

Legal Recognition of the Human Right to a Healthy Environment in Australia: Useful, Redundant or Dangerous?

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Abstract.

Australia holds the (perhaps dubious) distinction of being the only western democratic nation without a national bill of rights.¹ It is therefore unsurprising to note that Australia is one of only fifteen nations that does 'not yet recognize that their citizens possess a legal right to a healthy environment'.² Australia is also yet to recognise the human right to water, or the rights of non-human animals and environmental entities.³ Accordingly, an important question to consider is why Australia has failed to embrace rights-based approaches to environmental protection and management, and whether and to what extent these approaches may be of some utility in the Australian context. Countries around the world have begun to integrate versions of the human right to a healthy environment into their constitutions, laws, policies and political rhetoric. Australia is well placed to learn from this experience in order to make an informed decision about whether it should join the 'environmental rights revolution'.⁴ The aim of this presentation is to explore whether legal recognition of the human right to a healthy environment in Australia could offer potential benefits for environmental protection, or whether legal recognition may in fact prove redundant or even dangerous in its operation.

Keywords: Australian environmental law, environmental rights, human right to a healthy environment, rights-based approaches to environmental protection.

BIOGRAPHY

Meg Good is a PhD Candidate/Sessional Lecturer at the University of Tasmania, and a Teaching Associate at Monash University. Meg's PhD explores possible options for legal recognition of the human right to a healthy environment in Australia, and discusses whether there are any potential benefits for environmental protection associated with legal recognition of the right. Her other main area of interest is animal law. She is Director of Education at the Animal Law Institute, Tasmanian Co-ordinator of the Barristers Animal Welfare Panel, Chief Editor of the Australian Animal Protection Law Journal, and a member of the Voiceless Legal Advisory Council.

¹ Australian Human Rights Commission, *How are Human Rights Protected in Australian Law?* <<https://www.humanrights.gov.au/how-are-human-rights-protected-australian-law>>.

² David R Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights and the Environment* (UBC Press, 2012), 48.

³ See generally Meg Good, 'Implementing the Human Right to Water in Australia' (2011) 30 (2) *University of Tasmania Law Review* 107.

⁴ For an excellent summary of the 'environmental rights revolution' see generally, Boyd above n 2.