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Ocean defenders and human rights

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Two pressing and overlapping marine policy issues are related to human rights in the ocean and the situation of ocean defenders. Human rights issues and violations are on the rise in the ocean due to the ongoing, rapid and unchecked escalation of anthropogenic activities in marine and coastal environments, which increasingly undermine the fundamental, civil and political, economic, social, cultural or environmental rights of individuals and groups. In this context, it is essential to recognize, support and safeguard the individuals, groups or communities who are mobilizing, advocating or taking action to protect the marine environment, coastal and oceanic territories, and associated human rights from existential threats. Yet, these 'ocean defenders' often face marginalization, intimidation, criminalization, threats, violence and murders. The failure to protect the human rights of coastal populations and ocean defenders needs to be urgently rectified by states, the private sector and civil society. We identify six specific areas of urgent action to protect human rights in and related to marine and coastal environments and to support and safeguard ocean defenders.

KEYWORDS

ocean defenders, environmental defenders, human rights, environmental human rights, ocean governance, environmental justice, blue economy, ocean economy

Human rights and the ocean

Human rights are a foundational norm and global standard for a just society that values human well-being for all people. *The Universal Declaration on Human Rights* (UDHR), which was adopted by the United Nations General Assembly in 1948, explicitly recognized a set of fundamental rights (e.g., life, liberty and security of the person, freedom from slavery and torture, freedom from discrimination, freedom of movement,

property, nationality), civil and political rights (e.g., freedom of thought, religion, opinion, expression, association, and peaceful assembly), as well as economic, social and cultural rights (e.g., health, education, housing, adequate standard of living, freedom from hunger) (United Nations, 1948). The declaration was founded on the idea that human rights are universal, egalitarian, inalienable and inherent to the dignity of all individuals. The adoption and ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its two *Optional Protocols* make the rights contained in the UDHR binding on states (United Nations, 1966a; United Nations, 1966b). Parties to the Covenants assume obligations to respect, protect, and fulfill human rights. Additionally, the UDHR, ICCPR and ICESCR (collectively known as the International Bill of Human Rights) provide broadly accepted guidance even for states that are not parties to these agreements.

International human rights law is also comprised of other treaties, declarations, resolutions, guidelines and principles (with varied levels of legal status and clout) that have advanced the understanding and implementation of human rights. For example, additional international treaties [e.g., the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities (United Nations, 1969; United Nations, 1979; United Nations, 1989; United Nations, 2006)] articulate how ethnic, religious, and minority groups, women, children, and persons with disabilities, require specific protection from discrimination. The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) clarifies how to interpret international human rights obligations with specific regard to the distinctive cultures and connections to places of Indigenous Peoples (United Nations, 2007). The *United Nations Declaration on the Rights of Peasants* further clarifies that tenure and access are inherent to the dignity, livelihoods, food security and cultures (i.e., human rights) of Indigenous Peoples, small-scale fishers, and other traditional communities who have historically occupied and relied on an area or resources (United Nations, 2007; FAO, 2012; FAO, 2015; UN Human Rights Council, 2018; Morgera and Nakamura, 2022). International and regional agreements - including the Aarhus Convention on *Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Aarhus Convention) and the *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean* (Escazú Agreement) - recognize everyone's right to information, participation in decisions and access to justice pertaining to the environment (UNECE, 1998; United Nations, 2018). Most recently, the United Nations General Assembly adopted a resolution recognizing the human right to a clean,

healthy, and sustainable environment (United Nations, 2022) - which can be understood as encompassing the right to clean air, safe and sufficient water, healthy and sustainable food, healthy ecosystems and biodiversity, safe climate, and non-toxic environment, as well as environmental information, participation and justice (Knox, 2018b; Boyd and Orellana, 2022). Taken together, the body of international human rights law clarifies the legal obligations of states, and the responsibility of business enterprises and other organizations to respect the human rights, including the environmental human rights (Knox, 2018a; United Nations, 2022), of individuals and groups. Numerous additional guidelines and sets of principles - such as the *Voluntary Guidelines on the Responsible Governance of Tenure*, *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries*, *Voluntary Principles on Security and Human Rights*, *UN Guiding Principles on Business and Human Rights* and the *Framework Principles on Human Rights and the Environment* (Secretariat for the Voluntary Principles on Security and Human Rights, 2000; UN Human Rights Office of the High Commissioner, 2011; FAO, 2012; FAO, 2015; Knox, 2018b) - provide additional guidance to states, businesses, and other organizations on meeting their human rights obligations and responsibilities.

Due to their universality, international human rights norms, agreements and related obligations are applicable in the oceans, just as on land. All coastal and ocean-dependent populations are thus entitled to human rights - with certain groups being entitled to specific protections due to their status as Indigenous Peoples or small-scale fishers (FAO, 2015; Morgera and Nakamura 2022). Yet, human rights issues and violations are on the rise in the ocean due to the ongoing, rapid and unchecked escalation of human activities in marine and coastal environments (Jouffray et al., 2020; Bennett et al., 2021). Local populations and small-scale fishers are often marginalized from and lack a voice in ocean governance and environmental decisions that will impact their lives and rights (Cohen et al., 2019). Past and ongoing ocean economy developments have physically displaced coastal populations and traditional livelihoods, undermined security of local tenure and access to resources, and produced pollution and toxic wastes (Barbesgaard, 2016; Bennett et al., 2021; Blue Economy Tribunal, 2021). The effects of marine pollution, coastal habitat destruction, overfishing, and climate change have all undermined the human rights of coastal and ocean-dependent populations to a clean, healthy and sustainable environment (Landrigan et al., 2020; Ertör, 2021; United Nations, 2022; Bennett et al., 2023). These environmental issues in the ocean can also have impacts on other fundamental human rights - including the right to life, livelihoods, food, as well as social and cultural rights (United Nations, 2022; Xanthaki, 2022).

While these human rights impacts are increasingly being identified, much remains to be done to raise awareness and build capacity to protect human rights in marine and coastal

environments. One urgent area of concern is related to the situation facing ocean defenders - individuals, groups or communities who mobilize, advocate or take action to protect the marine environment, their coastal and oceanic territories, and associated human rights against existential threats (Bennett et al., 2022). These 'environmental defenders' or 'environmental human rights defenders' are entitled to all the rights, freedoms and protections set out in the *UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (Declaration on Human Rights Defenders) (United Nations, 1998). Yet, there is evidence that ocean defenders are being marginalized, harassed, criminalized, threatened, attacked and murdered for their efforts (Forst, 2016; Bennett et al., 2022). In this paper, we aim to highlight the role of 'ocean defenders' in protecting against violations of human rights, discuss the threats that ocean defenders are facing, and explore actions that should be taken by states and corporate actors to recognize, respect and protect human rights in and related to marine and coastal environments and to support and safeguard ocean defenders.

The role of ocean defenders in protecting human rights

Individuals, groups and communities are mobilizing and taking action to protect the marine environment, their coastal and oceanic territories, and associated human rights against existential threats all over the world (Bennett et al., 2022). The Environmental Justice Atlas, for example, documents 766 mobilizations of fisher people against oil, renewable energy, tourism, mining, fisheries, aquaculture, and water infrastructure developments that pollute the environment, undermine fisheries, and threaten livelihoods (EJAtlas, 2021; Ertör, 2021). Broader coalitions of small-scale fisher people (e.g., World Forum of Fisher Peoples, International Collective in Support of Fishworkers) have been particularly active in advocating for the rights of small-scale fishers at regional and global scales (Mills, 2021). Civil society groups within or broader coalitions of coastal communities around the world have organized resistance efforts against various forms of development that are undermining local tenure, resource access, resource productivity, livelihood sustainability and culture. This includes, for instance, initiatives by coastal communities to hold out against coastal tourism development in India (Routledge, 2001), iron sand and gravel mining in Indonesia (EJAtlas, 2017), industrial waste-water disposal in China (Lu and Chan, 2016), or mangrove deforestation for charcoal production and coastal development in Thailand (Kongkeaw et al., 2019). In Chile, various local community groups have coalesced to protest against the severe

health impacts associated with acute pollution of air, coastal lands, waterways, and fisheries in several 'sacrifice zones' associated with highly industrialized areas in Quintero-Puchuncaví Bay, Coronel Bay, and Hualpén-Talcahuano Bay (Valenzuela-Fuentes et al., 2021). Pacific Islanders have been actively involved in resistance efforts against the inevitability and impacts of climate change - for example, the Pacific Climate Warriors have taken action both at home and abroad (e.g., employed campaigns and assembled flotillas of canoes and kayaks) to resist the idea that they are helpless and that their islands and cultures are sinking (McNamara and Farbotko, 2017; Fair, 2020; Ledderucci, 2021). Many Indigenous Peoples continue to have to advocate for both their fishing rights and traditional territories. In Canada, Indigenous groups have been fighting court battles for the return of their constitutionally protected traditional fishing rights for decades - and have engaged in various forms of social mobilization, protest, occupations and civil disobedience to fisheries policies and management plans that do not recognize, respect and protect those rights (Jones et al., 2017; von der Porten et al., 2019; Andrews et al., 2022). Women are often at the forefront of local actions to defend the ocean. For example, women dependent on mangroves in Ecuador resisted the rapid expansion of shrimp aquaculture and the privatization of customary community mangrove areas (Veuthey and Gerber, 2012) and women-led groups in South Africa have been recognized for their efforts to prevent the construction of nuclear plants near Cape Town (BBC, 2018).

This small set of examples of coastal populations who are active in the defense of their rights provides a few insights into ocean defenders. First, there are many different local groups who are active in the defense of the marine and coastal environment. This includes individuals and collectives of coastal communities, local citizens groups, small-scale fishers, Indigenous Peoples, women and youth. We recognize that many other non-local individuals and organizations (e.g., researchers, philanthropic organizations, non-governmental organizations) and broader social movements can support the efforts of local ocean defenders; however, it is local actors, their organizations, and communities who have historical rights and tenure to coastal areas, who continue to depend on marine resources for sustenance and cultural continuity, and who are rightful custodians of the oceans (Capistrano and Charles, 2012; Vierros et al., 2020; Fischer et al., 2022). They have the most to lose, and the most to gain, from activities that undermine human rights and from taking actions to protect the ocean. Second, ocean defenders are active in all regions of the world (Ertör, 2021; Bennett et al., 2022). Due to the rapid acceleration of growth of the ocean economy and the global scope of environmental injustice issues in the ocean - human rights issues are becoming more prominent around the ocean (Bennett et al., 2021; Bennett et al., 2023). Third, ocean

defenders are mobilizing against different activities that are infringing upon their rights - including activities in the sea (e.g., aquaculture development, overfishing, deep sea mining, energy development, etc.), on coastal lands (e.g., tourism development, port infrastructure, oil refineries, desalination plants, etc.), and in the intertidal margins (e.g., blue carbon initiatives, mariculture, etc.). Fourth, ocean defenders are seeking to protect against threats to a range of different rights - including their right to have a voice in environmental decisions, the security of their tenure and access to areas and resources, their rights to a healthy ocean environment, as well as their rights to traditional livelihoods and cultural connections to the ocean. Finally, ocean defenders are engaging in numerous types of actions to oppose and resist threats to their rights - including public protests and demonstrations, research and documentation, awareness and communications campaigns, creation of organizations and networks for collective action, formation of and alliances with social movements, legal and policy interventions, monitoring and enforcement activities, and corporate activism (Table 1). While the United Nations definition of environmental human rights defenders requires that they must be peaceful (Forst, 2016), we recognize the complex realities facing those who may find themselves in hostile and violent contexts, where some acts of resistance used by those who seek to defend their marine territories, environment and rights can be destructive (e.g., destruction of fishing gear, sabotage of boats, and damage to harmful or polluting infrastructure), highly confrontational, or even violent.

The triple threat facing ocean defenders

Ocean defenders are often experiencing a triple threat. First, coastal populations are facing threats from anthropogenic activities that are undermining their human rights - the threats and related human rights issues are also changing, mounting, converging and cumulative. Ocean development is growing exponentially due to increasing global demand for marine resources - and there is also a marked shift in the types of development activities that are occurring in the ocean away from fisheries and shipping and towards a much broader suite of activities including aquaculture, energy development, and deep sea mining (Jouffray et al., 2020). The increased scale and scope of ocean developments likely means that environmental and human rights issues in the marine and coastal environment will also escalate without adequate precautions and safeguards (Bennett et al., 2021). As multiple anthropogenic activities overlap, threats to environmental health and human rights will also converge in some places where multiple development activities occur simultaneously - as is the case in so-called "sacrifice zones" (Valenzuela-Fuentes et al., 2021). Multiple environmental issues and human rights violations may also accumulate - if, for example, one development is excluding and displacing a local fishing community while at the same time industrial fisheries are undermining fish populations required for local livelihoods or food security. Coastal populations are also among the most

TABLE 1 Examples of activities and actions by ocean defenders to mobilize, oppose and resist threats to their rights.

Activity	Details
Public protests and demonstrations	Public demonstrations and other forms of public dissent (e.g., marches, gatherings, artistic displays, blockades, occupation of public campaigns, strikes or walkouts) to express opposition and call for the attention of authorities and the public to an issue.
Research and documentation	Conducting research to document impacts from the perspective of affected communities (e.g., community-based environmental impact assessment), and to collect evidence for legal processes (e.g., photos, testimonies).
Awareness and communication campaigns	Engaging in public awareness efforts to communicate in various formats (e.g., media, reports, videos, online maps, databases) for different audiences.
Creating organizations and networks for collective action	Creation of local, national and transnational organizations or networks to gain visibility, influence, and protection, including through 'allyship' with other organizations (e.g., unions, human rights organizations, international environmental NGOs, International Organizations).
Legal and policy interventions	Actions seeking to assert legal claims or seek remedy for illegal actions (e.g., court-cases), influence policy (e.g., advocacy), or transform decision-making institutions and processes (e.g., participation in meetings, organization of alternative meetings).
Monitoring and enforcement	On the ground efforts seeking to identify (e.g., patrols), and stop harmful actors or activities or actors (e.g., enforcement, communication with authorities, blockades).
Corporate activism	Actions to try to change corporate activities (e.g., vocal participation in public consultation processes), influence corporate decision making (e.g., official complaints, petitions, shareholder activism and resolutions), or undermine corporate profits (e.g., boycotts).
Formation of and joining social movements	Forming or joining broader alliances under social movements (e.g., World Forum of Fisher People) or with other social actors (e.g., small-scale fishers together with peasants, farmers and Indigenous Peoples in <i>La Via Campesina</i>) whose strategic interests align. These alliances put pressure on international organizations (e.g., UN, IUCN, World Bank) to support their human rights, tenure rights, food security and sovereignty.

disproportionately affected by 'loss and damage' resulting from the effects of climate change, including coastal erosion, storm surges, and sea level rise (Dorkenoo et al., 2022), as well as the permanent loss of land and ocean territories and associated ecosystems, livelihoods, and cultural heritage (Fry, 2022).

Second, ocean defenders are frequently from groups already subject to historical and continued structural marginalization and exclusion from decision-making. This includes small-scale fishers, Indigenous Peoples, Peoples of Colour, women and youth - whose level of marginalization and vulnerability is shaped by persistent economic, political, and social structural inequalities. Structurally induced socio-economic marginalization and high levels of resource dependence for livelihoods and food security produces a situation whereby certain groups are more exposed, susceptible and vulnerable to the effects of environmental injustices such as climate change, fisheries decline, or marine pollution (Bennett et al., 2023). Groups who are at greater risk of environmental harm include women, children, older persons, persons living in poverty, members of Indigenous groups, persons with disabilities, ethnic and racial minorities, and displaced persons (Knox, 2018b). Inadequate recognition and consideration of rights is a persistent problem for many groups - including Indigenous Peoples and small-scale fishers (Knox, 2017; Morgera and Nakamura, 2022). Persistent discrimination (including racism and sexism) means that racialized and gendered impacts of coastal development are often ignored and made worse for these groups. For example, women's gleaning activities or use of mangroves are often sidelined in environmental deliberations and thus their livelihoods and subsistence activities are disproportionately impacted by environmental decisions and policies (Walker and Robinson, 2009; Cormier-Salem, 2017). Indeed, the specific human rights challenges of women in small-scale fishing communities are routinely under examined (Golo and Erinosh, 2023). Environmentally destructive and polluting coastal development projects have often been situated near Black and Indigenous communities (Castleden et al., 2017; Waldron, 2021). More attention needs to be paid to racial discrimination in relation to the ocean: this is exemplified by the recent UN report on racial discrimination, environmental crisis and climate justice (Tendayi Achiume, 2022), which did not include any reference to ocean-related instances. Historical and continued exclusion, combined with inadequate information sharing and ineffective participation, increases the likelihood that the voices, needs, livelihoods, tenure, and access rights of different marginalized groups are not being taken into account in decisions relating to potential future development projects (Forst, 2016; Knox, 2018b; Menton and Le Billon, 2021). Furthermore, it is an uphill battle for many marginalized groups to access justice - due to barriers caused by lack of recognition, power and knowledge imbalances, and lack of access to financial resources (Forst, 2016; Knox, 2018b).

Third, ocean defenders might also be experiencing intimidation, repression, threats, violent assaults and murders

for taking a stand against activities that undermine their human and environmental human rights. There has been a staggering amount of documentation about the dramatic increase in issues facing and number of attacks against environmental defenders in the terrestrial realm (Knox, 2017; Menton and Le Billon, 2021; Front Line Defenders, 2022; Global Witness, 2022). Past efforts have shown that environmental and human rights defenders can be subject to intimidation and repression in various forms - such as surveillance, damage to property, smear campaigns, delegitimization, criminalization, arrests, imprisonment, threats, violence, physical attacks, and assassinations (Forst, 2016; Knox, 2017; Menton and Le Billon, 2021; Front Line Defenders, 2022). Of particular concern, environmental and land defenders are the group of human rights defenders that has experienced the most murders: in 2021, 69% of the 358 killings of human rights defenders were of defenders of the environment and Indigenous land rights (Front Line Defenders, 2022). While private sector interests (e.g., corporations, businesses, wealthy individuals) may be the perpetrators or drivers of these actions, governments are often complicit in the violation of the rights of environmental defenders to assemble, organize, express their opinions, and seek to protect their rights. Governments might, for example, shift the narrative and label defenders as "enemies of the state" or "terrorists", employ the law to restrict, criminalize or persecute the activities of environmental defenders, use police or military units to carry out repression or assassinations, and allow impunity for violations of human rights to continue (Knox, 2017).

There is evidence that similar issues have been experienced by ocean defenders. For example, in Honduras in 1995, Jeanette Kawas-Fernandes was killed for her work to protect a 40 kilometer area of the coast that was also important for development projects (Inter-American Court of Human Rights, 2009; Tanner, 2011). Environmental activist Jorge Varela - who was awarded the Goldman Environmental Prize in 1999 for his campaign against mangrove destruction due to shrimp farming in Honduras - received multiple death threats and two members of his NGO (CODDEFFAGOLF) were killed (Goldman Prize, 2022). In Costa Rica in 2013, Jairo Mora Sandoval was threatened, then later beaten and shot in front of international volunteers, for protecting a sea turtle nesting beach from illegal poaching (The Tico Times, 2016; Knox, 2017). Following protests from local women's and small-scale fishing groups after a mass intoxication event at the 'sacrifice zone' associated with the Ventanas Industrial Complex in the Quintero-Puchuncavi region of Chile, the fisher folk leader Alejandro Castro died under highly suspicious circumstances (Macarena, 2018; Manushevich and Meynen, 2018; EJAtlas, 2019). In the Philippines, at least eight fisherfolk leaders and members have been killed between 2017-2021 (PAMALAKAYA, 2021b). This includes the murders of Ariel and Chai Evangelista - who had long been actively opposing coastal land use conversion - during a raid by police and military forces in 2021 during which 9 activists were assassinated and 6

others arrested (PAMALAKAYA, 2021a). Multiple Indigenous leaders associated with the Defense Committee of Indigenous Peoples (CODEDI) have been jailed, attacked and killed in the Oaxaca region of Mexico due to their activism against displacement by the construction of luxury hotels for coastal tourism and beach privatization (Talledos Sánchez, 2012; EJAtlas, 2022). These examples are just the “tip of the iceberg”: we do not know the true scale and geographic distribution of the repression, violence, and murders being experienced by ocean defenders due to a historical lack of attention to the marine and coastal environment in efforts to document the plight of environmental defenders (Bennett et al., 2022). What is more, these assassinations of ocean defenders often occur after these individuals and groups have already been subject to surveillance, campaigns to delegitimize their efforts, arrests and imprisonment, and threats against them and their families.

Protecting human rights in the ocean and safeguarding ocean defenders

Despite these increasing threats to human rights in, related to and dependent on marine and coastal environments and the worrisome plight of ocean defenders, these issues remain relatively “out of sight and out of mind” for international policy, non-governmental, academic and philanthropic organizations. We urge greater scrutiny of these overlapping issues through the lens of human rights. Below, we discuss six specific areas that require urgent attention by states to comply with existing international human rights law, as well as for the private sector and civil society to meet their legal and moral obligations to respect and protect human rights in, related to and

dependent on marine and coastal environments, including by recognizing, supporting and safeguarding ocean defenders (Table 2).

First, national governments must strengthen mechanisms that advance human rights - including by addressing ocean governance gaps to enable the proactive identification and prevention of environmental and human rights issues that are being produced by ocean development activities. According to their obligations under the International Bill of Human Rights (UDHR, ICESCR, and ICCPR), states have a responsibility to create strong legislative, effective accountability, and independent legal mechanisms to promote, respect, protect and fulfill universally recognized human rights and fundamental freedoms (United Nations, 1998). With regards to protection of human rights to a clean, healthy, and sustainable environment (which includes the ocean), states should: a) establish laws, policies and institutions that contribute to substantive, non-retrogressive and non-discriminatory protection of the marine environment; b) ensure that there is effective monitoring, investigation, and enforcement of environmental and human rights standards; and c) provide access to justice and effective remedies (e.g., judicial, legislative, administrative, or other effective grievance mechanisms) for violations of human rights and environmental laws (Knox, 2018b; United Nations, 2022). Laws and policies on the protection of the marine environment from ocean development activities should focus on preventive and precautionary measures to proactively reduce environmental harms and human rights impacts (Boyd and Orellana, 2022). Conducting environmental and socio-cultural impact assessments, as well as ongoing monitoring, is essential to raise red flags for government decision-makers related to potential environmental and human rights issues in fisheries and other sectors of the ocean economy (Nakamura et al., 2022). At the same time, purposeful, negligent, or accidental infringements on human rights arising from the ocean economy (e.g., violent dispossession,

TABLE 2 Urgent areas of action to protect human rights in and related to the ocean and to safeguard ocean defenders.

Urgent areas of action to protect human rights in and related to the ocean and to safeguard ocean defenders
1. States must fulfill their obligation through strengthening legislative, accountability, and legal mechanisms to respect, protect, and fulfill human rights and addressing ocean governance gaps to enable the identification, prevention and remediation of environmental and human rights issues in the ocean economy.
2. Businesses operating in the ocean economy must embrace their responsibility to respect human rights according to international law, through articulating clear policies, implementing due diligence procedures, establishing processes to prevent harms, creating grievance mechanisms, and providing access to effective remedies where abuses have occurred.
3. States and businesses should pay greater attention to procedural rights - including the right to participation, information, and access to justice - in ocean policy-making and management decisions related to ocean development, especially for vulnerable or marginalized groups.
4. States and the private sector need to increase recognition, improve protection of the specific rights of Indigenous Peoples, small-scale fishers, and other traditional coastal populations due to their distinctive connection to and dependence on the ocean.
5. States, the private sector, and civil society organizations must recognize, support, respect and safeguard the rights and fundamental freedoms of the individuals, groups, and communities (i.e., “ocean defenders”, “environmental defenders”) who are working to protect the marine and coastal environment and their human rights.
6. Non-governmental, academic, media, legal and philanthropic organizations supporting the work of ocean defenders should recognize, respect, center and promote their political autonomy, agency, and agenda.

fisheries declines impacting livelihoods, marine pollution impacts on health, among others) cannot be allowed to proceed with impunity, and perpetrators must be held to account (Knox, 2018b; Boyd and Orellana, 2022). In line with the *Framework Principles on Human Rights and the Environment* (Knox, 2018b) and the underlying human right of freedom from discrimination recognized in UDHR, ICCPR & ICESCR, states also have a specific duty to protect historically disadvantaged, vulnerable or at risk groups from discrimination and harm to the marine environment (Knox, 2018b; Boyd and Orellana, 2022). Finally, states have a responsibility to protect against human rights abuses by third parties - and thus should provide guidance to businesses, ensure they are aware of their obligations, and have laws requiring mandatory human rights and environmental human rights due diligence by companies including those working nationally and those domiciled in states but working elsewhere (UN Human Rights Office of the High Commissioner, 2011; Knox, 2018b). The question of private foreign investors, with growing interest in the ocean economy, requires particular attention by governments due to the protection afforded by international investment law (Cotula and Berger, 2020). On the whole, the substantive environmental issues and human rights violations in the ocean are not an isolated set of issues, but rather a global pattern that is being perpetuated by lax regulation, oversight, enforcement, and failure to act on international commitments and obligations in many countries. These gaps in ocean governance need to be addressed to protect the environment and the human rights of coastal and ocean-dependent populations.

Second, businesses have a responsibility to protect and respect human rights according to international law, and provide access to effective remedies where abuses have occurred (UN Human Rights Office of the High Commissioner, 2011; Knox, 2018b; Boyd and Orellana, 2022). Extractive industries in the ocean economy should consider human rights responsibilities set out in the *Voluntary Principles on Security and Human Rights*, *UN Guiding Principles on Business and Human Rights*, and the ocean-specific guidance provided under the *United Nations Global Compact*, and the *Sustainable Ocean Principles* (Secretariat for the Voluntary Principles on Security and Human Rights, 2000; UN Human Rights Office of the High Commissioner, 2011; UN Global Compact, 2021; UN Global Compact, 2022). Specific responsibilities and recommendations for businesses include: establishing and communicating an explicit policy commitment, clear expectations, and procedures regarding human rights; carrying out ongoing due diligence processes to identify and assess adverse impacts on human rights, as well as integrating and acting on this information through preventing and mitigating possible harms, and accounting for and communicating how they address impacts on human rights; and, providing or cooperating on grievance mechanisms and clear processes to remedy adverse impacts (UN Human Rights Office of the High Commissioner, 2011). Non-judicial grievance

mechanisms might be established by businesses or industry associations - but they must be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and embody continuous learning (UN Human Rights Office of the High Commissioner, 2011). International financial institutions - e.g., World Bank, regional development banks - are often complicit, and display surprising gaps between human rights commitments and application on the ground (Forst, 2016). Financial institutions investing in the ocean economy need to adopt and implement zero tolerance environmental and social safeguards to ensure their investments are not contributing to human rights abuses in the ocean.

Third, greater attention is needed to procedural rights in ocean policy-making and decisions related to development. Procedural rights - including the right to participation, information, and access to justice - are foundational for the proactive protection of substantive human rights and environmental human rights (Knox, 2018b; Boyd and Orellana, 2022). These obligations align with the provisions of the *Aarhus Convention* and the 'Escazú Agreement' (UNECE, 1998; United Nations, 2018). Participation needs to move beyond coercive or "rubber-stamping" consultation processes towards active involvement and genuine participation of potentially affected groups, which requires removing structural inequalities through providing adequate capacity and funding, culturally appropriate and accessible processes, as well as effective facilitation to ensure all voices are heard (Le Billon and Middeldorp, 2021). Free, prior and informed consent (FPIC) is a further requirement for groups whose rights might be affected (United Nations, 2007; FAO, 2015). Access to information is linked to the right to seek, obtain and impart information (Forst, 2016), enables effective participation and is a precursor to FPIC. Comprehensive information regarding the environmental and social impact of ocean development initiatives should be required by law, rigorously collected, transparently communicated, openly discussed and deliberated on (UNECE, 1998; UN Human Rights Office of the High Commissioner, 2011). All parties must have access to justice - an independent, rigorous, free or inexpensive, and accessible review procedure in a court of law or other impartial body established through law (UNECE, 1998). Power inequalities cut across all phases of participation and decision-making; as a result, additional steps may be required for women, rural or marginalized populations, and Indigenous peoples.

Fourth, there is a need for increased state and private sector recognition of, respect for and protection of the rights of Indigenous Peoples, small-scale fishers, and other traditional coastal and ocean-dependent populations. These groups of rights-holders require heightened levels of protection due to their historical discrimination and distinctive relationships with specific coastal or marine areas and resources (United Nations, 2007; FAO, 2015; Morgera and Nakamura, 2022). Specifically, states have a duty to protect the rights of these groups from the

potential impacts of marine policies or ocean development activities due to their connection to and susceptibility to impacts on their traditional territories, environments and associated human rights. For example, tenure and access rights are central to the realization of human rights to food, livelihoods, housing, rural development, and human dignity for coastal and small-scale fishing communities (FAO, 2012; FAO, 2015; Morgera and Nakamura, 2022). Therefore, there is a need to ensure that small-scale and artisanal fishers have adequate, secure, and culturally appropriate tenure and access rights to marine and fishery resources, to fishing areas, and to adjacent coastal lands (FAO, 2015). Recognizing and respecting the rights of Indigenous Peoples and traditional communities obligates states and businesses to: recognize lands, territories and resources owned, occupied and used by communities; consult and obtain free, prior and informed consent prior to approving development initiatives that impact the aforementioned; identify and not arbitrarily displace access and tenure rights; respect and integrate traditional knowledge and practices into decisions; and fairly and equitably share benefits from the use of those territories and resources (ILO, 1989; United Nations, 2007). Moreover, there is a need for greater recognition of and awareness of how the rights of Indigenous Peoples and small-scale fishers extend into the ocean - and apply both to oceanic territories and marine resources. Business, international financial institutions, and non-governmental organizations working in the marine environment should be expected to respect these international human rights standards in their conduct.

Fifth, the rights of the individuals, groups, and communities who are working to defend the marine and coastal environment and human rights must be recognized, supported and safeguarded, even if they do not self-identify as 'environmental human rights defenders', 'environmental defenders' or 'ocean defenders' (Knox, 2018b). When the preventative measures such as those mentioned above do not succeed, all people must have the right to assert and advocate for their universal human rights, including environmental human rights, and fundamental freedoms (United Nations, 1998; Knox, 2017; Boyd and Orellana, 2022). States have an obligation and businesses, financial institutions and civil society organizations have a responsibility to support and protect those who are defending human rights and freedoms from violations by both state and non-state actors (Forst, 2016). In general, state protections should be in place to ensure freedom of expression, association, assembly, and peaceful protest (United Nations, 1998; Knox, 2017). Specifically, states must: adopt and implement laws that protect human rights defenders; publicly recognize the societal contributions of human rights defenders and ensure their efforts are not criminalized or stigmatized; develop effective programmes for protection and early warning; provide appropriate training for law enforcement officials; ensure prompt and impartial investigation of threats and

violations; prosecute alleged perpetrators; and provide for effective remedies for violations (Sekaggya, 2011; Sekaggya, 2013; Forst, 2016; Knox, 2018b). Similarly, actions to support and safeguard environmental defenders include creating an enabling and safe environment for and actively protecting them (Khanna and Le Billon, 2021). Not only should ocean defenders be able to operate without threats, harassment, intimidation and violence, their work should be publicly recognized and encouraged (Knox, 2018b). Ocean defenders must be allowed to communicate with international bodies, including the media, to access funding, and to access effective remedies and reparations (Knox, 2017). Collective security measures by ocean defenders' communities must be recognized and respected by the state and corporations (Orellana, 2020). To protect the safety of ocean defenders, governments must provide accessible, independent and impartial mechanisms and bodies (e.g., national human rights tribunals or commissions) for environmental human rights defenders whose rights are being threatened or violated to register complaints and report grievances (Forst, 2016). Investigations should be prompt, independent and impartial - and results made public (Forst, 2016; Knox, 2017). Importantly, perpetrators of crimes against ocean defenders - from harassment to threats and murders - must be brought to justice and punished; otherwise, impunity appears to beget a vicious cycle of corruption where these types of heinous and unconscionable actions continue in certain countries and geographical contexts (Le Billon and Lujala, 2020; Front Line Defenders, 2022; Global Witness, 2022).

Finally, a foundational aspect of protecting the rights of ocean defenders is to recognize, respect, center and support their political autonomy, agency and agenda. Coalitions of different organizations - including non-governmental, academic, media, legal and philanthropic organizations - can play a role in supporting the agenda and work of ocean defenders through documenting their rights, raising their profile, advocating for and helping set up strategies for their own protection, supporting individual and collective capacity building efforts, accessing legal and financial resources, facilitating access to media, creating safe digital and physical spaces, and helping to create collaborative platforms and networks for sharing and learning (Forst, 2016; Knox, 2017; ALLIED, 2021). However, these coalitions and organizations should be cautious to take direction from ocean defenders on how to best support their actions and agenda, and not produce further risks with interventions implemented from outside (Forst, 2016; Knox, 2017; ALLIED, 2021).

Conclusion

Rapid unchecked growth of human activities in the ocean is producing numerous human rights issues around the globe. In the face of these substantive threats, ocean defenders are

advocating for and trying to protect their human rights, including their right to a clean, healthy and sustainable ocean. For their efforts, ocean defenders are often facing further marginalization, criminalization, threats, violence and even murder. The situation facing ocean defenders represents a dual failure of governments, the private sector and civil society. Under international law, states have obligations to protect the fundamental and inalienable human rights of all people who are connected to and depend on the ocean. The private sector and civil society organizations also have a responsibility to respect human rights, including environmental human rights related to the marine and coastal environment. Furthermore, individuals and communities must have the right to organize, advocate and peacefully protest for the protection of the ocean environment and against violations of human rights in the ocean. Yet, we still do not have a complete picture of how these issues are unfolding in relation to the oceans. Moreover, greater attention is needed globally to understanding, increasing the visibility and profile of, and preventing or remedying human rights issues related to the ocean and the plight of ocean defenders. Ocean defenders are doing the critical work of advancing a vision of a just and sustainable ocean.

Author contributions

NB: Funding acquisition, Conceptualization, Investigation and analysis, Writing - original draft; RL: Investigation and analysis, Writing - review & editing; PLB: Funding acquisition, Investigation and analysis, Writing - review & editing; IE: Investigation and analysis, Writing - review & editing; EM: Investigation and analysis, Writing - review & editing. All authors contributed to the article and approved the submitted version.

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Conflict of interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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