



## Frequently Asked Questions about Rights for the Ocean

### What does the ocean having “rights” mean?

Historically, we manage oceans based on human interest; to achieve sustainable or optimal use of marine resources.

- Despite the good work done around the world to protect the oceans, ocean health continues to decline – facing threats from overfishing, energy production, agriculture and tourism
- While protecting fishery stocks or cultural sites, MPAs do not necessarily consider ecosystems or biodiversity.

With rights of nature means the ocean and its inhabitants will have rights to maintain the integrity and functionality of natural systems and processes, to preserve biodiversity, and to pollution-free living. The Ocean and life within it becomes a rights-bearing entity, entitled to protection and health for its own sake.

### What specific rights does the Ocean have?

ELC has drafted the following An Earth Law Framework for Marine Protected Areas. In summary, this includes the following rights for the Ocean:

- **To life:** The right to maintain the integrity of living systems and natural processes that sustain the ocean and Earth as a whole, and capacities and conditions for regeneration.
- **To health and well-being:** The right to live free from torture or cruel treatment by human beings and to exist in its natural state and habitat. The right to be free from contamination, pollution (including noise and plastic) and toxic or radioactive waste.
- **To the diversity of life:** The ocean has the right to biodiversity and to evolve. It is the right to the differentiation and variety of beings that make up the ocean, without them being genetically altered or structurally modified in an artificial way.
- **To water:** The right to preserve the functionality of the water cycle, protection from , maintain ocean temperature and chemical composition (carbon dioxide proportions) to maintain ocean integrity or vital and healthy functioning.
- **To clean air:** The right to preserve the quality and composition of air, and the functionality of the carbon cycle
- **To equilibrium:** The right to maintenance or restoration of the interrelationship, interdependence, complementarity and functionality of the components of the
- **To restoration:** The right to timely and full restoration of impacts by direct or indirect human activities.
- **To representation:** The right to recognition everywhere before the law and before any decisions or activities, which may impact the ocean and its rights.



**Don't we already have environmental laws that protect nature? How is this different? Why do we need new legal structures recognizing rights for nature?**

Rights for the ocean represents the next step in the evolving marine protection. Threatened marine ecosystems, dying coral reefs and collapsing fisheries means we need to do more, now.

The Marine Mammal Protection Act and the National Ocean Policy of the United States, refer to marine life and species as resources rather than as members of their own ecosystems.

- Current legal structures have established loopholes and permits that allow for actions that choose economic benefit over ecosystem health and stability.
- Insufficient legal protection exists to protect ocean ecosystems from: runoff, plastic pollution, poaching, overfishing, and energy production.
- Examples of this can be found in ELC's Framework for MPAs:  
<https://www.earthlawcenter.org/oceanrights/>

**Won't rights of nature prevent further economic growth or negatively impact our GDP?**

The ocean sustains all life on the planet.

In the same way, sustainable growth and livelihoods can only occur through sustained and restored ocean health.

As an example, consider that overfishing has caused a global collapse of fisheries.

- The cumulative economic impact of poor ocean management practices costs USD 200 billion per year (UNDP, 2012).
- Vast oil spills resulting from off-shore drilling, averages \$6.8 billion in damages.<sup>1</sup>
- Tourists will not come to see polluted waters, devoid of coral reefs, dolphins, whales, and sea turtles

MPAs can contribute to reducing poverty, building food security, creating employment and protecting coastal communities (Van Beukering et al., 2013; Ferrario et al., 2014; FAO, 2014; Brander et al., 2015).

- Expanding the coverage of no-take MPAs to 10% and 30% show benefits exceed the costs, with ratios in the range of 3.17 – 19.77<sup>2</sup>; from the most conservative estimate of US\$490 billion and 150,000 full-time jobs in MPA management, to the most optimistic estimate of US\$920 billion and over 180,000 jobs by 2050.<sup>3</sup>

---

<sup>1</sup> ([http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-BCK-Cohen-DHCCosts\\_update.pdf](http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-BCK-Cohen-DHCCosts_update.pdf))

<sup>2</sup> <https://www.oecd.org/environment/resources/Marine-Protected-Areas-Policy-Highlights.pdf>

<sup>3</sup> [http://ocean.panda.org/media/WWF\\_Marine\\_Protected\\_Areas\\_LR\\_SP.pdf](http://ocean.panda.org/media/WWF_Marine_Protected_Areas_LR_SP.pdf)

- Rights of oceans makes it a legal responsibility to adopt sustainable practices into ocean-dependent industries and allow for continued, long-term ecosystem and economic stability and growth.

**How will this help with what I care about? [ human rights, future generations, plastic pollution, etc.]**

If you care about human rights, then you care about the ocean:

- The ocean produces half of the world's oxygen, absorbs and sequesters one-third of the carbon dioxide human activities emit, provides protection from extreme weather events, and provides a source of food and livelihoods.
- 20 percent of the human population depends on the ocean for their primary source of protein, and over seven percent rely on the ocean for jobs and income.<sup>4</sup>
- Additionally, the ocean provides key medicinal components and treatments, such as the anticancer drug, Ara-C<sup>5</sup> and an enzyme to treat asthma.<sup>6</sup> Being near and on the ocean is proven to boost human mental and physical health.<sup>7</sup> In short, human life and well-being depend on the ocean (UNEP, 2011).<sup>8</sup>

For future generations:

- Changing the way we govern ourselves to respect and protect the ocean means preserving the beauty of the ocean, and our planet, for generations to come.
- Determining allowable activities (oil extraction, deepsea mining, vessel traffic), fishing quotas and the existence of no-take zones now gives us choices later.
- Creating regulations that adequately protect and prevent degradation and pollution begins the much needed process of halting ocean decline and restoring ocean health.

**Isn't this going to take forever? Legal change is always so slow, and soon it will be too late to save the planet.**

---

<sup>4</sup> OECD, Marine Protected Economics, Management and Effective Policy Mixes: Policy Highlights, 2 (2016), available at: <https://www.oecd.org/environment/resources/Marine-Protected-Areas-Policy-Highlights.pdf> ("OECD"); United Nations, Overfishing: A Threat to Marine Biodiversity (Aug. 31, 2017), <http://www.un.org/events/tenstories/06/story.asp?storyID=800>.

<sup>5</sup> National Research Council (US) Committee on the Ocean's Role in Human Health, From Monsoons to Microbes: Understanding the Ocean's Role in Human Health, 4 (1999), available at: <https://www.ncbi.nlm.nih.gov/books/NBK230700/>.

<sup>6</sup> Nicole Levins, Oceans and Coasts, The Nature Conservancy, (Aug. 31, 2017), <https://www.nature.org/ourinitiatives/urgentissues/oceans/coral-reefs/coral-reefs-and-medicine.xml>.

<sup>7</sup> Carolyn Gregoire, Why Being Near the Ocean Can Make You Calmer and More Creative, Huffington Post, Feb. 25, 2016, [http://www.huffingtonpost.com/2016/02/25/mental-benefits-water\\_n\\_5791024.html](http://www.huffingtonpost.com/2016/02/25/mental-benefits-water_n_5791024.html); Wallace J. Nichols, Blue Mind, Little, Brown and Company (2014).

<sup>8</sup> OECD, *supra* at 2.



Countries, including Bolivia, Ecuador, Colombia, New Zealand, and India, have already recognized rights of nature either in their constitutions as in Ecuador, Bolivia and Mexico City, or specific cases recognizing legal rights of rivers such as the Whanganui in New Zealand, Ganges in India, and Atrato in Colombia. Over 40 municipalities in the US have passed Rights of Nature ordinances.

Hundreds of organizations around the world working on ocean health already means a big head start:

- The First United Nations Ocean Conference, the fourth International Marine Protected Area Conference and the fourth 'Our Ocean' Conference met this year.
- Nations have agreed to protect 10% of the ocean by 2020 and many are working towards larger targets- such as 30% by 2050.
- Your voice and your actions can help add momentum to realizing one of the most critical solutions of our day.

**Does that mean when nature and human rights conflict, human rights will get secondary consideration? What does this mean for human rights?**

The establishment of rights of nature does not eliminate recognition of human rights. It means leveling the playing field so that not only corporations and humans have rights, but nature does also.

When inevitable conflicts occur between human and ocean rights, the courts will resolve – as they do when there are conflicts between human rights today.

**How can Earth Law be enforced?**

One avenue to incorporate Earth Law into ocean law and policy is through marine protected areas.

- A statutorily designated managing body comprised of government, local community (including indigenous peoples) and interest groups helps align different stakeholders
- Involving all stakeholders in governing the MPA ensures compliance and effective regulations.
- The Earth Law Framework takes the representation notion one step further, by requiring the MPA to have a voice in decisions, carried forth by “guardians” or “trustees.”
- (The notion of trustees for the environment is not new, see Appendix G, Part B).

For more please see the Earth Law Framework- which serves as a how to guide to implement and enforce Earth Law in Marine Protected Areas:

<https://www.earthlawcenter.org/oceanrights/>



### **Why should the ocean have rights if it cannot think?**

Thomas Berry argues that “Rights originate where existence originates. That which determines existence determines rights.” All species and ecosystems come from the same place of existence, Mother Earth, and therefore are created with inherent rights. Additionally, when the United Nations drafted the Universal Declaration of Human Rights, the drafting committee observed that “the supreme value of the human person...did not originate in the decision of worldly power, but rather in the fact of existing.” By using this and the above flow of logic, just as humans have rights based on our existence and being, so too does nature (i.e., species and ecosystems).

Ignorance of the rights of nature “is equivalent to denying the existence of other beings/species because as Thomas Berry said, "Rights originate from existence." So the question would be how do we deny the existence of what we physically see with our eyes; and if we accept their existence then we have to recognize their rights too.”- Fassil Yelemtu  
The ocean exists, therefore it has rights.

Moreover, cetaceans are highly intelligent and sentient beings. They experience emotions, have a sense of self-identify, and communicate as cultural beings. These animals can think just as humans do.