

Should Australia recognise the human right to a healthy environment?

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What are environmental rights?

- Rights of nature
- Environmental human rights

Human right to a healthy environment

- Uncertain status under international law (recent call for a UN resolution recognising it).
- Recognised in a majority of countries around the world.
- Australia is one of only 15 countries that does not recognise the right in some form.

Should Australia consider following suit?

- Reluctance to provide:
 - broad guarantees of environmental protection
 - broad recognition of human rights

Benefits for environmental protection

- Constitutional recognition of the right in other countries has been associated with various benefits for environmental protection, including:
 - Impetus for stronger legislation;
 - Safety net by filling gaps in legislation;
 - Protecting effective laws and policies from rollbacks.

If so, how?

- Constitutional recognition in Australia is highly unlikely.
- Recognition under a statutory bill of rights is more likely.

Dialogue model

- Model adopted by the Vic and ACT human rights charters. About to be adopted in QLD.
- Dialogue model preserves parliamentary supremacy.

Dialogue model - benefits

- Impacts on the creation and interpretation of legislation.
- Impacts on government decision-making.

Limitations of this approach

- Parliament retains the final say – can pass and maintain rights inconsistent laws.
- Inherently limited legal tool.