

April 29, 2021

Mr. Francis Scarpaleggia, Chair
c/o Angela Crandall, Clerk of the Committee
The Standing Committee on Environment and Sustainable Development
House of Commons
Ottawa, ON
K1A 0A6

Re: Bill C-230, *An Act Respecting the Development of a National Strategy to Redress Environmental Racism*

Dear Mr. Scarpaleggia,

The Canadian Environmental Law Association (“[CELA](#)”), respectfully makes the following submission to highlight the importance of passing Bill C-230: *An Act Respecting the Development of a National Strategy to Redress Environmental Racism* into law. Bill C-230 provides an opportunity for the government to address the inequities facing vulnerable communities, particularly racialized communities facing harm from environmental pollution and polluting practices by ensuring remedies are integrated effectively into existing environmental legislation or passing additional legislations and policies. CELA’s mandate is to promote environmental justice. In our 50 year history, we have repeatedly seen how pollution and adverse environmental health disproportionately impacts low-income, Indigenous and racialized communities.

The timing to advance Bill 230 is important as the global community support grows for the passing of the Global Pact for the Environment, a project coordinated through the United Nations to advance a global efforts to recognize our right to live in a healthy environment. Specifically, the Pact contains “two main and interdependent principles, a right and a duty: the right to a sound environment and the duty to care for the environment.”^{1,2}

Although a promising step in the right direction, Bill C-230 would benefit from a few important amendments to achieve the needed protection to racialized communities. These amendments include:

¹ Global Pact for the Environment. <https://globalpactenvironment.org/en/>

² See: Richard Lindgren. CELA Supports the Global Pact for the Environment. April 20, 2021. <https://cela.ca/blog-cela-supports-the-global-pact-for-the-environment/>

Definitions:

Add a definition for racialized, Indigenous, and affected communities as mentioned in the *Preamble* and section 3(2) of the Bill. The Bill could also benefit from defining what is considered environmentally hazardous.

Adding definitions to key elements in the preamble is needed to recognize who this Bill applies to, who will be consulted by the Ministry in the development of the national strategy, and who will not be consulted. It is also important for Bill C-230 to recognize that specific communities and children are particularly vulnerable to environmental hazards, as noted in the UN Special Rapporteur on Hazardous Waste and Human Rights and the UN Rapporteur in his Report on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes.^{3,4}

The Bill should mention and define “Environmental Justice.” This bill aims to advance environmental justice in Canada and should be reflected in the bill. It should be considered a key pillar of the Bill.⁵

National Strategy:

Section 3(3) of the Bill should include measurable targets, timelines & deadlines, which are necessary to ensure implementation is undertaken and progress is made to eliminate environmental racism. The absence of quantitative benchmarks will make it difficult to assess "effectiveness" of the actions taken under the National Strategy, as required in the report under section 5 of the Bill.

Timelines:

The Bill C-230 notes important timelines for the development of a report for the National Strategy for 2 years under section 4 and requirement under section 5 to prepare a report within 5 years on the effectiveness of the national strategy. Based on these timelines, it could be up to 7 years before information is provided on whether the federal efforts under the Strategy is making a difference, or whether further changes are warranted in efforts to reduce the environmental harm facing racialized communities and marginalized communities. The timelines should be reduced and additional consideration should be given for the production of an interim report from the Minister on the effectiveness of the National Strategy.

³Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his visit to Canada. http://www.srttoxics.org/wp-content/uploads/2020/09/Canada-HRC-45_AUV.pdf

⁴ <https://www.ohchr.org/EN/Issues/Environment/SRToxicsandhumanrights/Pages/Index.aspx>

⁵ One example to consider is the definition for “environmental rights” is proposed in “Amending the Canadian Environmental Protection Act, 1999” October 2018. Where “environmental justice principle” means fair treatment and meaningful involvement of all people, including a vulnerable population, in respect of environmental and human health hazards associated with toxic substances, or substances of very high concern, in Canada. See: <https://cela.ca/wp-content/uploads/2020/11/Ltr-to-Ministers-and-proposed-CEPA-amendments.pdf>

Existing Environmental Legislations

Bill C-230 aims to address the ongoing health impacts of systemic racism stemming from environmental policies and practices that disproportionately affect certain communities, including higher rates of cancer, reproductive diseases, respiratory illness, and birth defects, among other issues. We have seen recognition of the need to a healthy environment. Recently, the government released Bill C-28 to amend Canada's main environmental law, *Canadian Environmental Protection Act* (CEPA). Bill C-28 includes a new recognition to the right to a healthy environment. Although the right to a healthy environment is being recognized in the proposed Bill C-28, additional amendments to the Bill are required to ensure that the right to a healthy environment leads to changes that protect those that are harmed by environmental pollution. One significant change to CEPA would include amendments to Section 22 of CEPA to ensure citizens have remedies to challenge the government on their decisions. At the same time, the approach should ensure that Bill C-230 includes strengthened provisions that ensures legislative changes or implementation of existing laws such as CEPA to address the harm created from pollution releases and toxic substances to racialized and marginalized communities. Furthermore, Bill C-230 could be more effective if it recognizes that environmentally hazardous projects can contravene one's right to a healthy environment.

The extent of environmental racism in Canada has been highlighted and is a reality for many racialized and Indigenous communities who bear a disproportionate burden of exposures and illnesses related to their geographic and social locations. Of particular concern is the way in which Indigenous people face increased exposure to environmental hazards. As an example, Grassy Narrows First Nation has suffered from mercury poisoning due to effluent dumping from pulp and paper mills in the 1960s. 50 years later, mercury in the area is still 130 times higher than upstream. In the face of these problems Canada must protect vulnerable communities, and as such, it is important that Bill C-230 provide a remedy for those who experience environmental racism after the passing of this Bill.

A universal approach to environmental policies will not necessarily benefit communities who are disproportionately impacted and marginalized through current systems and conditions. For this reason, we believe it is important that Bill C-230 provides procedural requirements related to the issuance of any new licenses for polluting industries. Industries should be required to provide public information regarding the environmental impact of their practice, and public hearings should take place in the affected communities to ensure Canadians have an opportunity to meaningfully participate in the development of their communities.

Canada is far behind the United States in recognizing environmental racism and taking steps to remedy the problem. In 1994, US President Bill Clinton issued an executive order requiring all federal agencies (not just the Ministry of the Environment) to develop strategies that address disproportionately adverse health and environmental effects of their actions on minority groups and low-income populations. This order remains in effect today. At the state level, New Jersey law makers passed a comprehensive environmental racism law in September of 2020. In January

2021, US President Biden reiterated its commitment with investments to address environmental justice in the US.⁶

Canada's air, land and water are the life support systems of all Canadians. However, Indigenous and racialized Canadians are disproportionately affected by pollution in these systems stemming from environmentally hazardous sites. If Canada wishes to become a leader in human rights, environmental justice and equity in North America and around the world, the government must pass Bill C-230 and respectfully, must do so with these amendments to ensure that the Canadians most affected by environmental racism are not excluded from the Bill.

Bill C-230 should be a priority for all parties. CELA supports passing Bill C-230 into law with key amendments to strengthen and improve it. Thank you for considering to our comments.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Theresa McClenaghan
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⁶Whitehouse. January 27, 2021. Fact Sheet: President Biden Takes Executive Actions to Tackle the Climate Crisis at Home and Abroad, Create Jobs, and Restore Scientific Integrity Across Federal Government. See: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/>