

Scottish Environment LINK's [Election Manifesto](#) asks for the next Scottish Parliament to 'enshrine the right to a healthy and safe environment in a Human Rights (Scotland) Bill'. LINK members endorse the recommendation by the Advisory Group on Human Rights Leadership to include within a new human rights framework a human right to a healthy environment.

We all have basic needs which are fundamental to our humanity. Human rights law emerged to protect these needs as legal rights, at a time when civil and political rights and social, economic and cultural rights were in jeopardy. We are now at a tipping point where again our humanity is in jeopardy, this time because of environmental damage. Greta Thunberg's famous warning that 'our house is on fire' was a sharp reminder that without a healthy environment, we cannot survive. The Covid-19 crisis continues to show how our other rights cannot be enjoyed without a healthy environment. Our need for a healthy environment must therefore now be protected in law as a human right.

The human right to a healthy environment has two sides: the actual substantive right to a healthy environment, and the procedural right, which grants citizens tools in relation to the environment. The substantive human right to a healthy environment is not protected by human rights laws in Scotland. Our strongest human rights protections stem from the European Convention on Human Rights, which does not articulate a human right to a healthy environment.

As a party to the **UNECE Aarhus Convention** through the UK, Scotland is obliged to implement the procedural human right to a healthy environment. However, the Aarhus Convention's decision-making bodies have consistently found the Scottish legal system to be in breach of the Convention on access to justice in relation to the prohibitive costs of taking judicial reviews in Scotland. A complaint currently under review by the Aarhus Convention's Compliance Committee alleges a further breach in relation to the lack of substantive review of environmental laws in Scottish courts.

In enshrining the right to a healthy environment in Scots Law, it must be defined according to international best practice. In 2018, the United Nations Special Rapporteur for human rights and environmental protection collated existing laws and practices on the human right to a healthy environment from across the world, and distilled the human right to a healthy environment into 16 Framework Principles. These principles provide a useful basis for the expression of the right in Scotland.

A well-defined right to a healthy environment would support and underpin other environmental objectives, enabling better decision-making for the environment, with litigation only being used as a last resort.

A human right to a healthy environment must be enforceable and supported by the creation of a specialist environmental court.

Given the groundswell of demands to address environmental issues, together with the attention of COP26 hosted in Glasgow, and the momentum generated by the Scottish Government's National Taskforce for Human Rights Leadership, there is an opportunity for all parties to support a Human Rights (Scotland) Act with the express inclusion of a human right to a healthy environment. **We therefore call on MSPs and**

parties to work together to ensure that this vital legislation is progressed rapidly in the next session of the Scottish Parliament.

For more information, please see the [full briefing](#) on a Human Right to a Healthy Environment.

This briefing has been prepared by the Environmental Rights Centre for Scotland on behalf of Scottish Environment LINK members. Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

This response is supported by the following LINK member organisations:

Badenoch and Strathspey Conservation Group
Environmental Rights Centre for Scotland
Friends of the Earth Scotland
Keep Scotland Beautiful
RSPB Scotland
Scottish Wild Land Group
Scottish Wildlife Trust
Woodland Trust Scotland
WWF Scotland

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