

# Equity and the Climate Crisis: Addressing the Disproportionate Impacts of Climate Change on Vulnerable Communities



## Latornell Conservation Symposium

Jacqueline Wilson, Counsel -- Tuesday, October 24, 2023



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Environmental Law  
Association  
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*Photo: Linda Pim*

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# Canadian Environmental Law Association (CELA)



*Photo: Kelly Mathews*

- Specialty legal aid clinic dedicated to environmental equity, justice, and health
- Founded in 1970, funded by Legal Aid Ontario since 1978
- CELA provides free legal services relating to environmental justice in Ontario, including representing qualifying low-income and vulnerable communities in the courts and before tribunals. CELA also provides free summary advice to the public and engages in legal education and law reform initiatives.



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# Canadian Environmental Law Foundation



Photo: Ghislain Tillard

- Key initiatives include:
  - Canadian Environmental Law Archives
  - Annual fellowship for one aspiring environmental lawyer,
  - Access to Justice for Northern Communities Initiative.
- The Foundation also supports ongoing education and outreach efforts to promote public participation in environmental decision-making.

# Environmental Racism and Environmental Justice

The disproportionate burden of environmental harms on Indigenous and other racialized communities, and uneven access to nature and environmental benefits.

The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.



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## Under-resourced communities experience:

- **Significantly higher siting of waste or heavily polluting facilities**
- **Less access to meaningful public participation for decisions with substantial environmental and health impacts**
- **Lower levels of environmental law enforcement**
- **Relative lack of political or financial means to challenge powerful polluting industries**
- **Increased societal pressures to accept such industries because of the need for employment, among other factors**
- **Lack of equal access to environmental necessities such as greenspace, clean water and healthy food.**



# Climate Change and Equity

- *IPCC: Climate Change 2023: Synthesis Report*
  - *Emphasized issues of equity in fight against climate change*

“Prioritising equity, climate justice, social justice, inclusion, and just transition processes can enable adaptation and ambitious mitigation actions and climate-resilient development. Adaptation outcomes are enhanced by increased support to regions and people with the highest vulnerability to climatic hazards. Integrating climate adaptation into social protection programs improves resilience.” *[IPCC, AR6, SYR, p 33]*



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# Climate Change and Equity

- ***References re Greenhouse Gas Pollution Pricing Act, 2021 SCC 11 at para 206***
  - If Parliament were unable to constitutionally address the matter of GHGs at a national level, the irreversible harms to the environment, for human health and safety and for the economy, would be felt across the country and would be borne disproportionately by vulnerable communities and regions, with profound effects on Indigenous peoples, on the Canadian Arctic and on Canada's coastal regions.



# CELA's Law Reform Projects

- Healthy Great Lakes program
  - Safe Drinking Water for All
  - Get the Lead Out of Drinking Water
- Climate Change and Vulnerable Communities
  - Municipal powers
  - Reports: urban tree cover, green roofs, flooding, extreme heat
- Note - focus on municipal action where possible





# Safe Drinking Water for All

- 18% of people in Ontario don't have sufficient legal protections for their drinking water (2.6 million people!)
- Clean Water Act needs to be expanded beyond source protection areas
- Gap remains for many Indigenous communities, sources outside a defined SPA, private well, small towns or hamlets, etc.

<https://cela.ca/law-reform-safe-drinking-water-for-all/>



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# Safe Drinking Water for All

- CELA calls on the provincial government to:
  - Develop appropriate CWA reforms to better accommodate or assist source protection planning for drinking water systems serving Indigenous communities;
  - Expand the application of the CWA to non-municipal systems, such as private well clusters in settlement areas and domestic wells serving vulnerable persons (i.e. schools, day camps, retirement homes, etc.)
  - Substantially improve Ontario's Regulation 903 (Wells) to provide effective and enforceable provincial standards for establishing, disinfecting, maintaining and decommissioning water supply wells.



# Get the Lead Out of Drinking Water

- We've known for a long time that exposure to even very low levels of lead can have serious health consequences, especially for fetuses and young children. Although there is widespread recognition of the health impacts of lead, we're not doing nearly enough to address it.
- While lead is a naturally occurring element, it does NOT occur naturally in our drinking water. Water becomes contaminated with lead as it moves through corroded lead pipes or plumbing fixtures with lead solder.

<https://cela.ca/law-reform-get-the-lead-out/>

# Get the Lead Out of Drinking Water

- CELA released a report on lead in drinking water in 2019, highlighting ongoing health concerns and laying out five key recommendations to eliminate lead from our water.
  - Lower the mandatory minimum standard to 5 micrograms per litre in Ontario, and strive for much lower levels of lead
  - Identify exactly where the lead service lines are and create an inventory and notice requirements
  - Create an enforceable plan for the complete removal of lead services lines
  - Raise awareness of the problem through public education



# Climate Change and Vulnerable Communities

- Provide legal recommendations on how to address climate change from equity perspective
- Recommendations available on CELA website: <https://cela.ca/climate-change-impacts-and-vulnerable-communities/>



# Memo on Municipal Powers

- *Spraytech v Hudson*, [2001] 2 SCR 241
  - ‘General welfare powers’
  - Presumption that by-laws passed by municipalities are valid
  - Municipalities can enhance protection provided by other levels of government
  - Provincial legislation in a field “does not oust municipal prerogatives to regulate the subject matter” barring an operational conflict
- Provincial legislation: *Municipal Act, 2001 (ss.8(1), 10(2), 11(2)); Health Protection and Promotion; Act, Planning Act*

# Flood Protection

- A connection exists between lower income and an increased prevalence of water damage and mould.
  - Higher concentrations of indoor contaminants
  - More likely to be tenants with little control over capital improvements
  - Low-income homeowners do not have capital to spend on water damage
- **Benefits of flood protection**
  - Reduced effects of illness related to mould
- **Recommendations**
  - Having accurate and up-to-date flood maps to show vulnerability of low-income communities
  - Implementing grant programs for flood protection retrofits



# Extreme Heat

- **The temperature is rising in Canada**
- Various life-threatening conditions can occur when the body cannot maintain its core temperature of approximately 36.6°C due to excessive external heat
- Findings in Quebec in 2018 and British Columbia in 2021 were similar and stressed disproportionate impacts of heat on most vulnerable
- Most vulnerable were:
  - Seniors
  - Infants and young children
  - Chronic illnesses and morbidity challenges
  - Socially disadvantaged



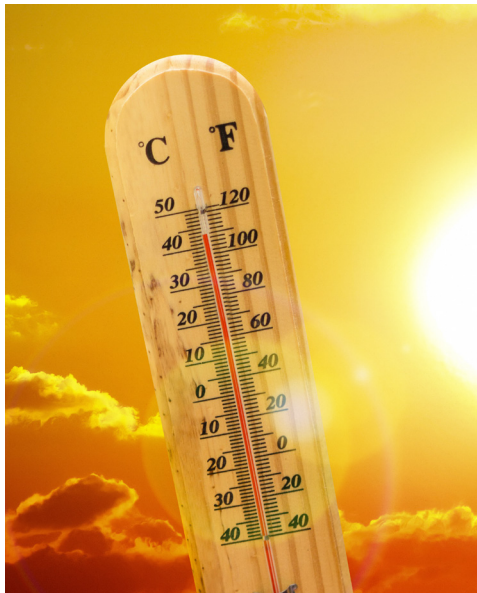


# Urban Tree Cover

- Urban cover declines with socioeconomic class
- Benefits of urban cover
  - Improvements in air quality; provision of shade; reduction of urban heat island effect
- Recommendations
  - To implement a Tree Equity Approach
  - A lower score indicates a greater priority for closing the tree canopy gap in that neighbourhood
  - A higher score indicates that the neighbourhood has acceptable tree equity



# Heat Exposure for Agricultural Workers



- Although all outdoor workers face risks due to extreme heat, migrant workers often face these same risks but in an amplified way due to the nature of their work as well as the lack of legislative protection.
- Migrant workers are an indispensable part of Ontario's workforce but are an especially vulnerable group.



# Model Heat Illness Prevention Plan

- Employers and employees must be trained on their responsibilities in a language they understand
- Buddy system
- Workers must be acclimatized to heat
- Workers must be supplied with free water and sunscreen
- Employers must provide (artificial) shade
- Well known and understood emergency response procedures



# Agricultural Workers - On-Farm Housing

- Many migrant workers are housed on-farm (excluded from Residential Tenancies Act)
  - *Immigration and Refugee Protection Regulations*, s.209.3(1)(a)(vi) - Seasonal Agricultural Workers must be provided with “adequate accommodation”
  - Temporary Foreign Worker Program may live on-site or off-site
- Agricultural worker housing should also include maximum temperature restrictions and active cooling



# Stay in Touch



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