ENVIRONMENTAL RIGHTS IN ALBERTA:Phase I: Do We Have the Rights We Need?

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The Environmental Law Centre is publishing a series of educational materials concerning legal rights related to environmental quality. This work is in support of enacting laws that will foster environmental quality for future generations of Albertans.

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Environmental Rights today and in the future

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Legal rights to pursue and maintain environmental quality are fundamental to our quality of life and more fundamentally to the exercise of other human rights. Most Canadians and Albertans are in the privileged position of living with clean air and clean water yet many people in the country still live with degraded (and often dangerous) water quality, degraded air quality and threats to biodiversity. Laws which grant and protect rights to a clean and healthy environment provide us with tools to restore and maintain our environment today and for future generations.

In this context the ELC has undertaken a review of the current state of environmental rights in Alberta. Alberta was an early adopter in some areas of procedural rights in the environmental context but there are clear deficiencies in Alberta's current treatment of environmental rights, specifically:

- Right to participate in regulatory decisions which impact environmental quality;
- Right to seek redress for harms that are largely unregulated (i.e. regulatory coverage);
- Right to appeal decisions made by the state to a tribunal or court;
- Right to seek an effective remedy through regulatory and appeal based processes; and
- Right to know the environmental consequences of proposed activities.

In this paper, we look at what is a right to a healthy environment and why is it important. We

examine what environmental rights look like, and look at procedural and substantive environmental rights. A review of procedural rights in Alberta, including land use regulation under ALSA and environmental rights, procedures and gaps by sector (Oil and Gas, Electricity generation, Agriculture, Recreation, Forestry, water management & prescribed mining projects, and Municipal) is provided.

We look at publications from subject expert/authors such as David Boyd, Lance Gunderson and Christopher Stone, and we look at case studies and legislation from other provinces, Parliament and other jurisdictions, as well as research and recommendations from the United Nations.

The ELC review concludes that all sectors of environmental management (oil and gas, mining, forestry, agriculture, development under municipal jurisdiction, public lands management) have various deficiencies. These deficiencies include:

- Narrow standing tests for legal reviews and hearings;
- Gaps and insufficiency in cost awards to support participation and informed decision making;
- Failures to adequately recognize and manage cumulative environmental effects;
- Insufficient review or hearing options for policies, regulation and administration of environmental decision making;
- Insufficient tools for engaging public participation in enforcement.

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Various modules on specific topic areas will be published in the coming months. To receive notifications in your email when the papers in this series are published, please subscribe using the form on the right-hand side (near the top of the page).

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ENVIRONMENTAL RIGHTS IN ALBERTA: Module 1: Substantive Environmental Rights

ENVIRONMENTAL RIGHTS IN ALBERTA: Module 2: Third Party Oversight and Environmental Rights

ENVIRONMENTAL RIGHTS IN ALBERTA: Module 3: Citizen Enforcement for

Environmental Quality

HAVE YOUR SAY:

The ELC wants to know what you think and encourage discussion about the issues that matter. Please participate in our online poll or share your thoughts in the comment section below.

(function(d, s, id){ var js, fjs = d.getElementsByTagName(s)[0], p = (('https:' == d.location.protocol) ? 'https://' : 'http://'), r = Math.floor(new Date().getTime() / 1000000); if (d.getElementById(id)) {return;} js = d.createElement(s); js.id = id; js.async=1; js.src = p + "www.opinionstage.com/assets/loader.js?" + r; fjs.parentNode.insertBefore(js, fjs); }(document, 'script', 'os-widget-jssdk'));

PROJECT SUPPORTER: ASSESSMENT OF ENVIRONMENTAL RIGHTS IN ALBERTA

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The Environmental Law Centre (ELC) believes that law is the most powerful tool to protect the environment. Since it was founded in 1982, the ELC has been and continues to be Alberta's only registered charity dedicated to providing credible, comprehensive and objective legal information regarding natural resources, energy and environmental law, policy and regulation in the Province of Alberta. The ELC's mission is to educate and champion for strong laws and rights so all Albertans can enjoy clean water, clean air and a healthy environment.

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