

Briefing Note

May 21, 2021

Using Environmental Bill of Rights Legislation as a Catalyst for Accelerating Progress Toward a Sustainable Future

The Issue

New Brunswickers recognize that global environmental changes have triggered unprecedented events such as our recent catastrophic floods, droughts and severe weather events. The current Covid-19 pandemic is now being linked in the scientific literature with environmental factors such as environmental degradation, habitat loss and climate change^{1, 2, 3}. Now more than ever before, the future wellbeing of New Brunswickers will depend on a strong economic recovery grounded in the principle of environmental sustainability⁴.

That is why an Act addressing the human right to a healthy environment is being proposed for the Province of New Brunswick: The **NB Environmental Bill of Rights: An Act to Protect Children, all New Brunswickers and Nature**. Our “made in New Brunswick” child-focused Bill of Environmental Rights will recognize that children, and therefore all our people and future generations have the right to a healthy environment. *An Act such as this has the potential to become, in the words of David R. Boyd, UN Special Rapporteur on Human Rights and the Environment, “a powerful catalyst for accelerating progress toward a sustainable future”⁵.*

Why Children?

- 1) **Children will inherit the Earth.** Children and youth of today must restore and repair the Earth’s degraded systems so that future generations will have a sustainable planet on which to live, work, play and raise their families.
- 2) **Children are born pre-polluted⁶.** A 2005 study found an average of over 287 industrial chemicals in infant cord blood, some of which injure the developing brain. Further studies have confirmed that there are even more chemicals than originally identified, including lead and other heavy metals. Landrigan observed that since pregnant women can be exposed to multiple and varied environmental chemicals, and because most of these can cross the placenta and pass from mother to infant via breastmilk, Both the fetus and infant are at risk of exposure during vulnerable periods of development⁷.

In January 2021, a landmark study was published showing that microplastics were detected in human placentas. They were found in maternal, fetal and amniochorial

membranes. Microplastics have substances that act as endocrine disruptors and can have long term effects on human health⁸.

3) **Children's exposures are proportionally far greater than adults⁹.** Exposures occur from contamination of the air, water, soil, food and consumer products.

- Children have the additional exposure pathways of the placenta and breast milk.
- Proportionally by body weight, children drink more water, eat more food and breathe more air compared to adults.
- Children's physiology is less developed to metabolize and excrete contaminants.
- Children's age-related behaviours tend to magnify the intake of toxic chemicals: they are more active, explore their environment orally, and play lower to the ground where contaminants like lead and pesticides settle.

4) **The major causes of morbidity and mortality among children in the world's industrially developed countries are no longer infectious diseases, but chronic diseases related to environmental exposures¹⁰.** These include:

- Asthma
- Birth defects
- Neurodevelopmental disorders, including dyslexia, cognitive impairment, attention-deficit/hyperactivity disorder and autism spectrum disorders
- Leukemia and brain cancer
- Testicular cancer in young men
- Childhood obesity

5) **In New Brunswick, some industrialized areas have air pollution levels that exceed allowable levels, resulting in toxic effects that harm children disproportionately. Effects such as:**

- Stunted brain development
- Reduced lung function and
- the onset of asthma

5) **Exposure to air pollution can also set the stage for problems later in life, such as:**

- Cancers
- Chronic respiratory illnesses
- Cardiovascular diseases
- Stroke (WHO, 2020¹¹)

In New Brunswick, our focus has always been on the children. If we want healthy children, then we must have healthy environments. There is a growing understanding among some of the world's most respected scholars and organizations that "the health of children and their future is intimately linked to the health of the planet". The WHO-UNICEF-Lancet Commission in February 2020 presented their case for placing children at the heart of sustainability and our shared human endeavour¹².

Children's right to a safe and healthy environment has now become the focus of a world-wide movement. The global [Children's Environmental Rights Initiative \(CERI\)](#), under the auspices of the UN Special Rapporteur on Human Rights and the Environment, David R. Boyd, strives to make sure that children's fundamental right to a safe and healthy environment is recognized and fulfilled. This coalition of countries and organizations has articulated clearly the urgency of such work: children are far less able to exercise their most fundamental rights to information, to be heard in decision-making on environmental issues and to seek justice for violations of their rights.

One of the most respected physicians globally on this topic is children's environmental health advocate and co-author of the "Textbook on Children's Environmental Health", Philip Landrigan. He notes that we need to understand the complexities of children's environments – *how their health is influenced by chemical exposures in early life, the nutritional environment in the mother's womb, the built environment, stress, and the social environment*¹³.

The United Nations Special Rapporteur on Human Rights and Environment grouped the types of environmental harm that affect children's rights into [these categories](#):

1. Air pollution
2. Water pollution
3. Climate change
4. Chemicals
5. Toxic substances and waste
6. The loss of biodiversity and access to nature

Canada has obligations under the [United Nations Convention on the Rights of the Child](#) which recognizes that children have rights and freedoms that need to be protected, including the inherent right to life (Article 6) and the right to enjoy the highest standard of health (Article 24.)

Why now?

- *This pandemic has created an opportunity to re-imagine our Province's future, and to create a #BetterThanNormal recovery plan that makes NB safer, healthier and more resilient. The Conservation Council of New Brunswick in an open letter to Premier*

Higgs advocated a strategy that would “build community and ecosystem resiliency by protecting nature and water”¹⁴.

- *New Brunswickers are ready to take a stand for children and the environment.* In recent years, passionate New Brunswickers of all ages have staged demonstrations on the grounds of the Legislature on a host of environmental issues. Recently, Greta Thunberg has galvanized youth world-wide around the Climate Crisis. And with respect to Covid-19, an offshoot of climate and environmental degradation, New Brunswickers embraced the mantra that “we are all in this together”. We are ready to do our part as New Brunswickers to address environmental issues and make our world a better place for our children and future generations.
- *Our government has achieved success using all-party approaches to solve problems.* By creating an all-party Standing Committee on Climate Change and Environmental Stewardship – the first of its kind in Canada - the Province recognized that environmental issues cannot be dealt with effectively using the standard partisan political approaches. And by creating an all-party Select Committee on Covid-19 and using a collaborative approach to decision-making, New Brunswick emerged as an early leader in North America in its handling of the Covid-19 pandemic.
- *So, what is holding us back from taking the next courageous step – enacting a Bill of Environmental Rights for our province?*

New Brunswick’s Track Record on Human Rights and Environmental Legislation

New Brunswick has been fertile ground for the advancement of human rights and environmental rights. John Peters Humphrey, of Hampton, is known as the Father of the Modern Human Rights System¹⁵. He was the chief author of the first draft of the Universal Declaration of Human Rights, which was adopted by the United Nations in 1948.

Environmental Legislation in the Province began to appear in the 70s, and since then, seven Acts have been proclaimed. *None of the Acts proclaimed to date have addressed the human right to a healthy environment.*

For decades, New Brunswickers have been actively engaged in advancing the concept of “the human right to a healthy environment” or “environmental bills of rights”. An array of initiatives has been advanced from 2005 to this day¹⁶. The proposed draft Bill appears on the New Brunswick Environmental Network’s website at <https://nben.ca/en/env-environmental-bill-of-rights-documents>. It is gathering momentum among ENGOS around the province and has been shared with party leaders and other elected officials within government.

Across Canada, momentum is building in support of Canadians' right to a healthy environment¹⁷, including the adoption by municipalities of a Declaration supporting this right. This effort has now resulted in 174 municipal declarations across the country, including 5 in New Brunswick - Sackville, Bertrand, Beresford, Gagetown and Tracadie¹⁸.

Research

David R. Boyd, a Canadian law professor, is one of the world's pre-eminent authors on the topic of the relationship between human rights and environmental protection. He now holds the position of United Nations Special Rapporteur on Human Rights and the Environment.

Boyd's research article, "Catalyst for Change: Evaluating Forty Years of Experience in Implementing the Right to a Healthy Environment" notes that in total, governments of at least 155 nations have recognized the right to a healthy environment in legally binding instruments, at the national and/or the international level."¹⁹ *This list does not include Canada!* But even in countries without constitutional recognition, sub-national regions (e.g., provinces) have introduced legislation recognizing environmental rights, as did Ontario, Quebec and the three territories in Canada.

Boyd's research found that some of the benefits of recognition of the right to a healthy environment included:

- Stronger environmental performance, e.g., cleaner air, safer drinking water, and smaller ecological footprints
- Stronger environmental laws and policies
- Improved implementation and enforcement
- Greater citizen participation in environmental decision-making
- Increased accountability
- Reduction in environmental injustice

Conclusion and Recommendation

- Given the favourable current context, and a growing momentum to make children's health and wellbeing the central focus of policy within New Brunswick and across the globe,
- given that the evidence points to the value of using legislation such as a bill of environmental rights to improve environmental performance and catalyse efforts toward sustainability,

therefore, the Environmental Rights Caucus recommends that an all-party approach be taken to enact the **NB Environmental Bill of Rights: An Act to protect Children, all New Brunswickers and Nature.**

The time is right for this legislation to be enacted in New Brunswick.

Respectfully submitted,

The Environmental Rights Caucus of the New Brunswick Environmental Network

ENDNOTES

¹ Jorgensen and des Neves. 2020. COVID-19: One world, one health. In: *Tidsskriftet*. August 2020.(Norway).

² Morens et al. 2020. Escaping Pandora’s Box – Another Novel Coronavirus. In: *New England Journal of Medicine* 2020; 382:1293-1295. <https://www.nejm.org/doi/full/10.1056/NEJMp2002106>

³ Messmer, TA et al. 2020. The Back Page: Humans, wildlife and our environment: One Health is the common link. In *Human-Wildlife Interactions*. Spring 2020, 14(1) 137-140.
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⁴ UN World Commission on Environment and Development. Accessed August 24, 2020:
<https://www.google.com/search?client=safari&rls=en&q=UN+definition+of+environmental+sustainability&ie=UTF-8&oe=UTF-8>

⁵ Boyd, David R. 2018. Catalyst for Change: Evaluating Forty Years of Experience in Implementing the Right to a Healthy Environment. Book Chapter in *The Human Right to a Healthy Environment*, Eds Knox, JH and Pejan, R. Cambridge University Press, p. 25. <https://books.google.ca/books?hl=en&lr=&id=-pxdDwAAQBAJ&oi=fnd&pg=PR7&ots=5kL8eaZmdj&sig=cE0lrIckJlqlxMtSIAGh9byXrHg#v=onepage&q&f=true>

⁶ Environmental Working Group. July 14, 2005. *Body Burden: The Pollution in Newborns*.
<https://www.ewg.org/research/body-burden-pollution-newborns>

⁷ Landrigan, P and Etzel, R. 2014. *Textbook of Children’s Environmental Health*. Oxford University Press: New York, NY, 122.

⁸ Ragusa, A. et al, 2021. Plasticenta: First evidence of microplastics in human placenta. *Environment International* vol 146 (2021) 106274. <https://www.sciencedirect.com/science/article/pii/S0160412020322297>

⁹ Landrigan, and Etzel 2014. Ibid, 21-24.

¹⁰ Landrigan, and Etzel 2014. Ibid, 5.

¹¹ WHO. 2020. Air pollution. https://www.who.int/health-topics/air-pollution#tab=tab_1

¹² Clark, H. et al. *A future for the world’s children?* WHO-UNICEF-Lancet Commission. Vol. 395, February 22, 2020.
<https://www.thelancet.com/commissions/future-child>

¹³ Landrigan and Etzel, 2014. Ibid, 3.

¹⁴ Conservation Council of New Brunswick website: https://www.conservationcouncil.ca/wp-content/uploads/2020/04/RecoveryPlanCCNB_PremierHiggsApril2020Final-ENG.docx.pdf

¹⁵ Wikipedia. John Peters Humphrey <http://humphreyhampton.org/biography.html>

¹⁶ New Brunswick Environmental Network website <https://nben.ca/en/env-environmental-bill-of-rights-documents>

¹⁷ Government of Canada. August 2020. Petitions to the House of Commons.

https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-2758&mkt_tok=eyJpIjoiT0RNd09EbGpOVFEzTmpVeilsInQiOiJKZk9uZ3lVU3dUTUVNRzg5NFF0VUVDc0ITak9WYW5weUlyOFVIRWRZcm0wME9ZZnUycmhNQzcraDF1eDhnVm9hVFk5c21SN1pPUENJUEhJQ056b1lrcckzQ3NaNDJjWVdnaWprdm4rV3ZoWIN5MHNaUVhHaWVRV3NXcDBGQXI2dyJ9

¹⁸ Blue Dot website: <https://bluedot.ca/about/declarations/>

¹⁹ David R Boyd. Ibid, p 18.