendations for reform of enforcement authorities in nations included in this report.

Methodology

Due to constraints on the scope of this project, the analysis in this report is necessarily limited. This analysis is based on legal authorities with specific application to MPAs, and on those authorities that are readily available. It does not address enforcement in practice and may not accurately reflect recent changes to legal authorities that are not readily available. This review also focuses exclusively on the interpretation of legal provisions, and does not take into account the social, economic, or political context of individual countries or the practical realities of enforcement and implementation of laws and regulations on the ground.

The first step in the study was to determine the suite of legal authorities that might be relevant to MPA enforcement and that should be obtained and evaluated. The authors defined "potentially relevant" authorities as legislation and (where available) regulations addressing:

- coastal and marine management;
- fisheries;
- biodiversity conservation;
- general environmental protection; and
- spatial management and land-use planning.

Criminal and penal laws and laws establishing specific MPAs were not reviewed during the course of this study. However, we note that such laws are an essential component in effective MPA enforcement regimes, and legal drafters and policymakers should understand these laws and their implementation before reforming the substantive provisions governing MPA creation and management. Furthermore, a regional reform effort should be founded on a more comprehensive review of relevant successful approaches developed and deployed throughout the world.

This study is based on legal instruments identified by the Environmental Law Institute (ELI), those provided by partners, and those available online. In addition to relying on its existing library of Caribbean laws and regulations, ELI obtained relevant laws and regulations through information requests to GCFI contacts in each country and through independent online research. Due to the limitations of this collection methodology, some relevant legal authorities may not have been identified or considered in this review. Where possible, the authors confirmed that the documents that were obtained are complete and up-to-date, but it is possible that some authorities discussed herein are no longer in force or have been amended or superseded.

After collecting potentially relevant authorities, ELI conducted an initial screen to determine whether each document contained provisions applicable to MPAs. Next, ELI completed an in-depth review of those laws and regulations that passed the initial screen. Due to variation in legal terminology from country to country, the authors adopted a functional definition of "marine protected area" that includes any place-based and spatially designated marine area where activities are regulated for specific conservation and management objectives. For each legal authority, this analysis identified and catalogued provisions:

- authorizing creation of MPAs;
- regulating what activities can occur in MPAs;
- determining enforcement powers; and
- establishing penalties.

Based on this analysis, the authors developed an MPA enforcement profile for each country and compared and analyzed the commonalities and differences in MPA authorities among the eight studied countries.

Following completion of the analysis, GCFI submitted individual country profiles to reviewers in Antigua and Barbuda, The Bahamas, the British Virgin Islands, the Dominican Republic, Saint Lucia, and Turks and Caicos. ELI revised the country profiles and overarching analysis based on the comments received.[1]

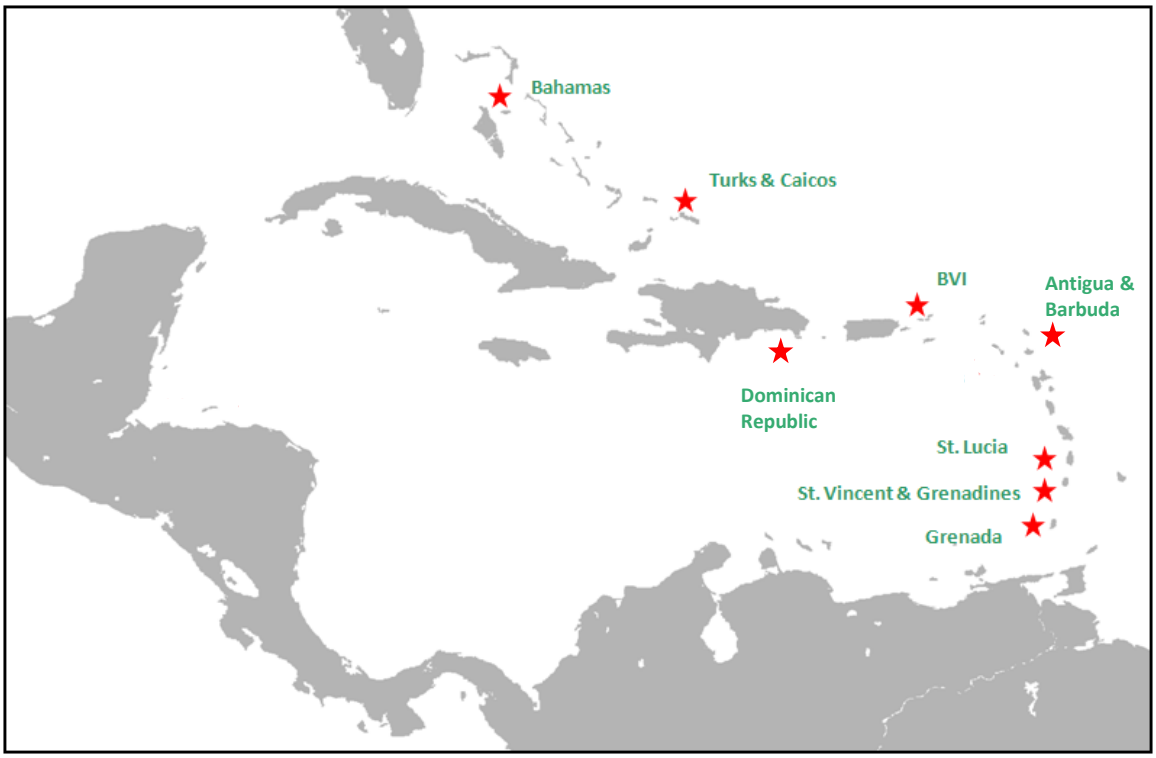


Figure 1. Countries evaluated in this study.

[1] ELI did not receive comments from reviewers in Antigua and Barbuda, the British Virgin Islands or the Dominican Republic.

Regulatory Structure

MPAs are created to accomplish specific conservation objectives in spatially defined areas. Resource managers work to accomplish these objectives in part by restricting what activities can occur in each area. While the substance and strength of MPA measures (*e.g.*, what types and how much fishing is allowed) are generally scrutinized in detail, decisions about how the restrictions are established and structured receive substantially less attention. Nonetheless, these structural decisions affect whether the restrictions can be effectively enforced. Caribbean nations have established different approaches. Future reforms should consider these differences and establish approaches that will yield enforceable MPAs.

Legislation, Regulation or Plan-Based Approaches

MPA restrictions may be established by laws enacted by parliament, in regulations, in orders or other subsidiary legislation created at the ministerial level, or by MPA management plans. While any of these venues may be appropriate if carefully structured, the enforceability of the requirements may vary. For example, MPA management plans generally do not have the force of law unless the governing legislation or regulation provides for penalties for violation of their contents. In contrast, MPA restrictions established through legislation or regulation are typically enforceable.

Standard Regulations

Activity restrictions can be established independently for each MPA, for similarly situated groups of MPAs, or for all MPAs. In practice, the nations examined in this report (hereinafter "nations") typically establish and manage MPAs using a variety of distinct statutes, regulations, and other policy tools, and MPAs developed under different legal authority have different activity restrictions. As a result, activity restrictions are rarely standardized across all MPA types in a given country. In addition, some individual MPAs have their own restrictions as set forth in their management plans. Most of the eight countries in this study have enacted generally applicable laws that regulate a broad spectrum of activities in MPAs. However, they sometimes use different restrictions to achieve different purposes; for example, MPAs in Grenada are separated into categories, some of which have heightened prohibitions – most notably, Marine Sanctuaries, which restrict all public access. On the other hand, The Bahamas does not have categories but instead regulates activities on a MPA-by-MPA basis.

The choice of how much to standardize restrictions across MPAs requires policymakers to balance the tension between (1) simplifying management and (2) creating restrictions tailored to each location. This choice also has implications for compliance and enforcement: in general, creation of standard regulations across MPAs reduces the knowledge required of both resource users and enforcement staff. This approach makes it easier for users to know and comply with the restrictions and easier for enforcement staff to identify and prosecute violations. However, if standard regulations are not appropriate to the economic, social and ecological conditions in a

given MPA, users may become frustrated and stop voluntarily complying. Even if enforced effectively, this approach may not yield the desired management outcomes. Enforcement staff should engage with legislative and regulatory processes that determine how best to standardize the activity restrictions. Such engagement ensures that enforceability is considered when such decisions are made.

Prohibitions, Licensing, & Informal Authorization

MPA restrictions may prohibit activities outright, establish formal licensing or permitting systems, or rely on informal authorization. Among these choices, prohibitions are the easiest to enforce as they can often be detected remotely. For example, the presence of a vessel in a prohibited area may be detected by a land-based radar. However, prohibitions are not appropriate to all activities. In practice, most MPA laws prohibit some activities while allowing other activities with permission. For example, St. Vincent and the Grenadines places blanket prohibitions on certain forms of resource use in marine reserves and national parks, but allows other activities, such as fishing, in marine parks with advance permission. Similarly, human activity is generally prohibited in Marine Reserves in Saint Lucia, but managers can give permission for scientific or conservation activities in these areas.

Where lawmakers determine that an activity should be authorized in an MPA, formal, written permit or licensing requirements are simpler to enforce than informal or oral authorization. However, some laws in the countries studied here do not specify how permission must be granted. For example, Antigua & Barbuda law requires "permission" before activities can occur in marine reserves, but does not specify how that permission is to be obtained.

Breadth of Restriction

Finally, activity restrictions can be broad or narrow. Some countries in this study prohibit entry into certain kinds of MPAs – an example of a broad restriction. Such broad prohibitions are simple to detect and to prosecute. On the other extreme, some MPA restrictions are very specific, such as barring harvest of specific fish species while allowing others, as in the Turks and Caicos Islands. Such narrow restrictions are more difficult and expensive to detect as they often require at-sea inspection or boarding. Enforcement staff should consult with legislators and regulators when such provisions are considered to ensure that the activity restrictions can be effectively enforced, as by including presumptions of illegality.

Enforcement Powers

MPA enforcement officers cannot effectively detect violations and enable punishment of violators without sufficient enforcement powers. This section considers whether and how the following three critical categories of enforcement powers are authorized under fisheries, national parks, and other marine protection legislation:

- search of vessels and other premises, including requiring production of licenses and other documents;
- seizure of vessels and other items used in the commission of a violation; and
- arrest.

The strongest enforcement programs authorize all three categories of enforcement powers for all types of officers with jurisdiction in protected areas.

Overview

Any evaluation of whether officers have enforcement powers in MPAs must begin with the threshold question of what types of officers are authorized to take action. Both laws of general applicability and laws specific to the marine environment provide enforcement agencies or departments (Table 1) with authority in the marine waters. As a result, enforcement in any MPA may be carried out by multiple types of enforcement agents, including police, military, fisheries officers, and park wardens.

Table 1: Example of Enforcement Authorities: Marine Law Enforcement Agents in Antigua and Barbuda

Law	Enforcement Agents
Police Act	Police
Defence Act	Coast Guard
Fisheries Act	Fisheries Officers, other "authorised officers" (police and coast guard)
National Parks Act	None

Each type of enforcement agent is created for different reasons and may properly be endowed with different enforcement powers. For example, park wardens may be local stakeholders who are not trained in how to safely board vessels or inspect cargo or gear; policymakers can reasonably decline to authorize such wardens to seize cargo or make arrests. In contrast, police officers may have a full suite of powers to fully enforce marine and other laws. As a result, a comprehensive analysis would be required to fully understand the interdependent roles and duties of enforcement agents in MPA enforcement in each country. This analysis focuses exclusively on whether and how *marine legislation* creates supplemental enforcement powers in the studied nations, and does not review or consider specific enforcement agents or their powers created in laws of general

applicability.[2] As a result, this analysis provides only a partial and incomplete view of marine enforcement powers, and should not be taken as a comprehensive picture of marine enforcement in the region.

Several of the nations in this study are former British Crown colonies with similar or identical language related to enforcement. Nonetheless, even these nations differ substantially in some respects, including the extent to which their laws empower different types of marine enforcement officers (Tables 2 and 3).

Table 2: Enforcement powers provided in Caribbean fisheries legislation[3]

Country	Search	Seizure	Arrest
Antigua & Barbuda	X	X	X
The Bahamas	X	X	X
British Virgin Islands	X	X	X
Dominican Republic*	X	X	
Grenada	X	X	
Saint Lucia	X	X	
Saint Vincent and the Grenadines	X	X	
Turks and Caicos Islands**	X	X	X
*incorporates powers of inspectors in general environment law ** law provides fisheries officers with all the powers of a police officer			

Table 3: Enforcement powers provided in Caribbean national parks legislation

Country	Search	Seizure	Arrest
Antigua & Barbuda			
The Bahamas*	X	X	
British Virgin Islands	X	X	X
Dominican Republic**	X	X	
Grenada	X	X	X
Saint Lucia			X
Saint Vincent and the Grenadines			X
Turks and Caicos Islands		X	X
* implied based on powers of constables under Police Act ** incorporates powers of inspectors under General Environment Law			

[2] This analysis does not consider enforcement tools provided to police officers or review their capacity to enforce marine protection areas legislation and regulations, but instead focuses on the fisheries officers, park wardens and other enforcement officers delineated by the legislation authorizing the development of MPAs. Police officers are sometimes considered "authorized officers" under marine laws (as in the British Virgin Islands), but this analysis addresses only whether specially authorized officers have key enforcement powers.

[3] Authority may vary by type of officer.

The British Virgin Islands is the only nation in this study whose fisheries and national parks legislation both explicitly empower marine enforcement officers across all three categories of powers. In contrast, the Dominican Republic's legislation provide officers with general oversight and compliance authorities, but its fisheries legislation only explicitly authorizes searches, and its national parks legislation does not give officers any of the three powers considered here. As a result, officers acting under the fisheries or parks legislation will need to rely on enforcement powers provided in laws not reviewed for this study. If such other powers are not available, or if other enforcement officers (*e.g.* the marines) are not actively enforcing these laws, a gap in enforcement authority may exist. The laws in other countries analyzed follow the same general pattern—their fisheries and protected area legislation provide specialized enforcement agents some, but not all enforcement powers, and as a result these countries must rely in part on "general" enforcement agents with broader powers—like the police and coast guard—for enforcement in MPAs.

In most cases, fisheries legislation provides enforcement officers with a broader range of enforcement powers than national park legislation. For example, Antigua and Barbuda fisheries legislation designates authorized officers and provides them with a full array of police powers, but the National Parks Act does not address enforcement. While there appears to be a general tendency for fisheries officers to have greater enforcement authority than park wardens, some countries give park wardens powers that fisheries officers lack. For example, park wardens—but not fisheries officers—can make arrests in Saint Lucia and St. Vincent and the Grenadines.

While it is difficult to generalize about the reasons for differences in enforcement between fisheries officers and park wardens without on-the-ground knowledge of enforcement practice in each country, these differences may reflect the level of training, experience, and/or capacity of fisheries officers as compared to park wardens in each country. National and regional efforts to ensure that all enforcement officers receive the training necessary to safely and effectively carry out the full range of enforcement actions (boardings, inspections, arrests, etc.) are justified and needed, particularly as legal authorities for MPA enforcement are expanded. Training opportunities can ensure that fisheries officers and park wardens know the scope and extent of their powers, how to use them safely to protect MPA resources, and how to best exercise their discretion.

The enforcement powers in fisheries and protected area legislation in the nations studied in this report suggest a patchwork of authorities that requires coordination between and among multiple enforcement agencies. Resource and capacity limitations are likely to make coordination difficult in many cases, which may decrease enforcement effectiveness. Cross-deputisation of different types of enforcement officers (*e.g.* deputising park wardens as fisheries officers and vice versa) can overcome some of this difficulty, provided that deputised officers are adequately trained. For example, fisheries officers are considered park wardens for the purpose of enforcing national parks regulations in Turks and Caicos and marine parks regulations in Grenada. Similarly, all police officers and coast guard personnel can enforce fisheries legislation in Antigua and Barbuda. Some recent laws, such as sections 56-57 of the British Virgin Islands National Parks Act, 2006, both provide for automatic cross-deputisation of enforcement agents (such as fisheries officers and

planning officers) and authorize the responsible minister to appoint new authorised officers as necessary.

Cross-deputisation may enable more efficient enforcement, provided that all the enforcement staff who are actively monitoring MPA resources are appropriately trained and receive adequate enforcement powers. In some cases, adequate powers may not be available even though enforcement officers are provided with general police powers. For example, The Bahamas National Trust Act provides that park wardens have the powers of constables—a limited set of powers that may not provide sufficient authority to search or seize vessels or persons or arrest violators, as may be needed to enforce MPAs. Laws that rely on deputisation in this manner should provide the full array of powers necessary for effective enforcement and also ensure adequate training necessary to fulfill those duties.

Cross-deputisation may have downsides when resource users—or even enforcement staff or policymakers—are unclear about who is responsible for enforcement in different areas and/or of different activities. For example, a 2012 report on fisheries management in the Dominican Republic noted:

> From discussion in stakeholder workshops it was evident that the division of responsibilities between the CODOPESCA, the Marina de Guerra, the Ministry of the Environment and others is far from clear. This lack of definition of the respective functions leads to a duplication in effort and presents an obstacle to the implementation of a realistic work plan, the allocation of budget, the provision of required logistical support (such as vehicles and at-sea enforcement craft) and the creation of synergies through effective cooperation and collaboration.[4]

In such cases, enforcement may not be effective without a clear lead marine enforcement authority with broad and systematic powers and responsibilities to enforce national all laws in all MPAs. In all cases, legislators and enforcement staff must take care to provide clear lines of responsibility as well as adequate enforcement authority.

Search and Seizure

MPA enforcement provisions differ in their search and seizure provisions. In setting search and seizure powers, countries must address several key questions that will determine the extent of search and seizure authority:

- **What can be searched?** The types of searches must be set forth in legislation, and at a minimum should include the ability to search vessels, persons, articles on vessels (gear and cargo), vehicles, and premises on land. In addition, officers should be able to require production of licences, vessel registration, identification, and other documents.

[4] Maria del Carmen Arenas and Ian Scott, *The Dominican Republic: a national strategy for the fisheries sector (English)*, EU ACP-Fish II Project Ref. N°: CAR-1.2-B2a, at 6 (2012), *available at* http://acpfish2-eu.org/uploads/projects/id139/Annex%201%20FTR_English.pdf.

- **What can be seized?** Like searches, seizures must be authorized by statute. Seizure authority can include, among other authority, the ability to sample catch, seize vessels, gear, catch, and cargo, and seize other implements such as weapons or snorkel gear.
- **Is a warrant required?** All fisheries laws reviewed for this study, except for the Dominican Republic Fishing and Aquaculture Law, explicitly grant fisheries officers the power to conduct some searches and seizures without a warrant. In some countries, however—notably, Turks and Caicos—a warrant is required for many types of searches and seizures.
- **If no warrant is required, is there a suspicion requirement?** Officers can only carry out some forms of searches and seizures if the officer believes that a violation has occurred, while no level of suspicion is required in other instances, such as inspection of fishing licences. The specific standard that officers must meet differs by country and by type of search, and the laws reviewed variously require enforcement officers to reasonably suspect that an offence has been committed ("reasonable grounds"; "reasonable cause"; "reason to believe"; or "reasonable suspicion").

In determining the answers to these questions, each nation should consider historical precedent and balance citizens' civil rights protections against the need for effective enforcement. As a result, the same nation may appropriately establish different search and seizure provisions in different laws or for different types of searches or seizures. For example, searches of dwellings generally require a higher showing of suspicion than do searches of vessels. In many MPA enforcement contexts—particularly, on-the-water boardings, searches, and seizures—broad search and seizure authority and relatively low levels of suspicion are appropriate because of the low expectation of privacy on vessels, the importance of safety inspections for protecting life at sea, and the infeasibility of obtaining warrants for transient activity.

MPA legislation can provide effective search and seizure authority to enforcement officers by ensuring that relevant types of searches and seizures are authorized; by limiting warrant requirements; and by limiting the level of suspicion required to make a search or seizure. In some cases, such as document production, most countries have created explicit search and seizure authority without a warrant or suspicion requirement—especially in countries that are former British colonies and share similar or identical enforcement language in their fisheries laws. Fisheries laws in all countries reviewed, except the Dominican Republic, authorize fisheries officers to require production of documentation or require display of licences. Fisheries laws across countries generally include other search and seizure authority. However, protected area legislation does not consistently provide such authority.

The British Virgin Islands Fisheries Act provides a typical example of the types of searches and seizures that fisheries laws allow in former British Crown colonies, and of the different levels of suspicion required for each type of search or seizure (Table 4).

As indicated in the overview, the search and seizure powers delegated to fisheries officers are often different than those delegated to park wardens. For example and in contrast to the British Virgin Islands Fisheries Act, the British Virgin Islands National Parks Act gives authorised officers search and seizure powers only if the officer has "reasonable grounds for believing a person has

committed an offence" under the act (Table 5). Thus, unlike authorised fisheries officers, authorised park officers cannot stop or search vessels in parks without cause.

Table 4: Example of Search and Seizure Requirements: Warrantless search and seizure powers under the British Virgin Islands Fisheries Act

Power	Suspicion required to use power
Stop, board and search any vessel in the fishery waters	None
Stop and search any vehicle	Reasonable cause to believe is involved in the commission of an offence
Require to be produced, examine and take copies of, any licence, permit or other required document	None
Require to be produced and examine any fishing net or other fishing gear	None
Enter and search any premises, other than premises used exclusively as a dwelling	Reason to believe that an offence has been committed or that illegally taken fish is being stored or kept
Take samples of any fish found in any searched vessel, vehicle or premises	None
Seize any vessel (with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance	Reason to believe has been used in the commission of an offence
Seize any fish	Reason to believe was caught in the commission of an offence
Seize any spear gun, SCUBA diving equipment, explosive, poison or other noxious substance	Reason to believe has been used or is being possessed illegally

Table 5. Example of Search and Seizure Requirements: Search and seizure powers under the British Virgin Islands National Parks Act

Power	Suspicion required to use power
Stop, detain, and search a person or board and search any vehicle, vessel, boat, underwater craft, land craft, air craft or other conveyance	Reasonable grounds for believing person has committed an offence under the Act
Enter and search any land, building, premises, or the possessions of a person, except a dwelling house (which is allowed with a warrant)	Reasonable grounds for believing person has committed an offence under the Act
Seize any conveyance and any article or substance thereon	Reasonable grounds for believing person has committed an offence under the Act
Seize any weapon, equipment, or device of any kind which appears to have been used in the commission of an offence	Reasonable grounds for believing person has committed an offence under the Act
Request the name, address and other identifying information of a person	Reasonable grounds for believing person has committed an offence under the Act

In other countries, protected area enforcement laws provide lesser search and seizure powers. The Turks and Caicos National Park Regulations allow park wardens to seize items reasonably

suspected to have been used in commission of an offence, but do not provide explicit search powers, while none of the other examined protected areas laws provide explicit search or seizure powers for park wardens, and none other than the British Virgin Islands authorize park wardens to require production of a license or other documents. More limited document production requirements may make sense in this context to the extent that licences are not generally required for entry into MPAs, as they are for fishing. Nonetheless, vessel registration is an important safety issue, and enforcement officers seeking to carry out searches and seizures for safety or to enforce protected area laws and regulations in most studied countries will need to rely on fisheries laws or laws of general applicability. In some cases, park wardens may lack alternative authority and may therefore need to rely on fisheries officers, police officers, coast guard personnel, or other enforcement officers to carry out searches and seizures in MPAs.

Arrest

The power arrest is an important element in the MPA enforcement toolbox because it enables officers to detain offenders and bring them to shore and before a magistrate for punishment. However, some (but not all) laws authorize them to issue tickets, fines, or summonses to appear before a magistrate. Vessels in MPAs may be transient and owned or operated by nonresidents against whom a summons may not be effective, so the power to arrest is critical. For the same reasons, arrest powers are most effective when no warrant is required, but where officers must have a reasonable suspicion that the person has committed a violation.

Table 6: Arrest powers of fisheries officers and park wardens, by country

Country	Fisheries Officers	Park Warden
Antigua and Barbuda	Without warrant, including master, owner, charterer of seized vessel	None
The Bahamas	Without warrant	Powers of constable, which do not include arrest
British Virgin Islands	Without warrant	Without warrant
Dominican Republic	None	None
Grenada	None	For ongoing violations, silent on warrant requirement
Saint Lucia	None	Without warrant
Saint Vincent and the Grenadines	None	Without warrant if person fails to comply with order or provides false information
Turks and Caicos Islands	All powers of a police officer	Without warrant

This review of fisheries and protected areas laws indicates that Caribbean fisheries officers and park wardens do not consistently have explicit powers of arrest (Table 6). In the British Virgin Islands and of Turks and Caicos, fisheries and national parks laws authorize fisheries officers and park wardens to arrest violators without a warrant, whereas the Dominican Republic does not explicitly include arrest powers in its fisheries or protected areas laws. Older fisheries laws in

Grenada, Saint Lucia, and Saint Vincent and the Grenadines all exclude arrests from the powers available to fisheries officers, but their protected areas laws allow wardens to make arrests in some cases. The recent (2006) Antigua and Barbuda fisheries law expands the powers of fisheries officers to include arrests, but its National Parks Act does not provide for creation of wardens, let alone allow them to arrest violators. Similarly, The Bahamas authorizes fisheries officers to make arrests, but its wardens only have the powers of constables, which appear to exclude the power of arrest.

Adjudication of Violations

Effective MPA enforcement requires the ability to prosecute persons who violate the legal restrictions on activities within the area boundaries. Evidentiary and causation challenges represent a substantial hurdle for prosecutors, as it may be difficult or impossible to prove that fish were caught unlawfully in a MPA (or that other unlawful activities occurred there) or to prove who is responsible for unlawful activities. To overcome these difficulties, many countries' fishery and protected area laws include liability rules and presumptions that—in some situations—place the burden on the accused to show that their activities did not violate the law. These presumptions can be separated into three categories: (i) where and how fish were caught; (ii) who is responsible for a violation on a vessel; and (iii) whether the accused had permission to engage in the otherwise prohibited activity.

Presumptions about location and legality of catch

It is difficult or impossible to determine the origin of a fish, coral, or other organism after it is removed from the water. This is an important issue because the harvest location determines what laws and regulations apply. Consequently, when prosecutors generally cannot prove how or where organisms onboard a vessel were caught, they cannot effectively enforce prohibitions on fishing in MPAs, limitations on the use of gear, and other provisions. Countries can overcome this difficulty by incorporating presumptions into their fisheries and protected area laws. Presumptions provide that organisms found onboard a vessel found to be fishing illegally (*e.g.*, in a prohibited location or using illegal gear) will be legally considered to have been caught illegally unless the accused can show otherwise. Such presumptions shift the legal burden of persuasion from the state to the defendant, requiring the accused to prove that the organisms were caught by legal means in approved locations.

Nearly all countries reviewed have incorporated presumptions into their fisheries legislation that apply to all illegal fishing activity and/or for fishing in MPAs. The most common presumption states that any fish found aboard a vessel that has been involved in illegal activity shall be presumed to have been harvested illegally. The Dominican Republic and Turks and Caicos were the only countries in which our review did not uncover such a presumption in fisheries legislation. However, Turks and Caicos law provides that any product found on a boat is presumed to have been taken within fishery limits (*i.e.*, where the law applies); while this provision may assist against defenses suggesting that fish were caught in international waters or another country, MPA enforcement officers are unlikely to be able to rely on it when prosecuting illegal fishing activity in a MPA. A more effective location-based presumption can be found in Bahamas law, which states that if a person is found with a prohibited fishery resource in a protected area, the fishery resource is considered to have been taken from within the protected area.

If lawmakers are concerned that a presumption is too strong, it is possible to elaborate ways in which accused persons can prove they did not catch fish in illegal locations. Legislation in the British Virgin Islands creates the presumption that the place of catch or other event stated in a

certified copy of the logbook or other official record is the place in which the event took place. This provision shifts the burden back to the prosecutors to demonstrate that the logbook is fraudulent; as such, it weakens the presumption but may be ameliorate concerns about civil liberties.

Liability of vessel owner, master, crew, and other persons

When a vessel is found to be fishing or conducting other activity illegally within an MPA, enforcement staff, prosecutors, and courts must determine who is liable for the offence. Any person on a vessel may potentially be liable, including the vessel master, crew, and charterer; the vessel owner could also be liable. Laws establishing broad liability that includes vessel masters, crew, and owners provide the maximum incentive for these individuals to follow the law.

In most reviewed countries, laws make a vessel's *master* liable for any offence committed on that vessel. Antigua and Barbuda, the British Virgin Islands, Saint Lucia, St. Vincent and the Grenadines, and Grenada all have such provisions. In other countries, masters are liable only for specific offences. For example, Turks and Caicos limits the master's liability for most offences to those instances where he or she assisted, encouraged or permitted the violation; however, the master is liable by default for other offences, such as failure to properly store gear and transshipment of fish. The Dominican Republic is the only country reviewed whose fisheries law does not explicitly provide for vicarious liability[5] of masters.

The Bahamas Fisheries Act has a broader liability provision that extends liability for fishing violations to "the person using the vessel, the owner and also the master or other person in charge of the vessel." Under this law, not only is the vessel *master* liable, but so are the *owner* and *charterer*, if any. Bahamas law further creates a presumption that the captain and all *crew members* legally possessed any unlawful longline gear found onboard a vessel. Similarly, Turks and Caicos law provides that *all persons on a vessel* will be "deemed to be in possession" of any "marine product" found upon that vessel—and therefore liable for any such products that were harvested illegally.

The laws reviewed for this report thus provide a range of examples of liability provisions. Most fisheries laws contain provisions identifying persons who are liable for offences on a vessel; however, similar enforcement tools in protected area legislation are rarer and may present an opportunity for legal reform to ensure that adequate liability rules and presumptions apply to activity in a protected area.

Presumption about permission to engage in otherwise prohibited activity

Many laws prohibit activities in protected areas without a permit, licence, written permission, or authorisation from the responsible agency. For example, most countries require commercial fishers

[5] Vicarious liability is "[l]iability that a supervisory party . . . bears for the actionable conduct of a subordinate." BLACK'S LAW DICTIONARY 417 (2d pocket ed. 2001).

to obtain a fishing licence and/or permit. In other cases, no formal licence or permit system has been created, but written permission is required (*e.g.*, it is unlawful to place a fish aggregating device in Antigua and Barbuda waters without written permission from the Chief Fisheries Officer).

In some cases, offenders may claim that they have obtained the required permission, forcing the prosecutors to show that the permission was never granted—a fact-based inquiry that requires resources to overcome and may even undermine a prosecution even if invalid. To avoid this issue, some countries create the reasonable presumption that accused persons must prove that they had the required permission if they wish to use this defense. Among the studied countries, fisheries laws in Antigua and Barbuda, the British Virgin Islands, Saint Lucia, St. Vincent and the Grenadines, and Grenada all require that defendants have the burden of showing that they hold requisite license, permit, or authority.

Penalties

Effective MPA enforcement requires that laws and regulations provide for appropriate penalties for violations. Penalties not only deter violations and promote compliance, but may also be used to provide financial resources to support MPA administration and/or restoration. This section reviews the penalties established by protected area laws in the eight countries reviewed. It does not consider penalties established by or under each country's penal or fisheries legislation except where specifically indicated.

Types of penalties

Laws may provide for several types of penalties. A comprehensive enforcement program will have access to a broad spectrum of penalty types sufficient not only to deter violations but also to punish violators, ensure that they do not profit from noncompliance, and provide resources to address the harm caused by violations.

Monetary penalties (fines) and imprisonment serve to punish violators for their transgressions. Fines are the most basic deterrent to illegal action and may be imposed through ticketing systems, out-of-court administrative settlements, and/or in court by a magistrate or judge. Some laws provide for imprisonment of violators in addition to or in lieu of fines; while imprisonment is rare for violations of environmental laws, it may be appropriate in extreme cases and serves as a potent incentive for violators to settle their cases rather than take them to court.

Other types of penalties do not punish violators directly but can be even more effective for deterring illegal activity. Permit sanctions (suspension or revocation of a permit or licence) are generally considered to be the most effective deterrent against fisheries violations, as they prevent commercial fishers from returning to the fishery for a set period of time or permanently. Sanctions can also apply to other types of activities for which permission is required.

Forfeitures of fish, vessels, or other articles are important as they ensure that violators do not profit from their ill-gotten gains. For example, fish caught illegally should be forfeited to the state rather than sold by the violator. It is important that forfeitures of this type are distinguished from monetary penalties and not counted towards the amount of any fines that may be imposed.

Finally, natural resource damage provisions provide that violators be charged for the full cost of recovering the harm that they cause. For example, a company that spills oil will be charged for the cost of cleanup as well as for the monetary value of harm to wildlife, tourism, ecosystem services, and other resources.

Monetary penalties

Fines provide the primary means of punishing violators. While all countries reviewed provide for monetary penalties, the relevant provisions differ substantially in several ways, including whether

penalty amounts are discretionary, their magnitude, treatment of continuing violations and repeat violators, and the ability of enforcement agencies to settle out of court.

Fixed vs. discretionary penalties

Prescribed penalties can either be fixed or discretionary. Fixed fines operate like ticketing systems, in which the violation of a provision results in a fine of a specific amount. Discretionary systems provide a maximum cap on the amount of the fine, such that the fine will not exceed a set amount. Fixed penalties provide a consistent deterrent but are set at relatively low amounts, while discretionary penalties generally establish higher maximum penalties but do not signal to resource users what amount would likely be appropriate in actual practice—actual fines rarely approach the statutory maximum.

Modern enforcement regimes combine elements of each type of system, providing a high maximum statutory penalty but establishing a penalty schedule by administrative action that indicates a default penalty amount for each type of penalty that is substantially lower than the maximum and is often graduated to increase penalties for repeat violators. Enforcement agencies and courts use these default amounts as guidance unless a violator engages in conduct that is particularly egregious or "*de minimis*",[6] when they may use their prosecutorial discretion to adjust fines up or down.

Penalties are discretionary in all countries other than Grenada and Turks and Caicos; in several cases, graduated and fixed penalties are both used. Antigua and Barbuda's fisheries law and regulations provides an example of a system that combines discretionary penalties with penalty schedules. The Bahamas uses fixed fines for certain violations and a range of penalties for others. Similarly, St. Vincent and the Grenadines employs a combination of fixed and flexible penalties in its MPAs—fines for violations in national parks are fixed, while fines for violations in marine parks and marine reserves and violations of fishing regulations are flexible.

Magnitude of fines

The extent to which a fine or penalty contributes to deterrence is partly due to its magnitude – larger fines may be more effective deterrents than smaller fines. However, countries may validly consider other factors when setting maximum or recommended penalties. Fairness, equity, and ability to pay may suggest smaller penalties in some instances, as may the desire to establish higher penalties for violations by non-residents or non-citizens. For example, the Dominican Republic takes the violator's ability to pay into account, expressing penalties in relation to minimum wage. While no other reviewed country uses this system, differences in income and resources from country to country may support some variation in penalty amount from country to country. Similarly, countries routinely establish higher penalties for violations by foreign fishing vessels than for violations by local vessels.

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[6] *De minimis* means "trifling, minimal." BLACK'S LAW DICTIONARY 192 (2d pocket ed. 2001)

Relatively large maximum penalties are appropriate in the MPA enforcement context for several reasons, particularly when enforcement agents have the discretion to vary fines based on the severity of the offence:

- *Deterrence*: The probability of detection and successful prosecution of violations is relatively low due to resource constraints on enforcement agencies, and the ability of intentional violators to evade detection and prosecution in many cases. To provide deterrence, then, prosecutors need the freedom to impose substantial penalties that will dissuade others from violating the law.
- *Settlement incentives*: Most modern enforcement statutes authorize agencies to settle violations out of court, but violators need incentives to settle. Large statutory maximum penalties provide a substantial hammer that prosecutors can use to convince violators to settle.
- *Magnitude of harm to resource*: MPA violations can substantially harm resources that provide important ecosystem services, tourism income, and other benefits. Substantial penalties are appropriate due to the substantial harm that violations may cause to MPA resources.

The maximum penalties for offences against protected area laws vary widely both within studied countries and across the eight studied countries. For example, violation of the Antigua and Barbuda National Parks Regulations may result in a fine not exceeding EC$5,000, while fines under the Fisheries Act range from EC$500 for violation of a local by-law to EC$3,000,000 for foreign vessels fishing without a licence. Antigua and Barbuda is not alone in having substantial maximum fines for certain types of violations—the Dominican Republic's fines range up to 20,000 minimum wage units[7] (approximately 100 million Dominican pesos or US$2.3 million) for violations by a corporation, and take of endangered or threatened species for transport outside of the British Virgin Islands may result in fines of up to US$250,000. Turks and Caicos also authorizes the high fixed fines—US$50,000 for certain MPA violations.

In some countries, there are notably lower monetary penalties for violations in protected areas in particular. For example, while fines for violating longline fishing restrictions in The Bahamas may range up to US $100,000, fishing in a protected area brings a fine of just $750, and violations of National Trust bylaws results in fines of just $500. Activities may be charged under multiple provisions with different penalty amounts (*e.g.*, fishing in a protected area with longline gear could result in being penalized for both violating the longline ban and protected area restriction); nonetheless, countries may wish to reconsider whether penalties specific to protected areas are adequate to deter and punish location-specific violations without recourse to other laws and associated penalties.

A few countries have notably low maximum penalties across both fisheries and protected area laws. Saint Lucia's maximum fine is EC$5,000, while Grenada and St. Vincent and the Grenadines both allow penalties up to EC$10,000. The maximum fines under the relevant laws in these countries,

[7] The minimum public sector wage in the Dominican Republic as of 2011 was 5,117.50 pesos.

and indeed all fine amounts in statutes and regulations that are more than a decade old, may need to be reconsidered or addressed to ensure they remain appropriate for the goals of effective MPA enforcement.

Table 7: Maximum monetary penalties for violations under protected area laws, by country

Country	Fixed or discretionary	Maximum possible penalty (local currency)	Maximum possible penalty (USD*)
Antigua and Barbuda	Discretionary	EC $3,000,000	$1,110,000
The Bahamas	Fixed	B $100,000	$100,000
British Virgin Islands	Discretionary	US $250,000	$250,000
Dominican Republic	Discretionary	DP 102,350,000	$2,378,819
Grenada	Fixed	EC $10,000	$3,700
Saint Lucia	Discretionary	EC $5,000	$1,850
Saint Vincent and the Grenadines	Discretionary	EC $10,000	$3,700
Turks and Caicos Islands	Fixed	US $50,000	$50,000
* EC $1 = USD 0.37; DP 1 = USD 0.02; B $1 = USD 1			

Separate and continuing offences

Four of the eight reviewed countries provide for additional per-day fines for continuing offences in MPAs in addition to the base penalty. In the British Virgin Islands, violations in a national park constitute separate offences for each day on which the violation is committed or continued. In the Dominican Republic, violators who cause damage to a protected area can be fined for each day that the offence occurs. In Grenada and Turks and Caicos, continuing offences in a MPA are liable for additional per-day fines for each day or part that the offence takes place.

In the British Virgin Islands, offences involving more than one specimen or object can be calculated separately for each specimen and then summed.

Repeat offences

Repeat offenses can and should result in increased fines and other penalties to provide enhanced deterrence for individuals who otherwise may consistently violate the law. In addition to enhanced fines, permit sanctions may be needed to provide enhanced deterrence, and eventually to prevent recidivists from entering the fishery or undertaking other activities for which permission is required. In The Bahamas, fines and imprisonment terms are doubled for repeat violations; in the British Virgin Islands fines may be doubled if the offence was repeated within 5 years. And Antigua and Barbuda provides graduated fines for first, second, and third offences—eventually leading to a court hearing rather than administrative settlement at a lower penalty amount.

Settlement out of court

Enforcement agencies may or may not be able to settle cases without going to court and having the cases decided by a magistrate. This power is allows rapid and efficient disposition of cases, and where permitted by statute will enable increased enforcement effectiveness. Antigua and Barbuda's Fisheries Act provides that the fisheries minister may "compound offences" by accepting a sum of money not exceeding the maximum fine for the offence specified in the statute. This power has enabled the ministry to establish a meaningful penalty schedule and use it to settle violations. Similar powers are found in fisheries acts in Grenada, the British Virgin Islands, Saint Lucia, and St. Vincent and the Grenadines, but less often in acts specific to protected areas.[8]

Imprisonment

Imprisonment represents the strongest penalty available to prosecutors for violations of MPA laws. Laws in all reviewed countries authorize imprisonment of violators for at least some violations. Imprisonment terms generally range between 3 months and 2 years, but Dominican Republic law authorizes imprisonment for up to 10 years for particular violations. While imprisonment thus is widely available, it is unlikely to represent a common penalty type, as most judges are only likely to be willing to imprison violators for the most egregious and repeated MPA violations. As a result, the deterrent value of imprisonment is not substantial. Nonetheless, certain violations in MPAs may have devastating and permanent consequences, and the availability imprisonment may be appropriate and useful in such situations.

Permit Sanctions

Fisheries enforcement surveys consistently show that permit sanctions are the most effective deterrent against noncompliance. As such, they represent an important penalty in the MPA enforcement toolbox, particularly where monetary penalties are not effective due to low fishing sector incomes or other reasons. Permit sanctions may be effective in any instance where permission is needed to engage in an activity—primarily, but not exclusively, for fishing. Statutory or regulatory provisions may be required to ensure that prosecution can result in permit sanctions, particularly where permits are issued as of right rather than at the discretion of the ministry. For example, the regulations issued under the Antigua and Barbuda Fisheries Act provide that a fishing licence can be suspended or revoked for certain periods for first, second, third, and subsequent offences. Similar clear provisions establishing the permit sanctions associated with violations can improve deterrence and ensure that appropriate sanctions apply to repeat violators.

Forfeiture

Most countries' laws provide that violators may be required to forfeit items associated with an offence. Items forfeited by the violator become government property, where they may be sold, used,

[8] Some nations may allow for administrative settlements without specific statutory authority provided in each act. Consideration of local authority is required to determine the full extent of settlement powers.

or otherwise disposed of. Items subject to forfeiture include illegally captured fish or other marine products and items used to commit an offence, including gear and vessels. In general, forfeited articles are not considered part of a financial penalty because they effectively require violators to disgorge their ill-gotten gains. As a result, they generally will not have a deterrent effect—although vessel or gear forfeiture may be an exception.

The Bahamas, British Virgin Islands, Grenada, and Saint Lucia authorize forfeiture of vessels, gear, and nets under at least one of the applicable laws. In Grenada, items subject to forfeiture for violations of the MPA Regulations include any item used in commission of the offence except vessels or vehicles. The Dominican Republic authorizes forfeiture of illegally captured products. Saint Lucia and Grenada require illegally captured fish, as well as noxious substances, to be forfeited. In addition, countries often have statutory provisions governing the disposition of seized and forfeited fish, vessels, and other articles.

Natural resource damages

Some types of violations may cause temporary or permanent damage to MPA resources. A number of statutes provide that violators will be liable for repair, remediation, rehabilitation, or recovery of damaged resources, and/or compensation for losses caused by the violations. Given government financial constraints and the high cost of environmental restoration, these natural resource damage (NRD) provisions may be the only feasible resource allowing recovery of MPA resources and ecosystem services lost due to noncompliance.

Six of the eight countries establish some type of natural resource damage clause, although the exact nature of this requirement varies from country to country. In Antigua and Barbuda, the National Parks Act authorizes the responsible minister to issue regulations to "provide for payment of compensation by any person doing damage in a Park,"[9] but no relevant regulations have been issued to date. In the British Virgin Islands, a person committing an offence that involves significant deterioration or destruction of natural resources may be required to pay for the costs of restoration or repair to the resource. In Grenada, Saint Lucia, and Turks and Caicos, a violator who causes damage to a MPA may be liable for the cost of restoring that damage. In St. Vincent and the Grenadines, a violator who causes damage or loss of any equipment in a marine park is liable for replacement or repair of any removed or damaged equipment. However, there is no such comparable requirement for other living or non-living MPA resources that are damaged. Efforts to increase consistency and advance the state of the art in MPA enforcement in the Caribbean could reasonably focus on ensuring that NRD provisions are present and strong across the region.

[9] Antigua and Barbuda National Parks Act, CAP. 290, at § 26(d).

Country Profiles

This section briefly summarizes the relevant laws and regulations that apply to each MPA type in each studied country. These profiles are not exhaustive and should not be relied upon as a comprehensive statement of the legal provisions that apply to MPA enforcement in any country. All currencies listed in country profiles are listed in the relevant national currency and have not been converted to USD or other currency.

Antigua and Barbuda

Antigua and Barbuda law provides for four types of MPAs: **Marine Reserves, Marine Restricted Areas, National Parks**, and **Environmental Protection Areas**. Antigua and Barbuda law also allows for other area designations that could apply to marine areas, including fishing priority areas and public parks. These area types are not primarily intended for protection of the marine environment, however, and therefore are not considered in this assessment.

Marine Protected Area Authorization

Marine Reserves are authorized under the Fisheries Act, 2006. Marine Reserves are created where special measures are necessary to afford protection to flora and fauna; protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to fauna and flora in danger of extinction; allow for natural regeneration of aquatic life where it is depleted or threatened; promote scientific study and research; or preserve and enhance natural beauty.[10]

Marine Restricted Areas are authorized under the Marine Areas (Preservation and Enhancement) Act of 1972. Marine Restricted Areas are established to preserve and enhance natural beauty; protect flora and fauna and wrecks; promote enjoyment by the public; or promote scientific study and research.[11]

National Parks are authorized under the National Parks Act of 1984, as amended. The Act does not specify the required purpose of a National Park but provides for the establishment of parks, which currently include parks that include marine areas[12]—most notably the Codrington Lagoon National Park in Barbuda.

Environmental Protection Areas are authorized by the Physical Planning Act, 2003, as amended. These areas are created where the minister "is of the opinion that it is desirable to afford special protection to an area" due to its flora and fauna; natural features and beauty; outstanding geological, physiographical, ecological, or architectural, cultural, or historical features; special scientific interest; special natural hazards; or the characteristics, circumstances, and interests of the people living and working in the area.[13]

Regulated Activities

The Fisheries Act prohibits the following actions in a Marine Reserve without prior written permission from the minister or his designee:

- Fishing or attempting to fish;
- Taking or destroying flora or fauna;

[10] Fisheries Act, No. 22 of 2006, § 53.
[11] Marine Areas (Preservation and Enhancement) Act, CAP. 259, § 3.
[12] National Parks Act, CAP. 290, § 20.
[13] Physical Planning Act, No. 6 of 2003, § 54.

- Dredging, extracting sand or gravel;
- Discharging or depositing waste or any other polluting matter;
- Otherwise disturbing, altering or destroying the natural environment; and
- Constructing or erecting any building or structure on or over a reserve.[14]

Written permission from the Chief Fisheries Officer of Antigua and Barbuda is needed to enter, operate a boat in, or remove any bird or marine flora or fauna from a Marine Restricted Area; disposal of waste, poisoning or killing fish and birds, and disturbance of wrecks are all absolutely prohibited in these areas.[15]

The National Parks Act does not specify what activities are regulated in National Parks. However, in 2012 the government issued National Park Regulations providing a variety of restrictions in National Parks. Among other provisions, these regulations require permits to use public land or property or conduct certain activities in a park, allow the National Parks Authority to designate restricted or prohibited areas, and prohibit or regulate specific activities in a park (*e.g.*, boating, dogs, fires).[16]

Restrictions in Environmental Protection Areas are dependent on the order creating them. An Environmental Protection Order can, among other actions:

- designate areas where only certain development can occur;
- prohibit development entirely in the area;
- authorize work to protect the area;
- require EIS for any proposed activity there; and/or
- restrict or prohibit entry into the area or movement or activity in the area.[17]

Enforcement Tools

The Fisheries Act provides authorised officers with the same enforcement powers in Marine Reserves as in other locations. Authorised officers may search and board vessels, require production of fishing licenses, and examine nets and gear.[18] If they have "reasonable grounds" to suspect an offence has been or is being committed, officers have more expansive search and seizure powers (they may enter and search premises other than an exclusive dwelling, take samples, seize a vessel, gear, etc.) and they may arrest the master, owner or charterer or any other person whom he has reason to suspect has committed an offence.[19]

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[14] Fisheries Act, No. 22 of 2006, § 53.
[15] Marine Areas (Preservation and Enhancement) Regulations, S.B.O. 25/1973, §§ 4-9.
[16] National Parks (General) Regulations, 2012 No. 48.
[17] Physical Planning Act, No. 6 of 2003, § 54.
[18] Fisheries Act, No. 22 of 2006, § 62.
[19] *Id*. § 63.

When an offence is committed by anyone on a boat, the master is also liable.[20] The Fisheries Act also provides a presumption that when a vessel has been involved in the commission of an offence, any fish found aboard was harvested in the commission of that offence. [21]

The Marine Restricted Area regulations authorize the Chief Fisheries Officer and her designees to board any vessel which she suspects has been operating in a restricted area in contravention of the regulations; arrest without a warrant any persons on such vessels suspected of offences; seize any fish, bird, flora, and fauna that she has a reasonable cause to believe were taken from a restricted area without permission of the minister; and in such event she shall have all the general powers and duties of a police officer.[22]

The National Parks Act does not include specific provisions granting enforcement powers in National Parks. Similarly, the Physical Planning Act lacks specific provisions granting enforcement authority related to Environmental Protection Areas**.** As a result, enforcement in these areas requires reliance on authority granted by other laws.

Penalties

The Fisheries Act and regulations provide for a variety of maximum fines and imprisonment for violations. In particular, a person who carries out a prohibited act without permission in a Marine Reserve is liable on summary conviction for a fine of up to EC$100,000.[23] In addition, where a person is convicted of violating the Fisheries Act, the court may order any fishing vessel or gear used in the commission of the offence to be forfeited, and any fish caught in the commission of an offence must be forfeited.[24] Fisheries violations may be settled without court involvement[25] based on a penalty schedule set out in the Fisheries Regulations, but marine reserve violations are not included on the schedule.[26]

Violations of legislative restrictions in Marine Restricted Areas are punishable with fines of EC$1,500 and an additional EC$300 per day for continuing violations.[27] Violations of the associated regulations may result in fines up to EC$3,000 and/or six months imprisonment.[28]

Violation of the National Parks regulations may result in penalties up to EC$5,000 and/or six months' imprisonment.[29]

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[20] *Id*. § 67.
[21] *Id*. § 70.
[22] Marine Areas (Preservation and Enhancement) Regulations, S.B.O. 25/1973, § 10.
[23] Fisheries Act, No. 22 of 2006, § 53. EC$1 = US$0.37.
[24] Fisheries Act, No. 22 of 2006, § 69.
[25] Fisheries Act, No. 22 of 2006, § 74.
[26] Fisheries Regulations, 2013 No. 2, Sched. XII.
[27] Marine Areas (Preservation and Enhancement) Act, CAP. 259, § 3.
[28] Marine Areas (Preservation and Enhancement) Act, CAP. 259, § 6.
[29] National Parks Act, CAP. 290, § 26.

A person who violates regulations made with respect to an Environmental Protection Area is liable on summary conviction to a fine of EC$500 plus EC$100 per day for continuing offences after conviction; or on indictment to a fine of EC$10,000 and/or imprisonment for up to six months.[30]

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- **Fisheries Act 2006**
- **Fisheries Regulations 2013**
- **Marine Areas (Preservation and Enhancement) Act 1972**
- **Marine Areas (Preservation and Enhancement) Regulations 1973**
- **National Parks Act 1984, as amended**
- **National Parks Regulations 2012**
- **Physical Planning Act 2003**
- Dumping At Sea Act 1975
- Oil Pollution of Maritime Areas Act 1995
- Pubic Parks Act 1965
- Wild Birds Protection Act 1913

[30] Physical Planning Act, No. 6 of 2003, § 80(d).

The Bahamas

Legislation in The Bahamas authorizes two types of MPAs, **Protected Areas** and **National Parks**.

Marine Protected Area Authorization

The Fisheries Resources Act of 1986 authorizes the Minister, by order, to establish **Protected Areas** within the exclusive fisheries zone of The Bahamas and which may include adjacent areas of land.[31]

The Bahamas National Trust Act charges The Bahamas National Trust (BNT) with, *inter alia*, maintenance and management of "submarine areas as marine life sanctuaries" in accordance with the Trust's purpose of "promoting the permanent preservation for the benefit and enjoyment of The Bahamas . . . submarine areas of beauty or natural or historic interest and . . . for the preservation (so far as practicable) of their natural aspect, features, and animal, plant and marine life."[32] To carry out this charge, the BNT may own land[33] and establish bylaws to regulate activities on that land.[34] Under these authorities, the BNT manages **National Parks** (including Marine Parks) in The Bahamas.[35]

Regulated Activities

A protected areas order may prohibit fishing for any fishery resource, or for specified fishery resources, in the protected area, except in compliance with a permit. No default prohibitions on activities apply in protected areas other than those specified by order.[36]

The National Trust Act authorizes the BNT to promulgate bylaws regulating activities on Trust lands but establishes no default restrictions on such lands.[37] The BNT by-laws may, among other specific powers, "prohibit[] or regulat[e] any act or thing tending to injure or disfigure [Trust] lands or property or [] interfere with the use and enjoyment thereof by the public."[38]

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[31] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 13 (2001). The exclusive fisheries zone extends to 200 miles unless the boundary of a neighboring state is less than 200 miles away, in which case the boundary is set by negotiation. *Id.* §§ 5, 12. The inner boundary of the exclusive fisheries zone is not explicitly established but context suggests that it is at the baseline.
[32] Bahamas National Trust, CH. 391, § 4 (2001).
[33] Bahamas National Trust, CH. 391, § 4 (2) (2001).
[34] Bahamas National Trust, CH. 391, § 24 (2001).
[35] Personal communication (June 18, 2013).
[36] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 13 (2) (2001).
[37] Bahamas National Trust, CH. 391, § 24 (2001).
[38] Bahamas National Trust, CH. 391, § 24(n) (2001).

Enforcement Tools

The Fisheries Resources Act authorizes fisheries officers to stop and board vessels, seize items, and make arrests in protected areas and elsewhere in the fisheries zone.[39] Detained property may be subject to lien for payment of fines.[40] The Fisheries Resources Act establishes presumptions that: (1) when a prohibited apparatus or substance is found on board, any fish on board were taken via those means;[41] (2) when a prohibited activity takes place, the captain and every crew member were involved in the activity;[42] and (3) when a person is found with a prohibited fishery resource in a protected area, the fishery resource was taken in the protected area.[43]

The National Trust Act authorizes the BNT to appoint officers or wardens, who have the same powers, Authorities, and protections as constables appointed under other law.[44]

Penalties

The Fisheries Resources Act contains a variety of penalty provisions, including both fixed and discretionary fines ranging in amount from B$500 to B$50,000 to B$100,000 based on the seriousness of the offence.[45] In particular, take of a fishery resource in a protected area in contravention of an order, or of any permit term or condition issued under that order, is punishable upon summary conviction by a monetary penalty of B$750 and/or imprisonment for 6 months.[46] A person who violates any provision of the Fisheries Regulations may be punished by a monetary penalty of B$3,000 and/or 1 year imprisonment, unless another penalty is specified for a particular violation.[47] Fines and imprisonment terms are doubled for repeat violations.[48] The Fisheries Resources Act also empowers a court to order forfeiture of a vessel found fishing without a valid permit,[49] and a court must order the forfeiture of any trap, net, seine, or other devices used in contravention of the Fisheries Regulations.[50]

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[39] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 14 (2001).
[40] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 16 (3) (2001).
[41] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 22 (2)(c) (2001); Fisheries Resources (Jurisdiction and Conservation) Regulations, Part XV, § 69 (c) (2008).
[42] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 20 (2001); Fisheries Resources (Jurisdiction and Conservation) Regulations, Part XV, § 69 (a)-(b) (2008).
[43] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 20 (2) (2001).
[44] Bahamas National Trust, CH. 391, §25.
[45] B$1 = US$1.
[46] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 13(3) (2001).
[47] Fisheries Resources (Jurisdiction and Conservation) Regulations, Part XIV, § 68(2) (2008).
[48] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 23 (2001).
[49] Fisheries Resources (Jurisdiction and Conservation) Act, CH. 244, § 20 (2001).
[50] Fisheries Resources (Jurisdiction and Conservation) Regulations, Part XIV, § 68(3) (2008).

The National Trust Act authorizes the BNT, through its by-laws, to impose, upon summary conviction: fines not to exceed B$500; confiscation of chattels; and other penalties not to include imprisonment.[51]

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- Archipelagic Waters and Maritime Jurisdiction Act 1996
- Bahamas Maritime Authority Act 1995
- **Bahamas National Trust Act 2001**
- Coast Protection Act 1968
- Environmental Health Services Act 1987
- **Fisheries Resources (Jurisdictions and Conservation) Act 1986**
- **Fisheries Resources (Jurisdictions and Conservation) Regulations 1986**
- Land Exchange Act 1936
- Marine Mammal Protection Act 2005
- Marine Mammal Protection (General) Regulations 2006
- Seal Fisheries (Crown Colonies and Protectorates) Order 1913
- Water Skiing and Motor Boat Control Act 1970
- Wild Animals (Protection) Act 1968
- Wild Birds Protection Act 1952
- Wildlife Conservation and Trade Act 2004

[51] Bahamas National Trust, CH. 391, §24(q).

British Virgin Islands

There are two types of MPAs in the British Virgin Islands: **Marine Reserves** and **Protected Areas**.

Marine Protected Area Authorization

The Fisheries Act authorizes the Fisheries Minister to create **Marine Reserves** by order, and the Minister has issued regulations governing these reserves and identifying the MPAs created under this authority.[52]

The National Parks Act authorizes creation of **protected areas** for the "benefit, education, and use" of the people of the Virgin Islands; these protected areas are to be "maintained, conserved, restored, and used so as to leave them unimpaired for the benefit of future generations."[53] The National Parks Act provides that protected areas previously established under other ordinances, including the Marine Parks and Protected Areas Ordinance, are construed as coming under the Act.[54] In addition, the Act provides for establishment of a variety of the following types of protected areas, each intended to achieve different goals for management, conservation, and use:

- **Strict Nature Reserve or Wilderness Area:** "an area of land or sea of high natural quality in an unmodified or slightly modified state possessing outstanding or representative ecosystems, features or species and large enough to ensure preservation of the area's natural integrity for present and future generations, to be managed in this state in perpetuity."[55]
- **Marine Park:** "a natural area of land or sea containing a representative sample of major natural regions, features, or scenery, or where wildlife, habitats, or surface features are of special significance and are not materially altered by current human occupation or exploitation, to be maintained in perpetuity with [specific] conservation and management objectives."[56]
- **National Monument:** "a unique area of land or sea containing one or more natural or natural and associated cultural, feature of outstanding value because of its inherent rarity, representative or aesthetic qualities, which shall be managed in such a way as to protect or preserve in perpetuity its special feature or features and to provide opportunities for scientific research, education and public appreciation to the extent consistent with its conservation objectives." [57]
- **Habitat or Species Management Area:** "an area of land or sea that serves an important role in the protection and survival of wildlife, where the protection of wildlife habitat is essential to the well-being of nationally or locally-important wild plants or to resident or

[52] Fisheries Act, 1997, § 35 (1); Fisheries Regulations, 2003, §§ 51-52, Sched. 5.
[53] National Parks Act, 2006, § 13.
[54] National Parks Act, 2006, § 14.
[55] National Parks Act, 2006, § 15(a).
[56] National Parks Act, 2006, § 15(b).
[57] National Parks Act, 2006, § 15(c).

migratory wild animals, and where specific human manipulation and active intervention are required to ensure maintenance of such habitats or to meet the habitat requirements of specific species or both, and such areas may incorporate breeding and nesting areas, wetlands, coral reefs, estuaries, grasslands, forests or spawning areas including marine feeding beds."[58]

- **Protected Seascape:** "an area of land or sea where the interaction of people and nature over time has produced a distinctive character with significant aesthetic, ecological or cultural heritage value and often with high biological diversity, and which managed in such a way as to maintain and support the harmonious interaction of people and nature."[59]
- **Managed Resource Area:** "an area of land or sea large enough to absorb sustainable resource uses without detriment to its long-term natural values, and [which] shall be managed to ensure long-term protection and maintenance of biological diversity while providing a sustainable flow of natural products and services."[60]
- **Urban parks**, **historic sites**, and areas under landowner conservation agreements.[61]

Regulated Activities

The Fisheries Act does not prescribe particular regulation of activities for Marine Reserves. However, the Fisheries Regulations prohibit, without permission:

- Any development activity, terrestrial or otherwise, that may adversely impact on a MPA declared by the minister;
- Anchorage of any yacht or vessel (except in the event of storm or for safety reasons); and
- Diving or recreation other than snorkeling.[62]

Protected Areas established under the National Parks Act are subject a suite of prohibitions and activities for which permission is required. Prohibitions include but are not limited to:

- Entering areas closed to the public;
- Polluting any body of water or disposing of sewage;
- Carrying out any development activity that could adversely impact the area;
- Damaging any plant or vegetation, removing living or dead coral, or removing live animals or plants; and
- Mining, removing, or prospecting for minerals, substrata, or other substances.[63]

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[58] National Parks Act, 2006, § 15(d).
[59] National Parks Act, 2006, § 15(e).
[60] National Parks Act, 2006, § 15(f).
[61] National Parks Act, 2006, § 15(g)-(h), 16. These areas are unlikely to include MPAs, except potentially for wrecks, as they are intended for urban or terrestrial use (and because private landowners generally lack ownership rights in the ocean or seabed).
[62] Fisheries Regulations, 2003, § 52.
[63] National Parks Act, 2006, § 49 (1).

Permission is required for, *inter alia*:

- Anchoring, mooring, beaching, or leaving a vessel;
- diving or similar activity (other than snorkeling);
- Conducting scientific research;
- Building a structure.[64]

Finally, the law contains "strict protections" prohibiting taking, destroying, or disturbing wildlife or habitat (other than lawful fishing), or introducing exotic or alien invasive species without a written permit from the Park Trust.[65] Similarly, taking items of cultural heritage is prohibited unless authorized by a written permit.[66]

Enforcement Tools

Both fisheries and national parks legislation in the British Virgin Islands authorize enforcement officers to search vessels, seize articles, requiring production of documentation, and arrest violators.[67] These tools are similar to provisions found in other British Commonwealth nations in the region. In addition, the fisheries regulations provide for payment of a financial reward (US$500) to any person who gives information leading to the conviction of the owner, charterer, master, or crew of a foreign fishing vessel.[68]

The Fisheries Act creates the presumption that where a vessel has been involved in illegal activity, any fish found aboard was caught illegally.[69]

The National Parks Act provides that a person accused of possessing any thing or of being in any place that requires a written permit shall be presumed to have possessed that thing or to have been in that place.[70] The burden of proof is on the accused.[71] Similarly, the act creates a presumption that when a person is found in possession of wildlife or any other thing that may not be taken from inside a Protected Area, and the person fails to give a satisfactory explanation of how the item came in his or her possession, such failure is evidence that the article was removed from the Protected Area.[72]

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[64] National Parks Act, 2006, § 50 (1).
[65] National Parks Act, 2006, § 51 (1).
[66] National Parks Act, 2006, § 52 (1).
[67] Fisheries Act, 1997, § 54; National Parks Act, 2006, § 57.
[68] Fisheries Regulations, 2003, § 62.
[69] Fisheries Act, 1997, Part X, § 68 (1).
[70] National Parks Act, 2006, § 60 (1).
[71] *Id.*
[72] National Parks Act, 2006, § 60 (2).

Penalties

The Fisheries Act does not prescribe any penalties for violations in a Marine Reserve; however, any violation of the Fisheries Regulations may be punished by a fine of not more than US$1,000.[73] Fines for other violations of the Fisheries Act and Fisheries Regulations are discretionary, and maximum fines range from US$5,000 to US$500,000 depending on the violation type. Most potential violations have a specified maximum penalty.

Under the National Parks Act, engaging in a prohibited activity in a Protected Area is punishable by a fine up to US$10,000 and/or imprisonment for up to 1 year upon summary conviction,[74] and by a fine up to US$50,000 and/or imprisonment for up to 2 years upon conviction on indictment.[75] Engaging in an activity that requires permission without said permission is punishable by a fine up to US$5,000 and/or imprisonment for up to 6 months upon summary conviction,[76] and by a fine up to US$10,000 and/or imprisonment for up to 1 year upon conviction on indictment.[77]

Violation of wildlife protections is punishable by a fine up to US$5,000 and/or imprisonment for up to 6 months upon summary conviction,[78] and by a fine up to US$25,000 and/or imprisonment for up to 1 year upon conviction on indictment.[79] If the violation involves wildlife considered threatened or endangered under the wildlife protection act, fines increase to US$10,000/up to 1 year of imprisonment (summary conviction)[80] and US$50,000/up to 2 years of imprisonment (indictment).[81] If the violation involves threatened or endangered wildlife and their take was for the purpose of transport and trade outside of the territory, fines increase to US$50,000/up to 2 years of imprisonment (summary conviction)[82] and US$250,000/up to 10 years of imprisonment (indictment).[83] The National Parks Act provides for continuing offences—each day is considered a separate offence.[84]

In addition to imposing a fine and/or a prison sentence, the court is given broad authority to confiscate objects implicated in the offence, including the vessel involved.[85] Subsequent offences within five years of the first offence may be subject to double the original penalty.[86] Offences

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[73] Fisheries Regulations, 2003, § 64.
[74] National Parks Act, 2006, § 49 (2)(a).
[75] National Parks Act, 2006, § 49 (2)(b).
[76] National Parks Act, 2006, § 50 (2)(a).
[77] National Parks Act, 2006, § 50 (2)(b).
[78] National Parks Act, 2006, § 51 (2)(a)(i).
[79] National Parks Act, 2006, § 51 (2)(a)(ii).
[80] National Parks Act, 2006, § 51 (2)(b)(i).
[81] National Parks Act, 2006, § 51 (2)(b)(ii).
[82] National Parks Act, 2006, § 51 (2)(c)(i).
[83] National Parks Act, 2006, § 51 (2)(c)(ii).
[84] National Parks Act, 2006, § 79.
[85] National Parks Act, 2006, § 76.
[86] National Parks Act, 2006, § 77.

involving more than one specimen or object can be calculated separately for each specimen and then summed.[87]

In addition to fines and imprisonment, a person who causes damage to natural resources may be liable under the National Parks Act for the costs of restoration in addition to any other fines or penalties imposed by the court.[88]

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- Conservation of Biodiversity Act 2005
- **Fisheries Act 1997**
- **Fisheries Regulations 2003**
- Fisheries Ordinance 1979
- High Seas Fishing Act 1995
- **National Parks Act 2006**
- **National Parks Regulations 2008**
- Protected Areas Order 1990

[87] National Parks Act, 2006, § 78.
[88] National Parks Act, 2006, § 74.

Dominican Republic

The Dominican Republic has established a National System of Protected Areas ("SINAP") that includes a range of MPA units, including **Marine Mammal Sanctuaries**, **Marine Sanctuaries**, **National Parks**, **National Submarine Parks**, **Natural Monuments**, **Wildlife Refuges, Scenic Routes,** and **Natural Recreation Areas**. In addition, the Fisheries Law provides for **Fishery Reserves**.

Marine Protected Area Authorization

The Protected Areas Law of 2004 and its related regulations and decrees provide the framework and authority for the SINAP. The Ministry of Environment and Natural Resources, through the Secretary of State for Environment and Natural Resources manages the SINAP and makes regulations under the law.[89] The Law sets out six protected area categories as identified by IUCN,[90] each of which includes one or more types of protected area units and is designed to promote a particular set of management objectives and uses.

- Strict Protection Areas, including Marine Sanctuaries and Marine Mammal Sanctuaries,[91] are established when an area possesses natural resources with unique ecological value, including representative or exceptional ecosystems, special geological or biological characteristics, or species of special interest to scientific research.[92]
- National Parks, including National Submarine Parks,[93] are intended to protect the ecological integrity of ecosystems with great ecological relevance, scenic beauty, or submarine life; to avoid exploitation and/or intensive activities that would alter these ecosystems; and to create opportunities for scientific, educational, recreational, touristic, and spiritual activities.[94]
- Natural Monuments are established to conserve specific natural or natural-cultural traits with an outstanding or unique value owing to their intrinsic rarity, representative aesthetic qualities, or natural-cultural significance.[95]

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[89] Ley Sectorial de Areas Protegidas, No. 202-04, at art. 5 (2004) (*hereinafter* Protected Areas Law). The law is administered by the Protected Areas Office (Dirección de Áreas Protegidas), a subdivision of the Viceministry of Protected Areas and Biodiversity within the Ministry of Environment and Natural Resources. *See* Ministerio de Medio Ambiente y Recursos Naturales, *Viceministerio de Áreas Protegidas y Biodiversidad*, *at* http://www.ambiente.gob.do/Ministerio/AreasProtegidasyBiodiversidad/Paginas/Viceministerio.aspx.

[90] IUCN, *IUCN Protected Area Categories System*, *at* http://www.iucn.org/about/work/programmes/gpap_home/gpap_quality/gpap_pacategories/.

[91] Protected Areas Law, *supra* note 89; Decreto que Crea un santuario para mamíferos marinos llamado Santuario de Ballenas Jorobadas del Banco de la Plata, No. 319-86 (14 Oct. 1986) (creating first marine mammal sanctuary in Banco de la Plata).

[92] Protected Areas Law, *supra* note 89, at art. 13.

[93] Protected Areas Law, *supra* note 89; Decreto que crea varios parques nacionales, monumentos naturales, reservas biológicas, reservas científicas, santuarios marinos, refugios de vida silvestre, Área Nacional de Recreo Boca de Nigua y el Monumento Nacional Salto de Jimenoa, No. 571-09 (2009) (*hereinafter* Protected Areas Decree).

[94] Protected Areas Law, *supra* note 89, at art. 14.

[95] Protected Areas Law, *supra* note 89, at art. 14. Protected Areas Decree, *supra* note 93.

- Habitat/Species Management Areas, including Wildlife Refuges, are established to preserve and protect natural elements that are important due to: biotic, aesthetic, or cultural components; function as reproductive habitats for particular species; and/or potential economic benefits from tourism.[96]
- Natural Reserves, including Forest Reserves, are intended to ensure natural conditions to protect species, groups of species, biotic communities, or physical features that require artificial manipulation, while ensuring the economic benefits of ecotourism and sustainable use of resources, such as water and timber production.
- Protected Landscapes, including Scenic Routes, Ecological Corridors, and Natural Recreation Areas,[97] are areas where the interactions of human populations with nature have produced an area with a distinct character that has a significant aesthetic, cultural, or ecological value and high biodiversity.[98]

The protected area categories, units, and total marine area protected under each type of unit are summarized in Table 8.

Table 8: Protected area categories, units, and marine area protected under the Protected Areas Law

Protected Area Category	SINAP Unit	Marine area conserved (km^2)[99]
Strict Protection	Scientific Reserve	0
	Marine Mammal Sanctuary	32,897
	Marine Sanctuary	10,562
	Biological Reserve	0
National Park	National Park	1557
	National Submarine Park	256
Natural Monument	Natural Monument	24
Habitat/Species Management Areas	Wildlife Refuge	161
Natural Reserve[100]	Forest Reserve	0
Protected Landscapes	Scenic Routes	12
	Ecological Corridor	0
	National Recreation Area	37

[96] Protected Areas Law, *supra* note 89; Protected Areas Decree, *supra* note 93.
[97] Protected Areas Law, *supra* note 89, at art. 13.
[98] Protected Areas Law, *supra* note 89, at art. 2.
[99] Ministerio de Medio Ambiente y Recursos Naturales, *Sistema Nacional de Áreas Protegidas* (2014), *available at*http://www.ambiente.gob.do/IA/AreasProtegidas/EstadisticasAPs/SUPERFICIE%20TERRESTRE%20Y%20MARINA%202014.pdf.
[100] The Protected Areas Law indicates additional Natural Reserve units, including Model Forests and Private Reserves. Protected Areas Law, *supra* note 89, at art. 13. However, the Ministry of Environment and Natural Resources indicates that no protected areas under either of these units. Ministerio de Medio Ambiente Y Recursos Naturales, *supra* note 99.

The Fishing and Aquaculture Law,[101] which created the national fishing and aquaculture agency, CODOPESCA, establishes additional MPA authority. Under the Law, all waters within 100 km of shore, except for in the La Plata and La Navidad banks, are reserved to subsistence, artisanal, sport, and scientific fishing; industrial (commercial) fishing is prohibited in these areas.[102] CODOPESCA, in coordination with the Ministry, can identify spawning and breeding areas where fishing or other disturbance of the flora or soil in those areas is prohibited.[103] Further, CODOPESCA may request that the Executive establish Fishery Reserves in coastal waters nurture and preserve important species during their periods of mating and reproduction.[104]

Regulated Activities

The Protected Areas Law permits different uses in each category of protected area (Table 9).[105] Uses permitted in different protected areas include:

- scientific research (subject to the Regulations for Research in Protected Areas[106]);
- recreation;
- natural or ecological tourism;
- environmental monitoring;
- education;
- conservation of genetic resources;
- traditional uses;
- preexisting infrastructure, including housing, productive activities, and communications;
- infrastructure for environmental protection or protective or research purposes;
- infrastructure for public use and ecotourism; and
- economic activities.

Individual protected area units may elaborate on these general uses, providing more specific management norms and promoting the sustainable, harmonized implementation of a parcel's various management objectives.[107]

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[101] Ley que crea el Consejo dominicano de pesca y acuicultura (CODOPESCA), No. 307-04, at art. 41 (2004) (*hereinafter* Fishing and Aquaculture Law).
[102] Fishing and Aquaculture Law, *supra* note 101, at art. 41.
[103] Fishing and Aquaculture Law, *supra* note 101, at art. 42.
[104] Fishing and Aquaculture Law, *supra* note 101, at art. 44.
[105] Protected Areas Law, *supra* note 89, at art. 13. The law is internally inconsistent with respect to categorization, but the Ministry's 2007 "SINAP Policies" create a policy to revise the management categories to guarantee that they correspond with national development and management objectives as well as the intrinsic characteristics of the natural resources, eliminating inconsistencies and confusion. *See* Secretaría de Estado de Medio Ambiente y Recursos Naturales, *Políticas para la Gestión Efectiva del Sistema Nacional de Áreas Protegidas de la República Dominicana* 52 (2007), *available at* http://www.fondomarena.gob.do/mediateca/doc_download/86-politicas-para-la-gestion-efectiva-del-sinap.html.
[106] Reglamento de Investigación en Áreas Protegidas y Biodiversidad, No. 07/04 (2004) (*hereinafter* Research Regulations) (*inter alia*, prohibiting listed activities within SINAP areas).

The Fishing and Aquaculture Law provides a variety of restrictions on fishing activity in the Dominican Republic, including licence requirements and limits on fishing gear, methods, and seasons in addition to area protections.[108] Under the Law, any person engaged in fishing activities is required to respect all conservation measures established by any applicable law or regulation, and especially those measures related to restricted areas or fishery reserves.[109] In particular, any fishing in a NISMA protected area requires permission from the Ministry and coordination with CODOPESCA. Similarly, CODOPESCA must coordinate with the National Directorate of Parks when it establishes Fisheries Reserves in protected areas.

Table 9: Selected permitted uses by protected area category under the Protected Areas Law[110]

	Strict Protection	National Park	Natural Monument[111]	Habitat/Species Management Area	Natural Reserve	Protected Landscape
Scientific Research	X	X	n/a	X		
Recreation	X	X	n/a	X		X
Tourism	X	X	n/a	X		X
Environmental Monitoring	X		n/a			
Education	X	X	n/a	X		
Conservation of genetic resources	X	X	n/a	X		X
Traditional uses			n/a	X		X
Housing			n/a			X
Economic activity			n/a			X
X = Permitted use in protected area category						

Enforcement Tools

The Ministry is responsible for compliance with and administration of the Protected Areas Law, directly or through co-management and cooperation with contracted entities (which may include other public institutions, NGOs, and domestic and foreign corporations).[112] The Protected Areas Law does not provide specific authority for enforcement, however; as a result, inspectors derive

[107] Protected Areas Law, *supra* note 89, at art. 13.
[108] Fishing and Aquaculture Law, *supra* note 101, at art. 43.
[109] Fishing and Aquaculture Law, *supra* note 101, at art. 17.
[110] Protected Areas Law, *supra* note 89, at art. 14.
[111] The Protected Areas Law identifies but does not describe the objectives of or uses in Natural Monuments. *See* Protected Areas Law, *supra* note 89, at art. 13-14.
[112] Protected Areas Law, *supra* note 89, at art. 15-17 (providing that the Ministry plans, supervises, regulates, and controls activities within SINAP areas and is the only department authorized to grant permits and execute contracts for operations in such areas).

their enforcement authority from the General Law on the Environment[113] and the associated Regulations for the Control, Oversight, and Environmental Inspection and the Application of Administrative Sanctions.[114] These authorities empower inspectors to take the following measures to prevent or enforce violations that cause or threaten harm, danger, or imminent risk to the environment and natural resources:

- Immediately suspend activities to prevent or halt environmental harms or risks;
- Temporarily restrict activities generating an environmental risk or administrative infraction;
- Confiscate objects, equipment, materials, vehicles, raw materials, and products (including protected species and wildlife) used to cause an environmental risk or infraction;
- Seize objects, equipment, materials, vehicles, raw materials, and products used to cause an environmental risk or infraction;
- Order execution and implementation of measures to prevent, reduce, or control adverse effects to the environment or human health.[115]

The procedures for inspections and surveillance by Environment and Natural Resources Inspectors are set forth in the Manual of Procedure for the Control, Monitoring and Inspection of the Ministry of Environment and Natural Resources.[116] These procedures do not specifically address vessel inspections or identify the rights of inspectors to search or board vessels or other conveyances.

CODOPESCA is in charge of inspection and monitoring of all fishing and aquaculture activities under the Fishing and Aquaculture Law.[117] It is directed to watch over compliance and impose appropriate administrative sanctions for violations;[118] in addition, it is to coordinate with the Marines and other government authorities for surveillance and law enforcement.[119] CODOPESCA is required to maintain a fishing and aquaculture inspection service, made up of inspectors with necessary professional qualifications.[120] Inspectors maintain catch reports, directly monitor compliance (and keep records of noncompliance) and receive complaints about infractions; they are required to immediately bring infractions to the attention of CODOPESCA, which is responsible for enforcement.[121] The law does not provide specific enforcement powers for the inspectors, and CODOPESCA inspectors do not appear to be covered by the authorities provided to Environment

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[113] Ley General Sobre Medio Ambiente y Recursos Naturales, No. 64-00, at art. 54 (2000) [*hereinafter* General Law].
[114] Reglamento Para el Control, Vigilancia e Inspección Ambiental y la Aplicación de Sanciones Administrativas, No. 18/07 (2007) [*hereinafter* Enforcement Regulations].
[115] General Law, *supra* note 113, at art. 54; Enforcement Regulations, *supra* note 114.
[116] Enforcement Regulations, *supra* note 114, at art. 8 (incorporating manual by reference).
[117] Fishing and Aquaculture Law, *supra* note 101, at art. 74, 5(o) (directing CODOPESCA to "conduct effective control and monitoring of landings, production and exploitation to ensure compliance with fisheries regulations and impose appropriate sanctions, control and monitoring" of fishing).
[118] Fishing and Aquaculture Law, *supra* note 101, at art. 97.
[119] Fishing and Aquaculture Law, *supra* note 101, at art. 76.
[120] Fishing and Aquaculture Law, *supra* note 101, at art. 75.
[121] Fishing and Aquaculture Law, *supra* note 101, at art. 76.

and Natural Resources inspectors under the General Law on the Environment and its associated regulations.[122]

Penalties

Dominican Republic law provides for criminal, civil, and administrative penalties that include fines, imprisonment, forfeiture of articles (including closure of establishments), and permit and licence revocation. Monetary penalties in the Dominican Republic are variable and will be weighted according to a range of factors, including socioeconomic status, magnitude of damage to natural resources, and intentionality.[123] Fines in the Dominican Republic are associated with a range of minimum wage units rather than fixed sums.[124]

The Protected Areas Law states that when environmental damage occurs within a protected area, the State will take appropriate restoration, recuperation, and rehabilitation measures, and that in the event of an environmental crime or misdemeanor, the State will take legal action against the offender to demand compensation.[125] Specifically, the Office of the Attorney General can impose a range of sanctions, including fines of 1-10,000 minimum wage units for particular violations; confiscation and/or seizure of articles used to cause the damage; prohibition or temporary suspension of activity creating avoidable harm or risk of harm to the environment; partial or total closing of premises or properties involved in the violation, and submission for prosecution for criminal or civil liability, as appropriate.[126] Prevention and protection measures required to correct irregularities encountered during an inspection are not considered administrative sanctions but rather as precautionary actions independent of the penalty process.[127]

In addition to administrative sanctions,[128] violations of the Protected Areas Law may result in the following civil and/or criminal penalties under the General Law on the Environment and Natural Resources.[129]

- **Criminal sanctions**: Negligent, willful, or intentional acts or omissions that violate the General Law, including altering or damaging a NISMA area, constitute crimes against the

[122] Fishing was included in the General Law on the Environment but the subsequent Fisheries and Aquaculture Law amended the General Law to exclude fisheries and aquaculture; further, CODOPESCA is independent of the Ministry. Fishing and Aquaculture Law, *supra* note 101, at art. 100

[123] *See* General Law, *supra* note 113, at art. 186; Enforcement Regulations, *supra* note 114, at art. 16-20.

[124] The minimum public sector wage in the Dominican Republic as of 2011 was 5,117.50 pesos. 1 Dominican peso = US$0.02.

[125] Protected Areas Law, *supra* note 89, at art. 5(9).

[126] Protected Areas Law, *supra* note 89, at art. 35.

[127] Enforcement Regulations, *supra* note 114, at art. 11.

[128] Protected Areas Law, *supra* note 89, at art. 36 (providing that administrative action by the Office of the Attorney General is separate from civil or criminal liability arising from violations of the Protected Areas Law). The General Law also provides for administrative sanctions, including lesser fines of ½ to 3,000 minimum wage units. General Law, *supra* note 113, at art. 167. The Protected Areas Law does not clarify whether its specific sanctions are in addition to or supersede these general administrative sanctions.

[129] Protected Areas Law, *supra* note 89, at art. 34 (incorporating by reference Articles 165 to 187 of the General Law).

environment.[130] The judge has discretion to impose sanctions that include, but are not limited to, fines from ¼ to 10,000 minimum wage units, imprisonment from 6 days to 3 years, temporary or permanent loss of permits and other authorizations, and a requirement to "repair, replace, reimburse, restore, or rehabilitate the natural resource that has been harmed or modified to its original state, to the extent feasible."[131] In addition to criminal sanctions to the person who committed the offence, environmental crimes committed on behalf of a corporation for profit may result in penalties to the corporation including a fine of 5,000 to 20,000 minimum wage units, and a 1 month to 3 year prohibition on conducting the activity that caused the crime.[132]

- **Civil sanctions:** Violators are subject to civil liability in court. A person who harms the environment or natural resources is strictly liable for the damage and must restore the environment and/or provide economic compensation for harm caused to the environment, community, or private parties.[133] Officials who, by act or omission, authorize activities that cause harm (*e.g.*, vessel captains) are jointly liable for the harm.[134]

Finally, violations in a protected area may result in loss of authorisation to carry on activities in such areas. The General Law provides that failure to comply with orders from the Ministry will result in temporary or permanent loss of authorisations,[135] and courts can order the same for criminal violations.[136] The Regulations for Research also specifically authorise the Ministry to unilaterally revoke a research permit at any time for violations of permit terms, laws, or regulations (or because of unforeseen circumstances).[137] Researchers are liable for damage to the environment,[138] and can also receive a ten-year prohibition on future research in some or all protected areas if they violate the regulations or "the principles of environmental ethics."[139]

Punishments for violation of the Fishing and Aquaculture Law must be imposed by the competent judicial authority;[140] however, CODOPESCA can impose administrative penalties for violations.[141]

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[130] General Law, *supra* note 113, at art. 174-175.
[131] General Law, *supra* note 113, at art. 183. Additional sanctions include confiscation of articles used to commit the crime; the duty to indemnify persons who have suffered damages; orders to destroy, neutralize, or dispose of substances harmful to the environment; the duty to modify or demolish constructions violating the law; orders to install mechanisms to prevent environmental harm; and the duty to return elements to the natural environment from which they were extracted.
[132] General Law, *supra* note 113, at art. 176. In the case of serious harms involving destruction of habitat or extensive, irreversible pollution, the activity may be permanently prohibited, or the establishment permanently closed. *Id.*
[133] General Law, *supra* note 113, at art. 169. The law provides for joint liability when an act is committed by two or more persons (including any official who has actively or passively authorized the activities causing damage), and companies are liable when they authorize harmful actions. General Law, *supra* note 113, at art. 171-172.
[134] General Law, *supra* note 113, at art. 171.
[135] *Id*.
[136] General Law, *supra* note 113, at art. 183.
[137] Research Regulations, *supra* note 106, at art. 47.
[138] *Id*. at art. 48. Violations of the Research Regulations are prosecuted under the General Law. *Id*. at art. 49.
[139] *Id*. at art. 50.
[140] Fishing and Aquaculture Law, *supra* note 101, at art. 79.

Violations are classified as very serious, serious, or mild.[142] Each class of violation may be punished with a range of financial penalties and/or a range of terms of imprisonment (Table 10). Penalties (both financial and otherwise) may be doubled for repeat infractions,[143] and failure to pay results in imprisonment for 18 days.[144] In cases of recidivism or very serious violations, CODOPESCA may rescind fishing licences and permits.[145] Both responsible persons and vessel captains are responsible and liable for criminal and financial penalties, as well as liability for damages, for infractions committed on their vessels,[146] and owners are jointly and severally liable for financial penalties.[147] In addition, the judicial authority must order the forfeiture of illegal items (*e.g.*, catch) and illegal means of fishing (*i.e.*, gear).[148]

Table 10: Penalties under the Dominican Republic Fisheries and Aquaculture Law

Seriousness	Range of financial penalties	Imprisonment range
Very Serious	10 - 200 minimum wage units	2 years to 10 years
Serious	10 – 75 minimum wage units	10 months to 2 years
Mild	5 – 30 minimum wage units	3 months to 1 year

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- General Law on Environment and Natural Resources, 2000 (Ley General Sobre Medio Ambiente y Recursos Naturales)
- **Protected Areas Law, 2004** (Ley Sectorial de Areas Protegidas)
- **Fishing and Aquaculture Law, 2004** (Ley que crea el Consejo Dominicano de Pesca y Acuicultura (CODOPESCA))
- **Regulations for Research in Protected Areas, 2004** (Reglamento de Investigación en Áreas Protegidas y Biodiversidad)
- **Decree creating various protected areas, 2009** (Decreto No. 571-09 que crea varios parques nacionales, monumentos naturales, reservas biológicas, reservas científicas, santuarios marinos, refugios de vida silvestre, Área Nacional de Recreo Boca de Nigua y el Monumento Nacional Salto de Jimenoa).

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[141] Fishing and Aquaculture Law, *supra* note 101, at art. 97.
[142] Fishing and Aquaculture Law, *supra* note 101, at art. 77, 80-85 (listing seriousness of violations).
[143] Fishing and Aquaculture Law, *supra* note 101, at art. 87.
[144] Fishing and Aquaculture Law, *supra* note 101, at art. 88.
[145] Fishing and Aquaculture Law, *supra* note 101, at art. 89.
[146] Fishing and Aquaculture Law, *supra* note 101, at art. 90.
[147] Fishing and Aquaculture Law, *supra* note 101, at art. 91.
[148] Fishing and Aquaculture Law, *supra* note 101, at art. 88. Violations by foreign vessels may result in seizure of illegal catch and gear, but both vessel and crew must be released promptly after paying bail or other guarantees. Fishing and Aquaculture Law, *supra* note 101, at art. 93.

- **Regulations for 2013 Whale-Watching Season in Samana, 2013** (Reglamento para la Temporada de Observación de Ballenas, Samaná 2013)
- Regulations for the Control, Oversight, and Environmental Inspection and the Application of Administrative Sanctions, 2007 (Reglamento Para el Control, Vigilancia e Inspección Ambiental y la Aplicación de Sanciones Administrativas)
- **Policies for the Effective Management of SINAP, 2007** (Políticas para la Gestión Efectiva del Sistema Nacional de Áreas Protegidas de la República Dominicana)
- **Decree creating a Marine Mammal Sanctuary called "Humpback Whales Sanctuary of the Silver Bank", 1986** (Decreto No. 319-86, que crea un santuario para mamíferos marinos llamado Santuario de Ballenas Jorobadas del Banco de la Plata)

Grenada

MPAs are authorized under the Fisheries Act and the associated Marine Protected Area Regulations (MPA Regulations). The Fisheries Act[149] authorizes the Minister to designate **Marine Reserves**. The MPA Regulations[150] apply this authority by providing for designation **of Marine Protected Areas**, parts or all of which may be designated as marine parks, marine reserves, marine sanctuaries, and marine historical sites.

Marine Protected Area Authorization

The Fisheries Act authorizes the Minister with fisheries responsibility to "declare any area of the fishery waters and, as appropriate, any adjacent or surrounding land, to be a **marine reserve"** where special measures are needed to protect flora and fauna or habitat; to regenerate aquatic life where it has been depleted; to promote scientific research; or to preserve and enhance natural beauty.[151]

The MPA regulations define a **Marine Protected Area** (MPA) as "an area declared as such by the Minister by order under" [the Fisheries] Act and "may be a marine park, a marine reserve, a marine sanctuary or a marine historical site or a combination of any of those."[152] In practice, a MPA will often contain multiple types of these area designations to serve particular purposes.

- Marine Park: part of a MPA "reserved for public recreation."[153]
- Marine Reserve: part of a MPA "which requires special management for the purpose of protecting the natural resources it contains."[154]
- Marine Sanctuary: part of a MPA "open only for the purpose of scientific study and research."[155]
- Marine Historical Site: part a MPA "which contains structures, artefacts or human remains and which needs to be protected for its historical or cultural value."[156]

In addition to different area designations in MPAs, the Regulations create an administrative body (the MPA Authority) and authorize it to designate different zones within a MPA. Certain types of activities are permitted in each of these zones; for example, access zones, aquatic sports zones, and fishing zones may be designated.[157]

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[149] Fisheries Act, CAP. 108 (1986) (*hereinafter* Fisheries Act)
[150] Fisheries (Marine Protected Areas) Regulations, S.R.O. 78 (2001) (*hereinafter* MPA Regulations). *See also* Fisheries (Marine Protected Areas) Order, S.R.O. 77 (2001) (establishing two MPAs).
[151] Fisheries Act at § 23.
[152] MPA Regulations at § 2.
[153] *Id.*
[154] *Id.*
[155] *Id.*
[156] *Id.*
[157] *Id*. at § 11.

Regulated Activities

The Fisheries Act prohibits the following activities in Marine Reserves, except with written permission and under very limited conditions:

- Fishing or attempting to fish;
- Taking or destroying any flora or fauna other than fish;
- Dredging, extracting sand or gravel, discharging or depositing waste or any other polluting matter; and
- Constructing or erecting any buildings or other structures on or over any land or waters.[158]

The MPA Regulations contain additional general prohibitions on:

- Taking animals or plants except as permitted in fishing zones;
- Destroying, damaging or injuring any animal or plant;
- Taking or damaging artifacts;
- Removing sand, rock or coral rag or any calcareous substance;
- Anchoring a vessel except in an anchoring zone;
- Causing anchor damage to artefacts, coral or reef structure, or associated marine plant or animal life;
- Using any vehicle except as permitted in an access or parking zone;
- Operating a dive vessel or charter vessel without a permit;
- Mooring other than at a buoy;
- Anchoring a vessel outside anchor zones;
- Diving with SCUBA or snorkel equipment except under supervision of qualified diver;
- Using jet skis or hovercraft;
- Using water skis except in a water ski zone;
- Dumping any refuse, vehicle, toxic or other waste, bilge, oil, or other petroleum product, pesticide or any other harmful or unsightly substances; and
- Erecting any structure without written permission of the Minister.[159]

Stricter restrictions on activities apply in marine reserves and sanctuaries within Marine Protected Areas. In particular, access is regulated differently for each type of MPA area designation, ranging from open access to marine parks to prohibitions on entry except for research purposes in marine sanctuaries.[160] Orders by of the Minister or the Authority establishing specific zones within a Marine Protected Area may also further regulate particular activities within those zones.

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[158] Fisheries Act, at § 23(2).
[159] MPA Regulations at § 6.
[160] *Id*. at §§ 7-10.

Enforcement Tools

The MPA Regulations authorize the appointment of marine park wardens with enforcement powers in MPAs. Police officers and fisheries officers may also enforce in MPAs using their general enforcement powers as well as the special powers of marine park wardens.[161]

Fisheries officers are authorized to stop, board, and search vessels and stop and board vehicles, require the production of licenses, other required documents, and fishing nets or gear. With reasonable grounds for suspicion, officers may enter and search premises (other than a private home), take samples of fish, and seize items, including vessels, that they have reason to believe have been used in the commission of the offence or otherwise contravene the Act.[162]

Marine park wardens are authorized to seize items and arrest anyone committing an offence against the MPA Regulations,[163] but the regulations do not explicitly authorize them to stop, board, or search vessels or require production of licenses, except that wardens have the power to require production of a permit for and records relating to operating a dive or charter vessel.[164] The Fisheries Act does not explicitly authorize fisheries officers to make arrests, but marine park wardens are authorized to arrest any person committing an offence in a MPA.[165]

Under the Fisheries Act, when an offence is committed by anyone on a vessel, the master is also guilty.[166] When a vessel has been involved in illegal activity, any fish found aboard is presumed to have been harvested illegally.[167] When a charge involves an activity that requires permission, the defendant is required to prove that he or she had the requisite license, permit or authority.[168]

Penalties

Under the Fisheries Act, violations of the Marine Reserve prohibitions are punishable by a fine of up to EC$1,000.[169] An offence may be "compounded," or settled for less than the amount of the maximum fine.[170] Commission of an offence against the MPA Regulations is punishable by a EC$10,000 fine and imprisonment for 6 months.[171] Continuing offences may result in further fines of up to EC$200 per day.[172]

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[161] *Id*. at § 21.
[162] Fisheries Act at § 28(1)-(2).
[163] MPA Regulations at § 21(3).
[164] *Id*.
[165] *Id.* at § 21(3)(a).
[166] Fisheries Act at § 32.
[167] *Id*. at § 35(1).
[168] *Id*. at § 36.
[169] *Id*. at § 23(2). EC$1 = US$0.37.
[170] *Id*. at § 39.
[171] MPA Regulations at § 22(1).
[172] *Id*. at § 22(2).

Under the Fisheries Act, courts may order the forfeiture of vessels and gear and shall order the forfeiture of [illegally caught] fish and the proceeds from the sale of such fish, as well as any explosives, poisons, or noxious substances.[173] Under the MPA Regulations, courts may order forfeiture of any item used in the commission of the offence other than vessels and vehicles.[174] Courts may also order payment of the costs of restoration and repair of damage caused by a defendant to a MPA.[175] The MPA regulations also apply the provisions the Fisheries Act requiring forfeiture of fish, proceeds, and illegal substances.[176]

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- Beach Protection Act 1979
- Birds and Other Wildlife (Protection of) Amendment Ordinance 1964
- Birds and Other Wildlife (Protection of) Ordinance 1957
- Birds and Other Wildlife (Protection) Act 1957
- Civil Liability for Oil Pollution Damage Act 1998
- **Fisheries Act 1986, as amended**
- **Fisheries Regulations 1987**
- **Fisheries (Amendment) Regulations 1996**
- **Fisheries (Marine Protected Area) Regulations 2001**
- National Heritage Protection Act 1990
- National Trust Act 1967
- Oyster Fisheries Act (Oyster Fishery Rules 1963)
- Physical Planning and Development Control Act 2002
- Territorial Sea and Maritime Boundaries Act 1991

[173] Fisheries Act at § 34.
[174] MPA Regulations at § 22(3)(a).
[175] *Id*. At § 22(3)(b).
[176] *Id*. at § 22(5) (citing Fisheries Act, at § 34(b)).

Saint Lucia

There are two types of MPAs in Saint Lucia: **Marine Reserves** and **Protected Areas**.

Marine Protected Area Authorization

Marine Reserves are authorized by the Fisheries Act of 1984.[177] Human activity is prohibited in Marine Reserves unless the relevant Minister or his delegate gives written permission authorizing such activity for statutorily enumerated purposes (*e.g.*, proper management of the reserve).[178]

Protected Areas are authorized by the National Conservation Authority Act of 1999.[179] The Act authorizes the Minister responsible for the Authority to declare an area of land or water as a protected area to preserve or enhance the area's natural beauty, flora, or fauna; create a recreational area or park; or create a marine park.

Regulated Activities

Use of Marine Reserves is allowed only with written permission from the relevant Minister or his delegate, who can authorize the following uses if they are consistent with the purposes of the reserve or proper management of the reserve:

- Fishing;
- Taking or destroying flora or fauna;
- Dredging or extracting sand or gravel;
- Discharging or depositing waste or any polluting matter;
- Altering or destroying the natural environment; or
- Constructing buildings or structures.[180]

Any activity that is likely to cause damage to a beach or protected area is prohibited unless the person has "lawful authority" to engage in the activity.[181] Selling goods or services in a protected area is prohibited without a licence.[182]

Enforcement Tools

The Minister can designate authorised fisheries officers,[183] who may at any time, without a warrant stop, board, and search fishing vessels; require production of and examine licences; and require

[177] Fisheries Act, 1984 § 22(1).
[178] Fisheries Act, 1984 § 22(2)-(3); *see also* Fisheries Regulations, 1994, § 46.
[179] National Conservation Authority Act, 1999, § 3(1).
[180] Fisheries Act, 1984, § 22.
[181] National Conservation Authority Act, 1999, § 29(1)(a).
[182] *Id* at § 27.
[183] Fisheries Act, 1984, § 26.

production of and examine nets and other gear.[184] When they have reasonable grounds to suspect an offence, authorised officers may further enter and search premises other than dwellings, take samples of fish, seize vessels, stores, cargo, and gear; seize fish; and seize explosives, poisons, and other noxious substances.[185] The Fisheries Act does not explicitly authorize fisheries officers to make arrests, but it provides that seized vessels be taken to the nearest port and detained there pending outcome of the case.[186]

The master of a vessel is liable for any offence against the Fisheries Act committed by any person onboard or employed on the vessel.[187] The Act also provides a presumption that when a vessel has been involved in illegal activity, any fish found aboard was caught illegally.[188] When a charge involves an activity that requires permission, the defendant bears the burden of proving that he or she held the requisite, license, permit, or authority at the time of the charged offence.[189]

The National Conservation Authority Act authorizes the authority to employ persons as rangers or wardens. Such persons may arrest, without a warrant, a person who commits an offence against the Act, and such persons may seek assistance from members of the Police Force, who must provide assistance.[190] Authority rangers and wardens are not explicitly granted powers of search or seizure, except that an employee of the Authority or a police officer may request production of a business licence.[191]

Penalties

Fishing or attempting to fish, taking or destroying flora or fauna other than fish, disturbing or altering the natural environment in any way, or erecting buildings in a Marine Reserve without written permission is an offence liable for up to EC$5,000.[192] Obstructing, assaulting, or threatening an officer who is enforcing the Fisheries Act is liable for up to EC$5,000 and/or up to 2 years in prison.[193] The Fisheries Act limits the authority of the Minister to promulgate regulations relating to penalties by limiting the fines to EC$5,000.[194] Any person who contravenes or fails to comply with the Fisheries Regulations is liable on summary conviction to a fine not exceeding EC$5,000, unless otherwise provided for in the Act.[195] The Minister may compound an offence and may order the return of seized articles if the person who committed the offence pays the government "a sum of

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[184] Fisheries Act, 1984, § 27(1).
[185] *Id*. at § 27(2).
[186] *Id*. at § 27(3).
[187] Fisheries Act, 1984, § 31.
[188] Fisheries Act, 1984, § 34(1).
[189] Fisheries Act, 1984, § 35.
[190] National Conservation Authority Act, 1999, § 25(1).
[191] *Id*. at § 22.
[192] Fisheries Act, 1984, §22(2). EC$1 = US$0.37.
[193] Fisheries Act, 1984, § 30.
[194] Fisheries Act, 1984, § 39(3).
[195] Fisheries Regulations, 1994, § 49.

money not exceeding the maximum fine specified for that offence."[196] A court may order vessels, gear, and nets to be forfeited,[197] and *must* order fish and noxious substances to be forfeited.[198]

Conducting activities that are likely to damage a National Conservation Authority Protected Area is an offence liable to a fine of EC$500 or to imprisonment for three months or both.[199] In addition, a Court may order the convicted person to pay compensation in satisfaction of the damage.[200]

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- **Fisheries Act 1984**
- **Fisheries Regulations 1994**
- Merchant Shipping (Oil Pollution) Act 1996
- **National Conservation Authority Act 1999**
- National Environmental Policy and National Environmental Management Strategy for Saint Lucia 2004
- System of Protected Areas for Saint Lucia 1992
- Wildlife Protection Act 1980

[196] Fisheries Act, 1984, § 38(1)-(2).
[197] Fisheries Act, 1984, § 33(a).
[198] Fisheries Act, 1984, § 33(b).
[199] National Conservation Authority Act, 1999, § 29(2).
[200] *Id.*

Saint Vincent and the Grenadines

Saint Vincent and the Grenadines law provides for three types of MPAs: **Marine Reserves, Marine Parks,** and **National Parks**.

Marine Protected Area Authorization

The Fisheries Act, 1986 authorizes the Minister with fisheries responsibility to declare **Marine Reserves** in marine areas and surrounding lands where necessary to protect or provide for the regeneration of flora and fauna or habitat, to promote scientific study, or to preserve the natural beauty of an area.[201] This specific MPA authority is in addition to auxiliary powers to set closed areas and seasons and to designate fishing priority areas.[202]

The National Parks Act, 2002 authorizes the Minister with parks authority to declare **National Parks** with the approval of the National Parks, Rivers and Beaches Authority and the affirmative resolution of the House of Representatives**.**[203] National Parks are places that require proper management for the preservation and enhancement of their natural beauty and state.[204]

The Marine Parks Act, 1997 authorizes the Minister with parks authority to declare an area to be a **Marine Parks**.[205] A Marine Park is a marine area and "adjoining land or swamp area which forms within the area a single ecological entity or complemental ecological unit."[206] The Marine Parks Act creates a Marine Parks Board to manage these parks.

Regulated Activities

The Fisheries Act prohibits the following activities in a Marine Reserve:

- Fishing;
- Taking or destroying any flora or fauna;
- Dredging, sand or gravel mining, deposition of waste, or other disturbance of the natural environment; and
- Constructing or erecting a building or other structure on or over any land or waters within the reserve.[207]

The Minister or his or her designee can authorize these activities in writing where required for management of the reserve or to further the purpose for which the reserve was created.[208]

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[201] Fisheries Act, 1986 § 22.
[202] Fisheries Act, 1986 §§ 13, 20.
[203] National Parks Act, 2002 § 11.
[204] *Id*.
[205] Marine Parks Act, 1997 § 5.
[206] *Id*. at § 2.
[207] Fisheries Act, 1986 § 22(2).
[208] Id. at § 22(3)

The following activities are prohibited in a National Park, except with the Minister's written authorization for the purposes of proper park management or under the terms of an agreement to manage private land as a National Park:

- Damaging or destroying any flora, fauna, coral, plant, or other living or non-living thing;
- Residing, occupying, or cultivating crops;
- Constructing any structure;
- Mining or removal of minerals;
- Taking livestock or other animals or allowing them to stray;
- Obstructing, polluting, or diverting a water body;
- Removing archaeological articles or cultural materials;
- Placing, destroying, or defacing any notice, gate, or other marker; and
- Performing any activity likely to destroy, endanger, or disturb wildlife.[209]

The National Parks Act explicitly addresses the potential overlap with area designations and permissions under the Fisheries Act. National Parks can include within their boundaries marine reserves, fishing priority areas (areas designated as particularly important for fishing), aquaculture leases, and areas where the fisheries ministry has authorized research activity.[210]

No person can engage in any of the following activities in a Marine Park without prior permission from the Marine Parks Board:

- Fish;
- Remove any object;
- Remove or damage any facility or equipment, including buoys;
- Damage or impair the growth of any flora or fauna;
- By a negligent act or omission damage the substrata or cause pollution of the air or sea;
- Carry on any commercial activities except in designated area; or
- Do other activities prohibited by the Act or associated regulations. [211]

Enforcement Tools

The Minister is empowered to designate authorised officers for enforcement of the Fisheries Act.[212] At any time and without a warrant, these officers may stop, board, and search fishing vessels; require production of and examine licences; and require production of and examine nets and other gear.[213] When they have reasonable grounds to suspect an offence, authorised officers may enter and search premises other than dwellings, take samples of fish, seize vessels, stores, cargo, and

[209] National Parks Act, 2002 § 23.
[210] *Id*. § 15.
[211] Marine Parks Act, 1997 § 6(1)-(2).
[212] Fisheries Act, 1986 § 32.
[213] Fisheries Act, 1986 § 33(1).

gear; seize fish; and seize explosives, poisons, and other noxious substances.[214] The Fisheries Act does not explicitly authorize fisheries officers to make arrests, but it provides that seized vessels be taken to the nearest port and detained there pending outcome of the case.[215]

The master of a vessel is liable for any offence committed against the Fisheries Act by any person on that vessel.[216] When a vessel has been involved in such an offence, any fish found aboard are presumed to have been caught illegally.[217] In addition, any explosive, poison or noxious substance found onboard a fishing vessel is presumed to be intended for fishing.[218] When a charge involves an activity that requires permission, the defendant is required to prove that the requisite license, permit, or authority was held at the time of the charged offence.[219]

National Park Officers and police officers are authorised officers for the purposes of enforcing the National Parks Act; in addition, the Minister can designate other individuals as enforcement officers.[220] These authorised officers can, with reasonable suspicion, stop, board, and search any vessel in a marine area of a National Park and require production of any licence or permission required by the Act.[221] If a person commits or attempts to commit an offence, or if an officer reasonably suspects that a person has committed an offence, the officer can order the person to cease commission of the offence and give his or her name and place of residence. An officer, without a warrant, can arrest a person who fails to comply with such an order or who gives false information.[222] In addition, an officer, with reasonable grounds to believe that a person has committed an offence, may stop any search any vessel or vehicle and open and search baggage therein; enter and search temporary shelters or land the person occupies; with a warrant, enter and search a building the person occupies; and seize articles suspected to have been used in commission of the offence, including vessels, fish and coral.[223] Finally, officers can prosecute offenders before a magistrate or bring offenders to the police for prosecution.[224]

The Marine Parks Act provides no specific enforcement powers.

Penalties

The Fisheries Act specifies a range of monetary penalties for offences against the Act ranging from EC$200 to EC$2,500 for most offences,[225] but EC$500,000 for foreign fishing vessels fishing without

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[214] Fisheries Act, 1986 § 33(2).
[215] *Id*. at § 33(3).
[216] Fisheries Act, 1986 § 37.
[217] Fisheries Act, 1986 § 40(1).
[218] Fisheries Act §24. Fishing with any such substances is prohibited. *Id*.
[219] Fisheries Act, 1986 § 41.
[220] National Parks Act, 2002 § 24.
[221] *Id*. § 25.
[222] *Id*.
[223] Id. § 27.
[224] Id. § 30.
[225] *See* Fisheries Act, 1986, §§ 11, 17, 19, 22, 23, 24, 25, 31 (specifying fines for specific offences). EC$1 = US$0.37.

a licence.[226] Violation of the Act's restrictions on activities in a Marine Reserve may be punished by a fine not to exceed EC$1,000.[227] Unless otherwise specified, an offence against regulations made under the Fisheries Act is punishable by a fine of up to EC$1,000;[228] in practice, however, the Fisheries Regulations specify higher penalties of up to EC$5,000 on summary conviction.[229] The Fisheries Act empowers the Minister to compound offences, allowing settlement of violations outside of court.[230]

In addition to monetary penalties, courts can order forfeiture of vessels, gear, stores, and cargo used in the commission of the offence, and must order the forfeiture of any fish caught (and/or proceeds of the sale of such fish) and any explosives, poisons, or noxious substances used in the commission of the offence.[231]

A person who conducts any restricted activity in a National Park is liable on summary conviction to a fine of EC$10,000 fine and/or to a one-year term of imprisonment.[232] Regulations made under the Act can provide for penalties not to exceed EC$5,000 or imprisonment for up to one year.[233] The Minister may compound offences against the National Parks Act if the evidence would support prosecution; the compounded amount cannot exceed the maximum fine plus all reasonable expenses incurred by the Government in seizing, storing, maintaining, or removing any thing seized in relation to the offence.[234] In addition, on compounding an offence the Minister may order the release of seized vessels and thing on conditions as he sees fit, which may include payment of additional sums not to exceed the value of the seized things.[235] Finally, the penalties under the Fisheries Act and Forest Resource Act apply in marine and terrestrial areas of national parks, respectively, in addition to National Park Act penalties.[236]

Commission of an offence in a Marine Park is punishable on summary conviction by a fine not to exceed EC$5,000 and/or by imprisonment for up to one year. In addition, violators are liable for replacement or repair of any equipment removed or damaged in the commission of the offence.[237] If a person carries on commercial activities outside of approved area, his or her "articles of trade or equipment" may also be confiscated.[238]

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[226] Fisheries Act, 1986, § 8
[227] Fisheries Act, 1986 § 22(2).
[228] Fisheries Act, 1986, § 45(3).
[229] Fisheries Regulations, 1987 §§ 7, 30.
[230] Fisheries Act, 1986 § 44(1).
[231] Fisheries Act, 1986 § 39.
[232] National Parks Act, 2002 § 23(2).
[233] Id. at § 40.
[234] *Id*. at § 31.
[235] *Id*.
[236] *Id*. at § 32.
[237] Marine Parks Act, 1997 § 6(3).
[238] *Id*. at § 6(4).

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- Beach Protection Act 1982
- Birds and Fish Protection Ordinance 1901
- Birds and Fish Protection (Amendment) Ordinance 1946
- Birds and Fish Protection (Amendment) Ordinance to Lobsters 1954
- Birds and Fish Protection (Amendment) Act 1974
- Convention on Oil Pollution Damage Act 2002
- **Fisheries Act 1986**
- **Fisheries Regulations 1987**
- High Seas Fishing Act 2001
- **Marine Parks Act 1997**
- Maritime Areas Act 1984
- Maritime Areas Act (Amendment) 1994
- **National Parks Act 2002**
- National Trust Act 1969
- National Trust Act (Amendment) 2007
- Oil in Navigable Waters Act 1929
- Wildlife Protection Act 1987

Turks and Caicos Islands

There are five types of protected areas in the Turks and Caicos Islands: National Parks, Nature Reserves, Sanctuaries, Areas of Historical Interest, and Prohibited Areas.

Marine Protected Area Authorization

The National Parks Ordinance of 1975, as amended, authorizes the Governor to declare areas of the Islands, including territorial waters, to be **National Parks**, **Nature Reserves**, **Sanctuaries**, and **Areas of Historical Interest**.[239] The Ordinance does not provide guidance on the purposes or conditions for the creation of these areas; however, the National Parks Order designating all such areas provides that the areas are declared to protect or promote the features of interest described in the Order.[240]

The Fisheries Protection Ordinance authorizes the Governor to make regulations prohibiting, regulating, or restricting, among other things, the time and area where fishing may occur.[241] The Fisheries Protection Regulations, made under this authority, include conservation provisions that authorize the Minister with responsibility for fisheries to declare **Prohibited Areas** by notice.[242] The Minister has issued one such notice, which created the East Harbour Lobster and Conch Reserve Notice and prohibits taking of lobster and conch by any means except with prior authorization for individual consumption at home.[243]

Regulated Activities

The National Parks Regulations provide extensive lists of prohibited activities in each type of protected area that can be declared under the National Parks Ordinance (Table 11).[244] Key prohibitions include take of marine products (fish and other species), mining, dumping, possession of prohibited fishing gear or weapons, and others.[245] Public access is also prohibited in Sanctuaries, but not in other protected areas.[246] Vessels are allowed to enter other types of areas and may anchor on clear sandy bottoms, provided that they do not violate other provisions of the regulations.[247]

The regulations provide that the Director of Environment, Heritage, and Parks may establish zones within national parks and nature reserves where some prohibitions do not apply (swimming zones, access lanes, aquatic sports zones, training zones, water-ski zones, anchoring zones, camping zones,

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[239] National Parks Ordinance, CAP.10.01, *as amended*, § 3 (1975).
[240] National Parks Order, Legal Notices 40 of 1992; 35 of 1995; and 3 of 2006.
[241] Fisheries Protection Ordinance, CAP 10.08, *as amended* § 3(a) (1973).
[242] Fisheries Protection Regulations, *as amended*, §§ 12, 13 (1989).
[243] East Harbour Lobster and Conch Reserve Notice, Legal Notice 5/2003.
[244] National Parks Regulations, CAP.10.01, *as amended*, § 3 (2009).
[245] National Parks Regulations, CAP.10.01, *as amended*, § 3 (2009).
[246] *Id*.
[247] National Parks Regulations, CAP.10.01, *as amended*, § 3(6) (2009).

parking zones, entry rights of way, and fishing zones).[248] Fishing in fishing zones is limited to non-commercial, recreational fishing using light tackle from the shoreline, piers, or jetties.[249] The Regulations establish one fishing zone, at Columbus Landfall Marine National Park.[250]

Table 11: Prohibitions by area, exceptions, and fines under the National Parks Regulations

Prohibition	National Park	Nature Reserve	Sanctuary	Area of Historical Interest
Public access without prior approval			*	
Take animal or plant by any method	F	F	*	
Introduce animal not indigenous to site			*	
Take artefact			*	*
Destroy, damage, or injure animal or plant			*	
Remove sand, rock, coral, coral-rag, or calcareous substance	*	*	*	*
Anchor damage to coral reef structures and associated marine life	*	*	*	*
Anchor vessel greater than 60' in length	A	A	D*	D
Use water skis, jet skis or hovercraft	WS		*	
Dump refuse, vehicles, toxic or other waste, bilges, oil, pesticides, or other harmful or unsightly items	*	*	*	*
Drive vehicle other than on public roads and parking areas				
Car parking	P	P		
Make a fire other than in portable stove or grill				
Camp without prior approval	C	C		
Erect an unauthorized structure			*	
Play a game or music to the discomfort of others				
Operate vessel at greater than 15mph	AS, WS			
Alter appearance of a structure subject to a building preservation order				
Possess firearm, spear gun, etc.	*	*	*	*
Shaded activity prohibited, except in approved zones: A=Anchoring Zone; AS=Aquatic Sports Zone; C=Camping Zone; D=Designated Area; F=Fishing Zone; P=Parking Zone; WS=Water Ski Zone				
* = US$50,000 fine (otherwise US$5,000)				

[248] National Parks Regulations, CAP.10.01, *as amended*, § 6 (2009).
[249] *Id.*
[250] National Parks Regulations CAP.10.01, at Sched. II(2).

The Fisheries Protection Ordinance provides separate restrictions on actions within Prohibited Areas. Specifically, the notice declaring a Prohibited Area under the Fisheries Protection Regulations may provide that it is unlawful to:

- take particular or all marine products or deposit conch shells in the area;
- use particular gear in the area; or
- enter the area in a licenced fishing vessel.[251]

In addition to protected areas, the Fisheries Protection Regulations contain a variety of restrictions on activities, including a prohibition on the use of spear guns,[252] limitations on the use of other gear, protections for certain species (including close seasons)

Enforcement Tools

The National Parks Ordinance authorizes the issuance of regulations empowering wardens, police officers, and fishery officers to arrest, without a warrant, any person reasonably suspected to have committed or is about to commit an offence; for the seizure or forfeiture of articles used in the commission of an offence; and for a police officer or fishery officer to initiate prosecutorial proceedings against an offender.[253]

The National Parks Regulations provide for enforcement by Park Wardens appointed by the Governor after recommendations by the Director, and police officers and fishery officers are automatically deemed to be wardens for the purpose of the Regulations.[254] Wardens may enter any part of a protected area to prevent the commission of an offence; arrest, without a warrant, any person who they reasonably suspect to be committing, have committed, or about to commit an offence; and seize any article reasonably suspected to have been used in commission of an offence.[255] The Regulations do not provide wardens with the other powers (such as the power to search vessels).

The Fisheries Protection Ordinance empowers the Governor to issue regulations providing for examination, inspection, seizure, forfeiture, and disposal of vessels, gear, and equipment used in connection with taking marine products, as well as seizure, forfeiture, and disposal of unlawfully taken marine products.[256] The Fisheries Protection Regulations provide fisheries officers with the same powers as police officers for the purposes of prevention commission of offences against the regulations or apprehending violators.[257] In addition, naval personnel and park wardens are considered fishery officers by default.[258]

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[251] Fisheries Protection Regulations, *as amended*, § 13 (1989).
[252] Fisheries Protection Regulations, *as amended*, § 11 (1989).
[253] National Parks Ordinance, CAP.10.01, *as amended*, §§ 8(1)(g)-(h).(1975).
[254] National Parks Regulations, CAP.10.01, *as amended*, §§ 12(1)-(2) (2009).
[255] National Parks Regulations, CAP.10.01, § 12(3) (2009).
[256] Fisheries Protection Ordinance, CAP.10.08 § 3(g)-(i).
[257] Fisheries Protection Regulations § 29 (1989).
[258] Fisheries Protection Regulations § 39 (1989).

The Regulations authorize officers to seize a vessel or gear without a warrant if there is "reasonable cause" to suspect that it was used in the commission of an offence under the regulations,[259] but a warrant is required to search a vessel or premises other than a pot or trap in the water.[260] Officers can search persons on a vessel or premises searched, but the regulations do not otherwise address searches of persons; however, officers can require production of licences.[261] In addition, the regulations authorize officers to require production of licenses where there is reasonable cause to suspect a violation.[262]

The Fisheries Protection Regulations establish presumptions under which (1) all persons on a vessel are deemed to be in possession of any marine product found on the vessel;[263] and (2) the product is presumed to have been taken within fishery limits unless the contrary is proven.[264] For certain violations of the regulations, the court may order forfeiture of any marine product taken in commission of the violation, as well as the vessel or other property used in commission of the violation.[265] The court may also order the suspension or cancellation of any fishing license issued under the regulations. [266]

Penalties

The National Parks Ordinance establishes a US$50,000 fine and/or 12 months imprisonment for carrying out unauthorized development, violating restrictions on development or discharge of waste, or entering a sanctuary without permission.[267] It also authorizes penalties for violations of regulations which cannot exceed US$50,000 and/or 12 months imprisonment, plus US$100 per day for continuing offences.[268]

The National Park Regulations in practice provide for fines of US$50,000 or 12 months of imprisonment, or both, for mining, anchoring, dumping, possession of a weapon in any protected area, or any violation in a sanctuary (see Table 11).[269] Violation of other regulations that impose a duty of compliance may result in a fine of US$5,000 or 6 months of imprisonment, or both,[270] plus US$100 per day for continuing offences.[271] In addition, a person found to have violated the

[259] Fisheries Protection Regulations § 31(1) (1989).
[260] Fisheries Protection Regulations § 30(2) (1989).
[261] Fisheries Protection Regulations § 32 (1989).
[262] Fisheries Protection Regulations § 32(1)-(2) (1989).
[263] Fisheries Protection Regulations § 34(1)(a) (1989).
[264] Fisheries Protection Regulations § 34(1)(b) (1989).
[265] Fisheries Protection Regulations § 33(1) (1989).
[266] *Id.*
[267] National Parks Ordinance, CAP.10.01, § 7 (1975).
[268] National Parks Ordinance, CAP.10.01, § 8(1)(e) (1975).
[269] National Parks Regulations, CAP.10.01, § 13(1) (2009).
[270] National Parks Regulations, CAP.10.01, § 13(2) (2009).
[271] National Parks Regulations, CAP.10.01, § 13(3) (2009).

regulations may be required to pay the cost of repairing any damage they caused to a National Park, Nature Reserve, Sanctuary, or Area of Historical Interest.[272]

The Fisheries Protection Ordinance empowers the Governor to make regulations providing for fines not exceeding US$50,000 and/ or a term of imprisonment of up to one year. In practice, violations of the Fisheries Protection Regulations for which a penalty amount is not specified may result in a US$5,000 fine and/or 6 months imprisonment.[273] The Regulations provide for specific penalties certain violations, including US$15,000 and/or one year of imprisonment for interference with a fishery officer and US$50,000 and/or 12 months imprisonment for fishing without a licence[274] or from an unlicenced vessel;[275] employing unlicenced crew on a commercial vessel or sharing profits with unlicenced persons;[276] violating restrictions on means of taking marine products and harmful activities;"[277] using spear guns;[278] or interfering with vessels, gear, or equipment used by fishery officers.[279]

Laws Analyzed

This section lists the laws that were reviewed during the initial phase of this project. Only laws that explicitly covered uses and activities in MPAs were ultimately included in the above analysis; these laws are indicated in bold.

- Coast Protection Ordinance 2009
- Fisheries Limits Ordinance 2009
- **Fisheries Protection Ordinance 2009**
- **Fisheries Protection (Amendment) Regulations 2012**
- Marine Pollution (Discharge Regulations for Large Ships) Regulations 2011
- Marine Pollution Ordinance 2010
- **National Park Ordinance 2009**
- **National Parks Regulations 1992**

[272] National Parks Regulations, CAP.10.01, § 13(4)(b) (2009).
[273] Fisheries Protection Regulations § 37(2) (1989).
[274] Fisheries Protection Regulations § 4(1) (1989).
[275] Fisheries Protection Regulations § 5(1) (1989).
[276] Fisheries Protection Regulations § 22 (1989).
[277] Fisheries Protection Regulations § 9(2) (1989).
[278] *See, e.g.*, Fisheries Protection Regulations § 11(4) (1989).
[279] Fisheries Protection Regulations § 35 (1989).

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