

▶ Recognizing the Right to a Healthy Environment in Canada

Ryan Chawner, CELA Legal Intern



Canadian
Environmental Law
Association
EQUITY. JUSTICE. HEALTH.

What is the 'Right to a Healthy Environment?'

- ▶ Recognized by 156 countries, Canada is one of 37 countries not to recognize this right
- ▶ It is a human right underpinning other essential human rights
 - ▶ Healthy environment is necessary for human flourishing
- ▶ More importantly, it is an idea whose time is now
 - ▶ UN Special Rapporteur David Boyd recently presented to the UN on the need to pass resolutions recognizing the right to a healthy environment



Elements of the Right

- ▶ Three elements:
 - ▶ Legal Recognition
 - ▶ Recognized in national constitution, environmental legislation, or standalone bill of rights
 - ▶ Procedural Rights
 - ▶ Access to Information; Meaningful Public Participation; and Access to Justice
 - ▶ Substantive Rights
 - ▶ Clean Air; Safe Climate; Healthy and Sustainable Food; Safe Water; Healthy Ecosystems and Biodiversity; and Non-Toxic Environments



R2HE Internationally

- ▶ Over 150 countries have recognized some sort of right to a healthy environment in their domestic law
- ▶ Long established history: Portugal first to recognize in 1976
- ▶ Argentina: led to more and better laws at the national and sub-national levels and more opportunities for citizens to challenge environmental conditions
- ▶ France: unifying principle that permeates various pieces of legislation, policies, and regulations
- ▶ Norway: constitutional recognition with separate legislation for access to environmental information and public participation



R2HE Domestically

- ▶ Some provinces and territories in Canada already recognize this right to a limited degree
- ▶ Quebec: *Environmental Quality Act*
 - ▶ First in Canada to recognize in 1978
- ▶ Ontario: *Environmental Bill of Rights, 1993*
 - ▶ 'Right to healthful environment' recognized; provides a variety of procedural rights
- ▶ Yukon: *Environment Act*
 - ▶ Rights encourage full participation in environmental decisions



Why R2HE: General Benefits

- ▶ Contributes to healthier people and healthier ecosystems
 - ▶ Creates the foundation for better laws, increased public participation, increased access to justice, and improved environmental outcomes
- ▶ Environmental impacts disproportionately impact certain populations
 - ▶ Vulnerable populations face heightened pollution and environmental contamination
- ▶ Help Canada meet its international environmental and human rights obligations
 - ▶ Canada is party to 7 foundational UN Human Rights Treaties
- ▶ Circular Economy and the need to build better
 - ▶ Help with transition to a low-carbon economy and help reduce generation of wastes and plastics



Why R2HE: Toxic Impacts

- ▶ Toxics and pollution contribute to a plethora of health problems and have disproportionate impacts in Canada
- ▶ Vulnerable Populations
 - ▶ People who are subject to a disproportionate potential for exposure to, or potential for disproportionate adverse effects from exposure to toxic substances
 - ▶ Includes Women, Children, Workers, Indigenous Peoples
- ▶ Import and export of hazardous wastes raise concerns both nationally and internationally





The Right to a Healthy Environment in Canada

August 26, 2020

Follow CELA



Search CELA Records

Sort by Relevance ▾

Sign up to our monthly newsletter

Subscribe

* indicates required
Email Address *

<https://cela.ca/right-to-healthy-environment/>

Conclusion

- ▶ Recognizing a right to a healthy environment in Canada is necessary for protection of human rights, domestically and internationally. This would:
 - ▶ Extend the right to a healthy environment to everyone in Canada
 - ▶ Protect vulnerable populations
 - ▶ Allow for more informed decisions about environmental matters
 - ▶ Help build a low-carbon, circular economy for future generations



Resources

- ▶ CELA's 2018 Proposed Amendments to CEPA
 - ▶ <https://cela.ca/proposed-amendments-to-cepa-1999/>
- ▶ UN Special Rapporteur Boyd 'Good Practices' Report
 - ▶ <https://undocs.org/en/A/HRC/43/53>
- ▶ Former UN Special Rapporteur on Toxics 'Visit to Canada' Report (Advanced and Unedited Version)
 - ▶ http://www.srtoxics.org/wp-content/uploads/2020/09/Canada-HRC-45_AUV.pdf
- ▶ The Time is Now! Letter (presented to UN; signed by 1,000 civil society groups)
 - ▶ <https://www.ciel.org/wp-content/uploads/2020/09/Global-Call-for-the-UN-to-Recognize-the-Right-to-a-Healthy-Environment-English.pdf>



Thank you!

- ▶ For more information, contact Fe de Leon with CELA
Email: deleonf@cela.ca
Phone: 1-844-755-1420



Canadian
Environmental Law
Association
EQUITY. JUSTICE. HEALTH.