

April 23, 2021

Submission to the Standing Committee on Environment and Sustainable Development Regarding Bill C-230

West Coast Environmental Law Association (“West Coast”) supports Bill C-230: *An Act Respecting the Development of a National Strategy to Redress Environmental Racism*.

West Coast is a non-profit group of environmental lawyers, strategists, analysts and communicators working in the public interest and dedicated to safeguarding the environment through law. As a public interest law organization, we are committed to advancing access to justice and public legal education so that individuals and communities have the tools and legal support they need to use the law effectively.

This includes a commitment to the fair treatment and meaningful involvement of all people regardless of race, colour, national origin, gender, (dis)ability, age or income, with respect to the development, implementation, and enforcement of environmental law, regulations and policies. In particular, we recognize that Indigenous, Black, people of colour and low-income communities disproportionately shoulder the burden of climate change and other environmental harms, and we work to ensure the voices of racialized and marginalized individuals and communities are foundational to environmental decision-making.

Given our experience working with communities across British Columbia (“BC”), West Coast affirms the need for a national strategy to redress the harm caused by environmental racism. Environmental Racism is a term that encapsulates the environmental and health impacts of colonialism, racist decision-making, and systems of oppression on communities that are primarily Indigenous, racialized, and historically marginalized. West Coast acknowledges that environmental issues are compounded by other social equity issues, and one such aggravating factor is the systemic barriers that these same communities face when accessing meaningful environmental justice in the legal system.

Through our environmental legal aid programs, West Coast has seen the devastating impacts of environmental racism on communities in BC. For example, on October 13th, 2016, the Nathan E. Stewart tugboat ran aground and sank in Heiltsuk territory, which resulted in a spill of over 110,000 litres of diesel fuel, lubricants, and other pollutants into the sacred waters and Heiltsuk food harvesting site at Qvúqvái. Since then, the Heiltsuk Nation has undergone extensive efforts in their pursuit of justice. From organizing the initial spill response and clean-up efforts, to carrying out their own environmental and cultural assessment, the Heiltsuk continue their long legacy of exercising their Ğviłás (laws) and stewarding their territory. The inadequacy of the governmental response to the spill, as well as the limits of Canadian law which do not allow for compensation for cultural losses and loss of seafood harvesting, are exacerbating factors that

exemplify the connection between environmental racism and the accessibility of meaningful justice.

Another example is the Mount Polley Mine Disaster which occurred on August 4th, 2014. This was the biggest mining disaster in Canadian history, yet the corporation responsible has not been held accountable for the environmental destruction caused by the collapse of a dam at the mine, which released 24 million cubic metres of toxin-infused sediment into Quesnel Lake, a drinking water source and vital habitat for about a quarter of the province's sockeye salmon. Bev Sellars, a grandmother and former chief of the Xat'sull First Nation, brought a private prosecution against the company responsible for the pollution, but the province stayed the charges. These instances illustrate the compounding impacts at the intersection of environmental racism and access to justice. Bill C-230 has the potential to address these issues by involving community groups in environmental policy-making, compensating communities for harms committed, and providing ongoing funding for affected communities.

If Bill C-230 was law, these two examples may have been different. A positive first step would be having governmental acknowledgment that the Nathan E. Stewart and Mount Polley disasters form part of a broader trend of environmental racism, where Indigenous and racialized communities are burdened both with environmental harms, and the responsibility to pursue their own justice and reparations. Ideally, Bill C-230 would also introduce measures to ease the layered burdens that these communities are shouldering.

As a part of our commitment to environmental and racial justice, West Coast has undertaken several projects to learn more about the intersection between environmental racism and access to justice in BC, including our Environmental Justice Project and our forthcoming Environmental Racism Map of BC. Both projects have underscored the need for a national strategy on environmental racism, and the need for focussed data that looks at the impacts of pollution on racialized and marginalized communities.

Through our Environmental Justice Project, we gathered lessons in conversation with Indigenous, racialized, and other historically marginalized communities, as well as legal and environmental service providers in these communities. Anecdotal evidence of the lived experiences of racialized British Columbians overwhelmingly confirmed that the impacts of environmental racism are compounded by the systemic barriers discussed below, that make it more difficult for marginalized communities to access justice.

Several racialized interviewees described feeling like the legal system was not accessible to them, or feeling that they were not informed or entitled to be part of the environmental decisions that affect them:

"The law aspect is intimidating and connecting environmental issues to that piece is difficult. I have the feeling that the law is not there to help me".

"When folks are living in survival mode, it can be hard to ask for help if you don't think help is going to come".

Issues of privilege, such as the impacts of not having basic needs met, factored largely into discussions surrounding barriers for marginalized and racialized communities to access environmental justice. An Indigenous lawyer explained this issue as follows: *“Your issue, for example, housing, or food-security, may have clear environmental aspects, but someone who’s worried about that may not be thinking about it in those terms. Privilege comes in here. You have to have privilege to have the capacity and time to think about these issues through an environmental law lens”*.

When asked about potential barriers to engaging with legal services, feedback from racialized individuals consistently raised the concern that the legal system in general was not supporting their issues. Bill C-230 calls for amendments to federal laws, policies and programs, which creates an opportunity to address these issues not only at the environmental level, but at an access to environmental justice level as well.

Collecting information and statistics in relation to the location of environmental hazards and health outcomes for racialized communities is another important aspect of Bill C-230, because it will provide vital information to deepen and prioritize efforts to redress environmental racism.

West Coast has also undertaken a project in partnership with the UBC Sustainability Scholars Program to develop an environmental racism map for BC, inspired by the ENRICH Map (Environmental Noxiousness, Racial Inequities and Community Health) in Nova Scotia. The intended purpose of the map is to be a tool for community organizations and environmental non-profits to strategically focus their efforts to work in support of communities who are disproportionately impacted by environmental issues.

In creating the map however, we came across extensive challenges in using the existing publicly available data in BC. For example, basic information is available, such as the location of various polluters, but there is no information identifying the breadth of the environmental and health consequences of each polluter, therefore making it difficult to measure cumulative impacts on surrounding communities. Another limitation is that the data surrounding certain polluters were completely restricted to the public, and therefore we were unable to access information about the locations of Hydro Facilities and Municipal Waste Facilities.

The lack of data makes it harder for policy makers to identify this issue, let alone address it. The data collection called for in Bill C-230 brings with it several opportunities, including addressing the shortcomings of existing data, supporting better-informed governmental decision-making, and substantiating the importance of the work community organizations are doing to address environmental racism at a grassroots level.

In conclusion, the overlap between environmental racism and systemic barriers in the legal system, creates cumulative and complex barriers for the same communities to access environmental justice. Bill C-230 is an important step towards addressing these multi-layered

social, health, environmental, and justice inequalities. Bill C-230 must be a priority for all parties, and we advocate for this bill to be passed without delay.