Speaking notes
Erin Fitz-Henry, University of Melbourne
Presenting for the Australian Earth Laws Alliance

Authority of Person

My name is Dr Erin Fitz-Henry, I am a lecturer in social and cultural anthropology at the University of Melbourne, in Victoria, Australia. Today I am representing the Australian Earth Laws Alliance (AELA), the Australian civil society organisation that has brought this case to the Tribunal.

I am a member of the Australian Earth Laws Alliance and have worked closely with the Governing Board to prepare this case and speak for the Great Barrier Reef. I was also a contributor to AELA’s publication in April this year, an edited collection called ‘Wild Law in Practice’, published by international publishing house, Routledge.

I would like to acknowledge the ongoing work of AELA’s National Convenor, Michelle Maloney, who presented this case to the Tribunal in Ecuador and who sends her apologies. She was not able to attend to the Lima Hearing.

Overview

The Australian Earth Laws Alliance (AELA) is seeking a ruling and declaration regarding the Rights of the Great Barrier Reef (GBR or ‘the Reef’). We presented the GBR Case to the International Tribunal in Ecuador in January this year. The case was admitted for this final hearing in Lima. We refer to the submission made to the initial hearing of this case with the Tribunal in Ecuador.

We have held a Regional Tribunal Hearing in Australia, to gather the most recent information about the status of the Great Barrier Reef for the International Tribunal and to provide recommendations from a local panel of judges. This Regional Tribunal was held in Brisbane, Queensland, Australia on 15 October 2014. Expert evidence from this Regional Tribunal will be shown via video footage today, for the Tribunal’s information.

We are seeking recommendations from the International Tribunal, regarding violations of the rights of the Great Barrier Reef. We submit to the Tribunal that the Rights of Mother Earth are being violated, because the Great Barrier Reef’s very existence is under threat. We contend that relevant Government Authorities in Australia – the Queensland State Government and the Australian Federal Government – who have primary legal responsibility for the Reef, are not exercising their obligations to protect the Reef.

Facts

ABOUT THE REEF

The Great Barrier Reef (GBR) is the world’s largest coral reef system. It is the world’s biggest single structure made by living organisms and can be seen from outerspace. It runs for 2,300 kilometres, from the Torres Strait Islands, at the most northern tip of Australia, south to Bundaberg along the coastline of the Australian state of Queensland. It is comprised of 3000 individual reef systems and coral cays and almost 900 beautiful tropical islands. It supports a vast array of marine creatures,
including 1625 species of fish, 600 types of soft and hard corals, more than 100 species of jellyfish, 133 varieties of sharks and rays, more than 30 species of whales and dolphins and 3,000 species of molluscs. The GBR is also unique as it extends over 14 degrees of latitude, from shallow estuarine areas to deep oceanic waters.

The Great Barrier Reef was listed by Australia as a National Park in 1975 and covers 344,400 km in area. It was listed as a UNESCO World Heritage Property of Value in 1981. Until very recently, it was considered a pristine natural ecosystem. It is a major tourist destination for international and Australian visitors, and in the year ending December 2012, 1.99 million tourist visitor days were calculated. This tourism brings $AU3 billion into the Australian economy every year.

In June 2011, UNESCO issued, for the very first time, a warning to the Australian government that the GBR was under threat of significant damage from the escalation of coal port expansions and other industrial developments along the coastline adjacent to the reef. UNESCO warned that if the planned developments continued, the GBR might have to be named on the ‘World Heritage in Danger’ list. The expansion of new and existing coal ports on the coastline (used to ship coal from Australia to other countries) is seriously threatening the health of the reef – so too are the increases in shipping volume and activities such as dredging and especially sediment from agricultural runoff. Tropical cyclones, coral predation by crown-of-thorns starfish (COTS), and coral bleaching accounted for 48%, 42%, and 10% of the respective estimated losses of coral over the years 1985 to 2012.¹

THE THREATS FACED BY THE REEF

In simple terms, the Reef faces both existing and imminent threats, as follows:

- **Existing land based marine pollution.**
  - The Reef has been deteriorating over the past few decades, due to land based pollution from human activities. However until recently, the Reef’s status as a World Heritage Site has not been in question.
  - The sources of the existing pollution damaging the Reef are primarily agricultural practices (eg sugar cane farming) on land adjacent to the reef, as well as increasing nutrients from residential developments. Human created pollution is also responsible for stimulating an increase in the population growth of the Crown of Thorns Starfish (COTS), which is destroying the Reef at unprecedented levels. These COTS are a natural phenomenon – the starfish eat coral - but human created pollution stimulates ideal conditions for these destructive creatures to destroy the reef at an unprecedented rate.

- **Imminent threats from the escalation of coal mining, coal ports and industrial developments on land adjacent to the reef.** While these existing causes of damage to the Reef are bad enough, they are now being combined with other, even more devastating threats, to the health of the Reef. In Queensland, a number of MEGA COAL MINES have been approved by the Queensland Government, as well as new COAL PORTS on the land adjacent to the Reef. These developments will see a massive increase in industrial developments, dredging of the

http://www.pnas.org/content/early/2012/09/25/1208909109
sea bed next to the Reef and pollution of the Reef and waterways, as well as a significant increase in carbon pollution that will in turn contribute to climate change and the ongoing bleaching and destruction of the Reef.

**Responsible Parties**

The primary parties responsible for allowing the current and proposed/future damage to the Reef are the Queensland Government and the Australian Federal Government.

The Queensland State Government is the party that gives permission to all private parties to carry out coal mining, dredging, coal port development and agricultural activities. Our submission to the Tribunal lists all the private parties that will be responsible for building new coal mines and coal ports. These parties need to be held responsible for their actions too – but it’s the Government that has primary responsibility for allowing the developments to take place.

**What we’re asking of the Tribunal**

The Universal Declaration for the Rights of Mother Earth\(^2\) states that Mother Earth and all beings of which she is composed have inherent rights, including the right to “regenerate its bio-capacity and to continue its vital cycles and processes, free from human disruptions”\(^3\). It also states that the rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of Mother Earth\(^4\).

This case will demonstrate that human activities are disrupting the Great Barrier Reef’s ability to continue its vital cycles and processes, and argues that the Queensland and Australian governments (i) must be held to account for allowing the volume of industrial development that is now occurring on the Queensland coast and threatening the Reef and (ii) must set limits on human developments and ensure the Great Barrier Reef can continue its vital cycles and processes and continue its evolutionary journey.

**Evidence – footage from the Regional Chamber**

I would now like to introduce video footage from the Regional Chamber of the Tribunal, held in Brisbane on 15 October.

- First – we will provide an overview of scientific evidence of the threats facing the reef, from marine ecologist, Dr Glen Holmes, of the University of Queensland. This will also include his responses to questions from the Judges on the Regional Chamber.
- Second – we will provide an overview of the economic and political issues in Australia that are contributing to the destruction of the Great Barrier Reef, provided by Senator Larissa Waters, Federal Member of Australian Parliament.
- Third - we provide a statement on behalf of the ‘victim’, the Great Barrier Reef – by Michelle Maloney, National Convenor, Australian Earth Laws Alliance.

---

\(^2\) A copy of the Universal Declaration for the Rights of Mother Earth can be found here: [http://pwccc.wordpress.com/programa/](http://pwccc.wordpress.com/programa/) last accessed 8 April 2014  
\(^3\) Universal Declaration for the Rights of Mother Earth, Clause 2(c)  
\(^4\) Universal Declaration for the Rights of Mother Earth, Clause 1.7
• Fourth – we provide a statement from indigenous community leader, Sam Watson.
• Fifthly and finally, we submit the findings of the Regional Chamber of the Tribunal.

Conclusions and recommendations

When deliberating its final decision about this case, AELA urges the International Tribunal to note a critical point made by marine ecologist Dr Glen Holmes at the Regional Tribunal in Brisbane, when he was questioned about the resilience of the Reef and whether any of the damage to the Reef can be reversed:

“The Great Barrier Reef is a strong ecosystem. It has the ability to recover from major disturbances, given the opportunity. If we were to address catchment run-off and address climate change, then there is the potential for the Reef to recover. Climate change is tricky, because there’s a big lag time involved. Even if we completely stopped our drivers of climate change, we would still see increasing impacts due to climate change. But with the removal of other pressures – water quality, fishing pressures, loss of coastal habitats for example – that would increase the Reef’s resilience to be able to handle the continuing pressures of climate change. So if we could address those impacts now and reduce those stressors, then the evidence that I’ve seen suggests that yes, the Reef would be more resilient and would be more likely to survive the continuing impacts of climate change.”

This is cause for great hope – but it means that we MUST stop all the activities that threaten this important member of the Earth Community.

Consequently, the Australian Earth Laws Alliance asks the Tribunal to find the following:

• To declare that the rights of the Great Barrier Reef are being violated
• To declare that the Queensland Government and Australian Federal Government must immediately:
  o Cease all new coal mine developments in Queensland;
  o Cease all new coal port, sea dredging and other destructive industrial developments on the Queensland coast, in order to protect the Great Barrier Reef;
  o In particular - cease all coal port developments and sea dredging at Abbott Point;
  o Comply with the recommendations made by the World Heritage Committee;
  o Invest in programs that assist Queenslanders, and all Australians, to reduce existing land based marine pollution and rebuild the resilience of the Great Barrier Reef.