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# **ENVIRONMENTAL RACISM**

**LOOKING TO THE PAST, PRESENT, AND  
FUTURE TO MEASURE PROGRESS  
TOWARDS ENVIRONMENTAL JUSTICE**

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# ENVIRONMENTAL RACISM

## LOOKING TO THE PAST, PRESENT, AND FUTURE TO MEASURE PROGRESS TOWARDS ENVIRONMENTAL JUSTICE

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**FIRST EDITION**

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# LAND



# ACKNOWLEDGEMENT

**The Federation of Canadian Secondary Students / Fédération des élèves du secondaire au Canada (FCSS-FESC) acknowledges Indigenous Peoples as the customary keepers and defenders of the land on which we do our work. We recognize that much of Turtle Island, or what we now refer to as Canada, is unceded, unsurrendered Territory belonging to Indigenous Peoples whose presence here reaches back to time immemorial.**

**This report was developed across many traditional territories, including the traditional territory of the Kanien'keha:ka, the keepers of the Eastern Door of the Haudenosaunee Confederacy. The island we call Montreal, called Tiotia:ke in the language of the Kanien'kehá:ka, has historically been a meeting place for other Indigenous nations, including the Algonquin peoples. It was also developed on the unceded traditional territories of the x<sup>w</sup>məθk<sup>w</sup>əyám (Musqueam Indian Band), Sk<sub>w</sub>xwú7mesh (Squamish Nation), and səlilwəta† (Tsleil-Waututh Nation), also called the City of Vancouver.**

**The FCSS-FESC honours and respects Indigenous Peoples' long history of welcoming many Nations to this territory and will work to uphold and uplift the voice and values of our Host Nation. We commit to creating spaces for Indigenous self-representation wherever possible and will never presume to speak on behalf of an Indigenous Person or Indigenous Nation.**

**Further, the FCSS-FESC respects and affirms the inherent and Treaty Rights of all Indigenous Peoples across this land. The FCSS-FESC has and will continue to honour the commitments to self-determination and sovereignty of Indigenous Nations and Peoples.**

**We acknowledge the historical oppression of lands, cultures, and the original Peoples in what we now know as Canada and fervently believe our work contributes to the healing and decolonizing journey we all share together. We endorse the Truth and Reconciliation Commission of Canada's Calls to Action and commit to grounding our work in these principles. This land acknowledgment was developed by members of the Algonquin community in Ottawa and we thank them for their generosity and collaboration.**

# INTRODUCTION

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The ever-growing presence of climate change is a phenomenon that has been rapidly progressing for four decades.<sup>1</sup> Characterized by more frequent and extreme weather events, droughts, floods, and a rise in climate injustices, the catastrophic impacts of the climate's breakdown may soon outpace humanity's ability to adapt to it.<sup>2</sup>

Changes in the Earth's climate and climate systems have been observed throughout history, with approximately seven cycles of glacial advance and retreat over the last 650,000 years.<sup>3</sup> These glacial events act as indicators of the Earth's continual cooling and reheating. Since the start of the industrial revolution in the 18th century, atmospheric carbon dioxide (CO<sub>2</sub>) levels have risen from approximately 280 ppm to approximately 420 ppm.<sup>4</sup> This exponential growth in both CO<sub>2</sub> emissions and atmospheric CO<sub>2</sub> has directly been impacted by modern day anthropogenic activities, and its rate is unprecedented in Earth's history. Processes such as fossil fuel combustion and other industrial practices are the main emitters of carbon dioxide, with agriculture, deforestation, and other land-use changes being the second largest contributors.<sup>5</sup> As scientists, conservationists, and environmentalists sound the alarms in uniform consensus to the detrimental effects of climate change, humans and ecosystems alike have already begun facing its widespread effects.

Although felt on a global scale, the impacts of climate change have affected certain demographics disproportionately, including but not limited to individuals of lower economic strata, the elderly, and most notably, racialized communities.<sup>6</sup> These communities are predisposed to climate related issues such as food insecurity, waterborne illnesses, and environmental toxicity due to the legacy and reality of racism. Environmental racism is a term used to outline the systemic racism that leaves communities of colour vulnerable to the hazards of climate change. The term is conventionally used to highlight discriminatory policies and practices that leave peoples and communities of colour living in unsafe situations, typically close to sewage works,

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<sup>1</sup> Earth Science Communications Team, "Climate Change: How Do We Know?" (Last modified 8 July 2022), online: *NASA Global Climate Change: Vital Signs of the Planet* <[climate.nasa.gov/evidence/#:~:text=Earth's%20climate%20has%20changed%20throughout,era%20—%20and%20of%20human%20civilization](https://climate.nasa.gov/evidence/#:~:text=Earth's%20climate%20has%20changed%20throughout,era%20—%20and%20of%20human%20civilization)>.

<sup>2</sup> Kiley Price, "IPCC Report: Climate change could soon outpace humanity's ability to adapt" (28 February 2022), online: *conservation* <[www.conservation.org/blog/ipcc-report-climate-change-could-soon-outpace-humanitys-ability-to-adapt](https://www.conservation.org/blog/ipcc-report-climate-change-could-soon-outpace-humanitys-ability-to-adapt)>.

<sup>3</sup> Earth Science Communications Team, *supra* note 1.

<sup>4</sup> Rebecca Lindsey, "Climate Change: Atmospheric Carbon Dioxide" (23 June 2022), online: *climate.gov* <[www.climate.gov/news-features/understanding-climate/climate-change-atmospheric-carbon-dioxide](https://www.climate.gov/news-features/understanding-climate/climate-change-atmospheric-carbon-dioxide)>.

<sup>5</sup> "Global Greenhouse Gas Emissions Data" (last modified 25 February 2022), online: *United States Environmental Protection Agency* <[www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data#:~:text=Since%201970%2C%20CO2%20emissions,been%20the%20second%20largest%20contributors](https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data#:~:text=Since%201970%2C%20CO2%20emissions,been%20the%20second%20largest%20contributors)>.

<sup>6</sup> "Who is most impacted by climate change" (last modified 24 January 2022), online: *Government of Canada* <[www.canada.ca/en/health-canada/services/climate-change-health/populations-risk.html](https://www.canada.ca/en/health-canada/services/climate-change-health/populations-risk.html)>.

mines, landfills, power stations, major roads, and emitters of airborne particulate matter. As a result, these communities suffer greater rates of health problems due to these hazardous pollutants.<sup>7</sup>

In this report, the impacts of environmental racism and the measures taken to combat it will be examined using a cross-national comparative analysis of Canada, the United States, the United Kingdom, Australia and New Zealand.

## BACKGROUND

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Systemic racism is defined as patterns of behaviour, policies, or practices that are part of the structures of an organization, and which create or perpetuate disadvantage for racialized persons.<sup>8</sup> Systemic racism is profoundly rooted in almost all systems, institutions, and laws both written and unwritten around the world. Despite an almost universal consensus on the importance and relevance of dismantling systems of oppression, strides for tangible change in many of the world's global leading countries have been suboptimal.

As global awareness grows on the severity of climate change, little has been done to emphasize the racial gap that exists between those who observe climate change through a screen, and those who live it. Like any other movement, system, or institution, the modern day environmentalist movement has allowed for Black, Indigenous, and other People of Colour (BIPOC) voices to go unheard. However, it is those same BIPOC voices that know the reality of climate change all too well.

A report published by the UN's Intergovernmental Panel on Climate Change (IPCC), found that between 2010 and 2020, extreme weather such as droughts, floods, and storms related to climate change killed close to 15 times more people on the continent of Africa than in the wealthiest countries, despite the continent being responsible for only 2-3 per cent of all global emissions.<sup>9</sup> Additionally, it was found that in the United States, African American individuals and families were 75 per cent more likely to live in “fence-line” communities (communities in close proximity to commercial facilities that produce noise, odour, traffic, or emissions that directly affect the population) when compared to white individuals.<sup>10</sup>

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<sup>7</sup> Peter Beech, “What is environmental racism and how can we fight it?” (31 July 2020), online: *World Economic Forum* <[www.weforum.org/agenda/2020/07/what-is-environmental-racism-pollution-covid-systemic/](http://www.weforum.org/agenda/2020/07/what-is-environmental-racism-pollution-covid-systemic/)>.

<sup>8</sup> “Racism and racial discrimination: systemic discrimination (fact sheet)” online: *Ontario Human Rights Commission* <[www.ohrc.on.ca/en/racism-and-racial-discrimination-systemic-discrimination-fact-sheet](http://www.ohrc.on.ca/en/racism-and-racial-discrimination-systemic-discrimination-fact-sheet)>.

<sup>9</sup> Price, *supra* note 1.

<sup>10</sup> Aneesh Patnaik et al, “Racial Disparities and Climate Change” (15 August 2020) online: *Princeton University* <[psci.princeton.edu/tips/2020/8/15/racial-disparities-and-climate-change](http://psci.princeton.edu/tips/2020/8/15/racial-disparities-and-climate-change)>.

Global leaders including Canada, the United States (US), the United Kingdom (UK), Australia, and New Zealand, have had an extensive history of colonialism, racism, and environmental exploitation. As mentioned in a report published in 2021, the presence of these struggles and shortcomings are not isolated injustices, but symptoms of interlocking forms of oppression that privilege a few while inflicting misery on the many and threatening ecological collapse.<sup>11</sup> The importance of government involvement and accountability alongside public education on the matter is integral in the progression of social and environmental justice.

## METHOD

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The critical analysis of the chosen states examines three central criteria. They address multiple types of environmental justice concerns as well as long-term efforts to deconstruct environmental racism.

The first level of analysis examines the extent of environmental racism in the selected country. Collected information from academic literature and official reports survey disparities in air pollution, landfill and industry siting, health gaps, contaminant exposures, inclusion in policy and planning processes, and any other issue specifically identified as environmental racism by activists and scholars that is unique to the states examined. The goal of this step is to establish the baseline situation in the country and identify the extent of lived differences between white/settler populations and BIPOC communities.

The second step investigates the historical and active roles that state processes play in creating and reproducing environmental racism. Specifically, the degree to which the state recognizes the existence of environmental racism is determined, and whether it is actively complicit or committed to deconstructing it. First, the “on paper” commitments of each country to address injustice are examined. This includes:

- laws on environmental racism;
- processes to account for environmental racism in impact assessments and siting decisions;
- obligations to consult and avenues for public participation in decision-making, notably for Indigenous Peoples;
- Remedial efforts to address and mitigate past injustices;
- Protest rights; and
- The degree of self-determination Indigenous Peoples are accorded.

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<sup>11</sup> Sumudu A Atapattu, Carmen G Gonzalez & Sara L Seck, Eds, *The Cambridge handbook of environmental justice and sustainable development* (Cambridge: Cambridge University Press, 2021).

Then, the extent to which these commitments are respected and upheld on the ground is considered, and whether these commitments lead to deep engagement and equity or merely reproduce colonial dynamics. In particular, whether cumulative impacts on racialized peoples are assessed, whether participation and consultation meaningfully impacts the outcomes of decision-making, and whether the state is accommodating to dissent (e.g., to protests) is analyzed. The guiding question for the second step is: to what degree does each country recognize and meaningfully implement solutions to dismantle environmental racism?

Lastly, levels of public awareness of environmental racism, and, where possible, public attitudes are examined. Most importantly, the educational system is assessed along two factors. First, the country should openly acknowledge and teach the history of colonialism and its modern reproductions. Second, environmental racism issues should be taught, alongside its links and intersections to colonialism. This metric is included because it is important to examine whether the state is willing, in the long run, to develop socially aware and justice-oriented citizens and equip youth with the knowledge they need to tackle environmental racism and justice issues.





# ENVIRONMENTAL RACISM IN CANADA



**promising federal obligations and opportunities to meaningfully collaborate ... have been interpreted very narrowly**



Environmental racism in Canada takes many forms. As a settler colonial state, colonization and its modern reproductions – notably late stage capitalism and neoliberalism – drive contemporary environmental racism. Indigenous Peoples (First Nations, Métis, and Inuit) bear the largest brunt of this phenomenon through time, but Black people and other People of Colour also face significant injustices due to environmental racism.

## MANIFESTATIONS OF ENVIRONMENTAL RACISM

Indigenous Peoples have faced environmental racism in Canada since settlers arrived, notably in the form of land theft and resource extraction alongside deliberate programs of genocide.<sup>12</sup> These patterns are replicated by the exploitation of the oil sands and shale gas extraction,<sup>13</sup> logging,<sup>14</sup> pipeline construction,<sup>15</sup> chemical industries, pulp and paper processing,<sup>16</sup> and dumping that is overwhelmingly located on unceded Indigenous territories and on or in close proximity to reservations.<sup>17</sup> Local communities suffer from these high-risk activities in many ways, with impacts varying depending on gender, geographic location, and more, yet receive virtually none of the profits flowing from these projects.<sup>18</sup>

For example, the chemical industry in Sarnia, Ontario, often nicknamed “Chemical Valley,” contains the highest concentration of petrochemical industry facilities and the worst air quality in Canada.<sup>19</sup> The Aamjiwnaang First Nation is located in Chemical Valley on a 12.5 square kilometre reservation, a small remainder of their ancestral land which is entirely surrounded by oil refineries and chemical processing plants.<sup>20</sup> The community faces multiple harms due to their proximity to industrial operations, repeatedly experiencing chemical leaks and pollution in the form of poisonous gases, water contamination, soil contamination, and intense noise pollution.<sup>21</sup> The Ontario Ministry of the Environment, Conservation and Parks has repeatedly approved plant expansions, including allowing some facilities to emit beyond legislated limits, while simultaneously refusing to punish or remediate regular spills or examine contaminant levels beyond the “fence line” of the plant.<sup>22</sup> As a result, Aamjiwnaang residents have experienced respiratory, cardiovascular, and skin diseases, reproductive issues, and disproportionately high rates of cancer and

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<sup>12</sup> *Ibid* at 73–74.

<sup>13</sup> Joshua Kahn et al, eds, *Line in the Tar Sands : Struggles for Environmental Justice*, (Oakland: PM Press, 2014).

<sup>14</sup> Iain McIntyre, *Environmental Blockades: Obstructive Direct Action and the History of the Environmental Movement* (New York: Routledge, 2021).

<sup>15</sup> Kahn et al, *supra* note 13.

<sup>16</sup> Ingrid RG Waldron, *There's something in the water*, (Fernwood Publishing, 2018) [Waldron, *There's something in the water*].

<sup>17</sup> *Ibid*.

<sup>18</sup> Kahn et al, *supra* note 13.

<sup>19</sup> Sarah Marie Wiebe, *Everyday exposure: indigenous mobilization and environmental justice in Canada's chemical valley* (Vancouver: UBC Press, 2016) at 20.

<sup>20</sup> *Ibid*.

<sup>21</sup> *Ibid*.

<sup>22</sup> *Ibid* at 17-18.

diabetes that have been repeatedly dismissed as “lifestyle choices,” despite evidence to the contrary.<sup>23</sup>

Chemical Valley is but one example of colonial violence where the Canadian state has condoned and perpetuated the location of environmentally destructive industries near Indigenous communities. This has been highly detrimental for Indigenous communities. Many other Indigenous communities experience disproportionate levels of pollution and the associated negative health impacts due to industries located on or near their lands.<sup>24</sup> In 2008, 91 Indigenous reservations had drinking water advisories, compared to only one settler-majority city.<sup>25</sup> As of 28 May 2022, 29 Indigenous communities still have long-term drinking water advisories.<sup>26</sup>

Part of environmental racism includes the government’s unwillingness to recognize the deep and essential ties to the land that Indigenous Peoples maintain. “Moving away” is not a real solution to environmental and human destruction when cultural identity and survival is intimately bound up in the lands that Indigenous Peoples have cultivated relationships with since time immemorial. Both deliberate strategies of apathy and deregulation, along with unequal and complacent treatment, have led to legitimate concerns about the land and cultural survival being ignored, even in the face of overwhelming scientific advice.<sup>27</sup>

For example, caribou are deeply integrated into West Moberly First Nation’s sense of place and being.<sup>28</sup> However, they have been unable to exercise traditional hunting rounds for decades due to caribou population crashes driven by settler development.<sup>29</sup> Despite this, the federal government and the British Columbia governments have failed to create population recovery plans and protect essential habitat, despite overwhelming scientific support (including a formal designation of risk), treaty obligations to sustain a traditional way of life, and advocacy from the community.<sup>30</sup> Instead, the Government of British Columbia approved coal mining development on treaty territory and chose a conservation plan that would at best allow caribou hunting to sustainably resume in 40 years.<sup>31</sup> These acts degrade Indigenous Peoples’ ability to steward the land and bars them from exercising the full suite of rights and practices to which they are entitled.

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<sup>23</sup> *Ibid* at 24.

<sup>24</sup> Waldron, *There’s something in the water*, *supra* note 16.

<sup>25</sup> Michael Mascarenhas, *Where the waters divide: Neoliberalism, white privilege, and environmental racism in Canada* (Lexington Books, 2012) at 94.

<sup>26</sup> Government of Canada, “Ending long-term drinking water advisories” (last modified 31 May 2022), online: *Government of Canada* <[www.sac-isc.gc.ca/eng/1506514143353/1533317130660](http://www.sac-isc.gc.ca/eng/1506514143353/1533317130660)>.

<sup>27</sup> Bruce R Muir & Annie L Booth, “An environmental justice analysis of caribou recovery planning, protection of an Indigenous culture, and coal mining development in northeast British Columbia, Canada” (2011) 14 *Environment, Development & Sustainability* 455

<sup>28</sup> *Ibid* at 461.

<sup>29</sup> *Ibid* at 462.

<sup>30</sup> *Ibid*.

<sup>31</sup> *Ibid* at 470.

Black people in Canada also face distinct patterns of environmental racism, often rooted in racist laws and policies that denied them access to the full suite of sociopolitical and economic rights. For example, Africville was a Black community located near Halifax, Nova Scotia. Residents were allotted lands by the government in the 1800s, but racist policy<sup>32</sup> meant that formal land title was not transferred to them.<sup>33</sup> In the decades that followed, Halifax collected taxes from the community while failing to provide basic services like running water and sewage treatment, and rezoned the town to allow extensive industrial development, including dumps and fertilizer plants which polluted the area.<sup>34</sup> In 1965, Halifax evicted the entire community and demolished the town to build a park, relocating many residents to sub-par public housing, splitting up the community, and offering very little compensation.<sup>35</sup>

Similar patterns of injustice are replicated for Black communities elsewhere. Nova Scotian officials overwhelmingly locate landfill sites in historical Black communities, despite local opposition and existing inequities in pollution exposure.<sup>36</sup> These dumps are also often poorly managed in comparison to those located in predominantly white communities, leading to higher levels of contamination and health issues.<sup>37</sup>

Some forms of environmental racism occur fairly consistently across Canada. Air pollution exposure, whether from cars or industry, has been found to disproportionately impact Black, people, People of Colour, immigrants, and low-income populations in multiple cities including Montréal, Québec and Hamilton, Ontario.<sup>38</sup> This is despite the fact that these groups tend to create the lowest quantities of pollution and profit the least from pollution-producing industries.<sup>39</sup> Furthermore, low-income and BIPOC people tend to be located in areas with less green space (which is also of lower quality), poorer housing quality, and more undesirable industries, while simultaneously retaining less power to contest or meaningfully object to these siting decisions.<sup>40</sup> These translate into higher

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<sup>32</sup> *Beals v Nova Scotia (Attorney General)*, 2020 NSSC 60 at paras 22–28.

<sup>33</sup> Jennifer J Nelson, *Razing Africville: A Geography of Racism* (Toronto: University of Toronto Press, 2008) at 3–13.

<sup>34</sup> Waldron, *There's something in the water*, *supra* note 16 at 84.

<sup>35</sup> Nelson, *supra* note 33 at 3–13.

<sup>36</sup> Waldron, *There's something in the water*, *supra* note 16 at 85–88.

<sup>37</sup> Waldron, *There's something in the water*, *supra* note 16 at 86.

<sup>38</sup> Timothy Sider et al, “Smog and socioeconomics: an evaluation of equity in traffic-related air pollution generation and exposure” (2015) 42(5) *Environment & Planning B: Planning & Design* 870; Michael Buzzelli et al, “Spatiotemporal Perspectives on Air Pollution and Environmental Justice in Hamilton, Canada, 1985–1996” (2003) 93:3 *Annals Assoc American Geographers* 557; Severn Cullis-Suzuki, “Environmental racism: what is it, and what can we do about it?” (25 October 2021), Online: *David Suzuki* <[davidsuzuki.org/expert-article/environmental-racism-what-is-it-and-what-can-we-do-about-it/](http://davidsuzuki.org/expert-article/environmental-racism-what-is-it-and-what-can-we-do-about-it/)>.

<sup>39</sup> Sider et al, *supra* note 38.

<sup>40</sup> Félix Landry, Jérôme Dupras & Christian Messier, “Convergence of urban forest and socio-economic indicators of resilience: A study of environmental inequality in four major cities in eastern Canada” (2020) 202 *Landscape & Urban Planning* 1; Susan J Keller-Olaman et al, “Individual and Neighborhood Characteristics Associated with Environmental Exposure: Exploring Relationships at Home and Work in a Canadian City” (2005) 37:4 *Environment & Behavior* 441; Cheryl Teelucksingh, “Environmental Racialization: Linking Racialization to the Environment in Canada” (2007) 12:6 *Local Environment* 645; Leith Deacon & Jamie Baxter, “No opportunity to say no: a case study of procedural environmental injustice in Canada” (2013) 56:5 *J Environmental Planning & Management* 607.

rates of respiratory illnesses, toxin exposures, cancers, and mortality, as well as negatively impacting childhood development.<sup>41</sup>

## GOVERNMENT INVOLVEMENT & ACCOUNTABILITY

Canada is slowly making progress to acknowledge and address environmental racism. It also has some unique constitutional and legislative mechanisms that provide opportunities to consider environmental racism meaningfully.

Bill C-226, introduced to the Canadian House of Commons in 2021 and again in 2022, would require the federal government to create a national plan to address environmental justice issues.<sup>42</sup> An environmental bill of rights has also been tabled, which would modify the *Canadian Environmental Protection Act* to guarantee a right to a healthy environment.<sup>43</sup> This follows the enactment of environmental bills of rights in Ontario, Québec, the Yukon, the Northwest Territories, and Nunavut, and multiple attempts to pass the first ever environmental racism law in Canada in Nova Scotia.<sup>44</sup>

Parliament also passed *The United Nations Declaration on the Rights of Indigenous Peoples Act*<sup>45</sup> (*UNDRIP Act*) in 2021, formally bringing the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* into Canadian law.<sup>46</sup> This is a piece of the process of reconciliation detailed in the report of the Truth and Reconciliation Commission of Canada.<sup>47</sup> Legal scholars argue that innovative interpretations of section 35 of the *Constitution Act 1982*,<sup>48</sup> which recognizes and affirms “existing aboriginal and treaty rights,” could allow for important expansions of Indigenous law and rights, particularly in combination with the *UNDRIP Act*.<sup>49</sup> Section 35 also creates an obligation for the federal government to meaningfully consult with Indigenous Peoples when taking actions that affect them.<sup>50</sup>

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<sup>41</sup> Paul J Villeneuve et al, “A cohort study relating urban green space with mortality in Ontario, Canada” (2012) 115:51 *Environmental Research* 51; Susan Strife, Susan & Liam Downey, “Childhood Development and Access to Nature: A New Direction for Environmental Inequality Research” (2009) 22:1 *Organization & Environment* 99; Ingrid Waldron, *Environmental Racism in Canada* (Ottawa: The Canadian Commission for UNESCO’s IdeaLab, 2020) [Waldron, *Environmental Racism*].

<sup>42</sup> Olivia Wawin, “Environmental Racism and the Struggle for Change in Canadian Law” (28 March 2022), online: McGill Journal of Law and Health <mjlh.mcgill.ca/2022/03/28/environmental-racism-and-the-struggle-for-change-in-canadian-law/>.

<sup>43</sup> Bill C-219, *An Act to enact the Canadian Environmental Bill of Rights and to make related amendments to other Acts*, 1st Sess, 44th Parl, 2021.

<sup>44</sup> Waldron, *Environmental Racism*, *supra* note 41.

<sup>45</sup> *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 [UNDRIP Act].

<sup>46</sup> “UN Declaration on the Rights of Indigenous Peoples” (12 October 2021), Online: *Assembly of First Nations* <www.afn.ca/implementing-the-united-nations-declaration-on-the-rights-of-indigenous-peoples/>.

<sup>47</sup> John Borrows et al, *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples* (Waterloo: Centre for International Governance Innovation, 2019) at 102.

<sup>48</sup> *Constitution Act, 1982*, s 35, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

<sup>49</sup> Borrows et al, *supra* note 47.

<sup>50</sup> *Ibid* at 67.

Other environmental laws in Canada have been progressively modified to account for social and human impacts. The federal *Species At Risk Act*<sup>51</sup> integrated Indigenous Traditional Knowledge into its decision-making process, creating an Indigenous advisory sub-committee to assist with consultations and developing and implementing recovery plans.<sup>52</sup> The government also makes efforts to fund and develop partnerships with Indigenous communities for species conservation.<sup>53</sup> Although the approach to *SARA* is much closer to achieving environmental justice than comparable legislation in the US, injustices still occur, including the West Moberly First Nations example discussed above where consultations were largely tokenized and inputs ignored.<sup>54</sup>

The federal *Impact Assessment Act*<sup>55</sup> replaced the *Canadian Environmental Assessment Act*<sup>56</sup> in 2019.<sup>57</sup> The *CEAA* was created in 2012 to replace a previous impact assessment procedure, and effectively removed the requirement for an assessment to occur.<sup>58</sup> It also functionally removed the need to consult with potentially affected Indigenous communities.<sup>59</sup> The *IAA* restored requirements to consult with Indigenous Peoples and the impacts they experience, but many scholars and Indigenous Nations remain sceptical due to the narrow scope of the *IAA* and opaque processes that can easily perpetuate colonial dynamics.<sup>60</sup> Provincial impact assessments also call for community consultation, which when done appropriately can thwart unjust projects.<sup>61</sup> However, consultation is not always required, and as in the case of Lincolnton, Nova Scotia, inadequate consultations and an inattention to race made the consultation process for a new landfill functionally meaningless and exclusionary for its Black community.<sup>62</sup> Impact assessment legislation also often does not account for cumulative impacts, which can lead to situations like that of Blueberry River First Nation, whose territory in British Columbia contains hundreds of logging, hydroelectric, and petroleum development projects that have devastated the land, water, and wildlife.<sup>63</sup>

Overall, these promising federal obligations and opportunities to meaningfully collaborate with Indigenous Peoples, Black communities, and People of Colour are minimal, if not illusory, on the ground. Indigenous rights and the duty to consult have

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<sup>51</sup> *Species at Risk Act*, SC 2002, c 29 [SARA].

<sup>52</sup> Andrea Olive & Andrew Rabe, "Indigenous Environmental Justice: Comparing the United States and Canada's Legal Frameworks for Endangered Species Conservation" (2016) 46:4 *American Rev Can Studies* 496 at 503.

<sup>53</sup> *Ibid* at 506.

<sup>54</sup> *Ibid* at 507–509.

<sup>55</sup> *Impact Assessment Act*, C. 2019, c 28, s 1 [IAA].

<sup>56</sup> *Canadian Environmental Assessment Act*, SC 2012, c 19, s 52, as repealed by *Impact Assessment Act*, SC 2019, c 28, s 1 [CEAA].

<sup>57</sup> Stephen RJ Tsuji, "Canada's Impact Assessment Act, 2019: Indigenous Peoples, Cultural Sustainability, and Environmental Justice." (2022) 14:6 *Sustainability* 3501.

<sup>58</sup> *Ibid*.

<sup>59</sup> *Ibid*.

<sup>60</sup> *Ibid*.

<sup>61</sup> Deacon & Baxter, *supra* note 40. "

<sup>62</sup> *Ibid*.

<sup>63</sup> Maya K Gislason & Holly K Andersen, "The Interacting Axes of Environmental, Health, and Social Justice Cumulative Impacts: A Case Study of the Blueberry River First Nations" (2016) 4:4 *Healthcare* 78.

been interpreted very narrowly, in ways that cannot incorporate Indigenous laws.<sup>64</sup> Even if title to land is established, the Indigenous community affected is unable to say no to projects that can be devastating to their lands and communities.<sup>65</sup>

Indigenous communities have often turned to protest when their attempts to contest development on their territories through formal channels fails. Although Canada is generally accommodating to protests relative to many parts of the world, Indigenous, Black, and People of Colour face much more hostile responses than their white counterparts, even when asserting their rights on traditional territories or against existential threats. For example, blockades and protests to prevent the construction of the Coastal Gaslink pipeline through unceded Wet'suwet'en territory without consent have resulted in heavily armed RCMP raids.<sup>66</sup> The pipeline would destroy Wet'suwet'en territory and threaten water quality and sacred rivers.<sup>67</sup> Police violently arrested Elders, journalists, and land defenders using snipers, police dogs, and chainsaws.<sup>68</sup> The RCMP routinely searches the protest camp and intimidates land defenders, while failing to investigate or prosecute threats of violence from pipeline workers against Indigenous women.<sup>69</sup> As in many other cases, economic interests are prioritized over environmental integrity and the health and safety of marginalized peoples.

## PUBLIC AWARENESS OF ENVIRONMENTAL RACISM

The mainstream news media systemically downplays and erases environmental issues and their disproportionate impact on marginalized groups, notably Indigenous Peoples. Coverage tends to uncritically privilege official government sources and emphasize the economic gains of environmentally damaging and unjust projects, while de-centring and downplaying the voices of those most affected by these projects.<sup>70</sup> This may be a serious obstacle to developing a critical and well-informed populace, since those with environmental injustice concerns are often portrayed as a fringe minority with insignificant complaints.<sup>71</sup> Some People of Colour also perceive environmentalism as a predominantly white movement, in particular because the nature of movements can make them appear elitist, exclusionary, and irrelevant.<sup>72</sup>

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<sup>64</sup> Borrows et al, *supra* note 47 at 67.

<sup>65</sup> *Ibid* at 67–70.

<sup>66</sup> Brandi Morin, “Wet'suwet'en report round-the-clock surveillance and harassment by RCMP and pipeline security” (2 May 2022) online: *Ricochet* <[ricochet.media/en/3855/wetsuweten-report-round-the-clock-surveillance-and-harassment-by-rcmp-and-pipeline-security](https://ricochet.media/en/3855/wetsuweten-report-round-the-clock-surveillance-and-harassment-by-rcmp-and-pipeline-security)>.

<sup>67</sup> *Ibid*.

<sup>68</sup> *Ibid*.

<sup>69</sup> *Ibid*.

<sup>70</sup> Leith Deacon, Jamie Baxter & Michael Buzzelli, “Environmental Justice: An Exploratory Snapshot through the Lens of Canada's Mainstream News Media.” (2015) 59:4 *Can Geographer* 419.

<sup>71</sup> *Ibid*.

<sup>72</sup> Hilary Gibson-Wood & Sarah Wakefield, “‘Participation’, White Privilege and Environmental Justice: Understanding Environmentalism among Hispanics in Toronto” (2013) 45:3 *Antipode* 641.

One in ten Canadians still sees Indigenous Peoples themselves as the cause for the socioeconomic gaps they face instead of government policy, although this number has been decreasing over time.<sup>73</sup> Furthermore, only 40 per cent of Canadians see racism as a systemic problem instead of an individualized issue.<sup>74</sup> Simultaneously, an increasing proportion of racialized Canadians and Indigenous Peoples – approximately one-third – report regular experience with discrimination.<sup>75</sup> This suggests that the majority of Canadians are unaware or unconvinced of the realities of environmental racism, since many do not even perceive racism as a significant and systemic issue.

Research into high school curricula across Canada also suggests that content on climate change and environmental justice issues is lacking.<sup>76</sup> For instance, research conducted in Saskatchewan indicates that environmental narratives in schools are frequently influenced and co-opted by fossil fuel interests.<sup>77</sup> This can serve to elevate fossil fuel interests as an equivalent competitor with Indigenous interests. However, these interests are not equal, as Indigenous Nations have stewarded their lands for thousands of years and face colonial violence, ecological destruction, and genocide at the hands of the state and capitalist corporations.<sup>78</sup> A study of four Canadian provinces (Ontario, Québec, Manitoba, and British Columbia) revealed minimal attention to climate justice topics, although half referenced Indigenous traditional knowledge.<sup>79</sup> A few provinces also offered optional guidance for teachers on integrating environmental justice topics.<sup>80</sup> Furthermore, environmental education tends to focus on individualistic solutions, which suggests an inattention to systemic forces, like racism and capitalism, that drive environmental destruction and create inequities.<sup>81</sup>

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<sup>73</sup> Environics Institute, “Focus Canada - Fall 2021: Canadian public opinion about Indigenous Peoples and reconciliation” (2021) online: <[www.environicsinstitute.org/docs/default-source/default-document-library/fc2021-indigenous-peoples-final-sept-29eff0b14a7b6643acaf9adc0578f77572.pdf?sfvrsn=4896f294\\_0](http://www.environicsinstitute.org/docs/default-source/default-document-library/fc2021-indigenous-peoples-final-sept-29eff0b14a7b6643acaf9adc0578f77572.pdf?sfvrsn=4896f294_0)>.

<sup>74</sup> Environics Institute, “Race relations in Canada 2021: A survey of Canadian public opinion and experience” (2021) online: *Canadian Race Relations Foundation* <[www.crrf-fcrr.ca/images/Environics\\_Study\\_2021/Race\\_Relations\\_in\\_Canada\\_2021\\_Survey\\_-\\_FINAL\\_REPORT\\_ENG.pdf](http://www.crrf-fcrr.ca/images/Environics_Study_2021/Race_Relations_in_Canada_2021_Survey_-_FINAL_REPORT_ENG.pdf)>.

<sup>75</sup> *Ibid.*

<sup>76</sup> Andrea J Moreau, *Climate change education in Canada and beyond: Translating knowledge into action and securing a sustainable and equitable future for all* (Kitchener: Federation of Canadian Secondary Students, 2022).

<sup>77</sup> Emily M Eaton & Nick A Day, “Petro-pedagogy: fossil fuel interests and the obstruction of climate justice in public education” (2020) 26:4 *Environmental Education Research* 457.

<sup>78</sup> *Ibid.*

<sup>79</sup> Andrew Bieler et al, “A national overview of climate change education policy: Policy coherence between subnational climate and education policies in Canada (K-12)” (2018) 11:2 *J Education for Sustainable Development* 63.

<sup>80</sup> *Ibid.*

<sup>81</sup> Moreau, *supra* note 76.





# ENVIRONMENTAL RACISM IN THE **UNITED STATES**



**This blatant display of racism hidden behind policy and rule is what launched the globalized environmental justice movement we see today**



The emergence of the modern day environmental justice movement in the United States appeared on the political, social, and academic radar in the early 1980s.<sup>82</sup> The movement originated as a targeted response to the discrimination that Black, Indigenous, and low-income communities faced when it came to government sanctioned hazardous waste disposal. The catalyst in the fight for environmental justice and equity came in 1982 following the state of North Carolina's authorization of a 120 million pound dump of polychlorinated biphenyls (PCBs) contaminated soil in Warren County, a predominantly Black region of the state.<sup>83</sup> This blatant display of racism hidden behind policy and law is what launched the globalized environmental justice movement we see today.

## MANIFESTATIONS OF ENVIRONMENTAL RACISM

Today, marginalized communities in the United States are still enduring the impacts of unjust and inequitable systems and policies. The realities of this lack of social progression are broadcasted on a regular basis to the general public: racial profiling, biases, and inequitable living conditions are some of the daily encounters of marginalized people and communities in the US. Among these stark realities, environmental injustice and racism have caused great destruction to many communities. The fragmented reality of environmental justice in the US can be observed on multiple fronts as well as in different parts of the country. The southern United States in particular has been greatly impacted by unjust hazardous waste disposal and land exploitation which has left many racial minorities in dire living conditions.

The Lower Mississippi River Industrial Corridor is a prime example of the segregated reality that is environmental racism. Dubbed "Cancer Alley", this corridor extends from Baton Rouge, Louisiana to the mouth of the Mississippi River and contains over 150 petrochemical plants and refineries.<sup>84</sup> As a direct result of long-term toxicity exposure, higher than average cancer rates are observed within this stretch of land.<sup>85</sup> According to data from the Environmental Protection Agency's (EPA) National Air Toxic Assessment map, cancer rates in this largely African American region appear at a rate of about 105 cases per million compared to predominantly white districts with rates of about 60 cases per million.<sup>86</sup> The high levels of air and environmental toxicity in this region are directly correlated to the unprecedented cancer rates, and a slew of other health issues.

In 2018, the St. James Parish Council, responsible for St. James Parish, a county in the corridor, approved the industrialization of toxic chemical development. Despite concerns for the residents of St. James Parish, the project was authorized to be a part of the "Sunshine Project", – a subsidiary company of Formosa Plastics Group that would go on

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<sup>82</sup> Paul Mohai, David Pellow & J Timmons Roberts, "Environmental Justice" (2009) 34 Annual Rev Environment & Resources 405.

<sup>83</sup> *Ibid.*

<sup>84</sup> "Environmental racism in Louisiana's 'Cancer Alley', must end, says UN human rights experts" (2 March 2021), online: *UN News: Global perspective Human stories* <[news.un.org/en/story/2021/03/1086172](https://news.un.org/en/story/2021/03/1086172)>.

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

to build one of the largest plastics facilities in the world alongside two methanol complexes by other manufacturers.<sup>87</sup> The authorization of this project and similar initiatives put marginalized individuals at greater risk for toxicity-related health issues.

Incidents similar to that of St. James Parish and "Cancer Alley" have been observed in much of racialized and lower-income United States. Despite there being an emergence of policy and intergovernmental agencies to tackle issues of that strata, results have been minimal.<sup>88</sup>

## GOVERNMENT INVOLVEMENT & ACCOUNTABILITY

On the basis of government involvement and accountability when it comes to addressing environmental injustices, the United States has made attempts to implement policy change, as well as introducing new initiatives. However, implementation of these new policies and initiatives has been slow to roll out.

The US EPA was founded in 1970 with the aim to regulate environmental matters within the US. Responsibilities of the EPA include developing and enforcing regulations, research and publications, as well as public outreach including grants and educational resources. Micheal Regan, head of the EPA, has been adamant on tackling issues related to environmental racism, with calls to “infuse equity and environmental justice principles and priorities into all EPA practices, policies, and programs.”<sup>89</sup> Unfortunately for many Americans, however, the EPA and their archaic regulations have resulted in unsafe levels of toxic chemicals in their environment. The development of the Safe Water Act in 1974 placed the responsibility of water quality regulation into the hands of the EPA.<sup>90</sup> In doing so, the EPA was responsible for setting an upper limit on contaminant levels within water. Although legal limits are set by the EPA for over 90 contaminants, these levels are hardly safe for everyday use and consumption.<sup>91</sup>

In 2018, the US Congress introduced the H.R 2021: Environmental Justice for All Act.<sup>92</sup> This act recognizes that meaningfully improving the lives of Black, Indigenous, and

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<sup>87</sup> *Ibid.*

<sup>88</sup> Hannah Perls, “EPA Undermines its Own Environmental Justice Programs” (11 December 2020), online: *Environmental & Energy Law Program* <[eelp.law.harvard.edu/2020/11/epa-undermines-its-own-environmental-justice-programs/](http://eelp.law.harvard.edu/2020/11/epa-undermines-its-own-environmental-justice-programs/)>.

<sup>89</sup> Oliver Milman, “Exclusive: EPA reverses Trump stance in push to tackle environmental racism”, *The Guardian* (7 April 2021), online: <[www.theguardian.com/environment/2021/apr/07/exclusive-epa-environmental-racism-justice](http://www.theguardian.com/environment/2021/apr/07/exclusive-epa-environmental-racism-justice)>.

<sup>90</sup> “EPA still failing to act on widespread toxic chemical contamination of U.S. drinking water” (3 November 2021), online: *The Environmental Working Group* <[www.ewg.org/news-insights/news-release/2021/11/epa-still-failing-act-widespread-toxic-chemical-contamination-us](http://www.ewg.org/news-insights/news-release/2021/11/epa-still-failing-act-widespread-toxic-chemical-contamination-us)>.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Environmental Justice For All Act*, H.R. 2021, 117th Cong. (2022).

People of Color requires transformative change led by those on the frontlines.<sup>93</sup> Within the bill, strides to invest in local and state organizations and Indigenous groups, in addition to directing federal agencies to document environmental and human health risks were made.

Despite the US government and private originations housing greatly ambitious plans to confront climate change and environmental injustice alike, recent years have been unforgiving to the environmental justice agenda. The introduction of the Trump administration in 2016 resulted in many set backs in the social justice sphere. In 2017, the US under the Trump administration announced plans to cease all participation in the Paris Climate Accord. Although the withdrawal took over three years to come into effect, it acted as an indicator of the attitude of the government.<sup>94</sup> Additionally, the ongoing COVID-19 pandemic highlighted some of the disparities faced by American communities primarily lower-income and racialized communities.<sup>95</sup>

The US also has a history of conducting extremely poor environmental impact assessments and routinely ignoring Indigenous treaty rights, which culminates in project authorizations that entirely disregard racialized communities and environmental harms. One such example is the Dakota Access Pipeline, which was specifically chosen to run in close proximity to the Standing Rock Sioux Nation's lands instead of near a white community.<sup>96</sup> The impact assessment took no account of the corporation's long history of faulty pipeline infrastructure and routine spills, nor the potential impacts on water quality.<sup>97</sup> Indigenous water defenders and their allies, in peaceful protests that garnered national attention, were sprayed with tear gas, shot with rubber bullets, and arrested in the hundreds, among other violent police tactics.<sup>98</sup> This is but one example of a long legacy of colonial relations between the US government and Indigenous Nations, where treaties are routinely interpreted narrowly and ignored, and consultations are nonexistent or so superficial as to be meaningless.<sup>99</sup> The US government fails to recognize meaningful Indigenous self-governance or account for Indigenous Traditional Knowledge, while also failing to protect Indigenous peoples, particularly women, from violence directly related to resource exploitation projects.<sup>100</sup>

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<sup>93</sup> Yukyan Lam & Sara Imperiale, "The Promise of the Environmental Justice for All Act" (8 April 2022), online: *NRDC* <[www.nrdc.org/experts/sara-imperiale/promise-environmental-justice-all-act](http://www.nrdc.org/experts/sara-imperiale/promise-environmental-justice-all-act)>.

<sup>94</sup> Matt McGrath, "Climate change: US formally withdraws from Paris Agreement" (4 November 2020), online: *BBC* <[www.bbc.com/news/science-environment-54797743](http://www.bbc.com/news/science-environment-54797743)>.

<sup>95</sup> "A Year Into the Pandemic, Long-Term Financial Impact Weighs Heavily on Many Americans" (5 March 2021), online: *Pew Research Center* <[www.pewresearch.org/social-trends/2021/03/05/a-year-into-the-pandemic-long-term-financial-impact-weighs-heavily-on-many-americans/](http://www.pewresearch.org/social-trends/2021/03/05/a-year-into-the-pandemic-long-term-financial-impact-weighs-heavily-on-many-americans/)>.

<sup>96</sup> Kyle Powys, "The Dakota Access Pipeline, Environmental Injustice, and U.S. Colonialism" (2017) *19:1 Red Ink: An Intl J Indigenous Literature, Arts, & Humanities*.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid.*

# PUBLIC AWARENESS OF ENVIRONMENTAL RACISM

Despite the extreme prevalence of environmental racism and injustice within the United States, there is still a lack of public knowledge on the matter when it comes to the everyday population. On the one hand, some schools in the United States have made efforts to educate their student on issues pertaining to the environment and climate change, but inclusion of environmental justice issues is very weak.<sup>101</sup> Additionally, there has been much deliberation on the importance of teaching content pertinent to race, such as Critical Race Theory (CRT). CRT outlines and analyzes how social institutions (e.g., the criminal justice system, education system, labor market, housing market, and healthcare system) are laced with racism embedded in laws, regulations, rules, and procedures that lead to differential outcomes by race.<sup>102</sup> CRT is a crucial part of public education on environmental racism because it can demonstrate and unpack historical and modern systems of oppression.

Racist attitudes have worsened in the US in recent years, particularly since Donald Trump's term as president.<sup>103</sup> Expressing racist views is increasingly seen as more socially acceptable, and there is growing pessimism about the pursuit of equality.<sup>104</sup> Republicans overwhelmingly agree that the government has either done enough or gone "too far" in its efforts to give Black people equal rights, while simultaneously believing that slavery has a negligible impact today, and that race has no bearing on an individual's experiences with healthcare, the police, or in day-to-day life.<sup>105</sup> The vast majority also believe that "seeing discrimination where it does not exist" is a bigger problem than not seeing discrimination where it *does* exist.<sup>106</sup> Although Democrats tend to have opposite views, experiences of violence and discrimination against racialized people in the states suggests that the US is culturally and systemically racist and violent against BIPOC peoples.<sup>107</sup>

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<sup>101</sup> Ann Kushmerick, Lindsay Young & Susan E. Stein, "Environmental Justice content in mainstream US, 6–12 environmental education guides" (2007) 13:3, *Environmental Education Research* 385.

<sup>102</sup> Rashawn Ray & Alexandra Gibbons, "Why are states banning critical race theory?" (November 2021), online: *Brookings* <[www.brookings.edu/blog/fixgov/2021/07/02/why-are-states-banning-critical-race-theory/](http://www.brookings.edu/blog/fixgov/2021/07/02/why-are-states-banning-critical-race-theory/)>.

<sup>103</sup> "Race in America 2019" (9 April 2019), online: *Pew Research Center*, <[www.pewresearch.org/social-trends/2019/04/09/race-in-america-2019/](http://www.pewresearch.org/social-trends/2019/04/09/race-in-america-2019/)>.

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*



# ENVIRONMENTAL RACISM IN THE **UNITED KINGDOM**



little attention is paid to the intersections of ... the simultaneous legacy of dehumanization and colonialism that characterizes the UK's past and present



Environmental justice concerns arose later in the UK than elsewhere, with the movement picking up in the 1990s.<sup>108</sup> However, as a major colonial power, the UK has driven environmental racism globally and its role in modern capitalist practices continues to perpetuate environmental injustices both domestically and internationally. Unlike the other countries studied, the UK was not colonized, although it colonized all the other countries assessed in this report.

## MANIFESTATIONS OF ENVIRONMENTAL RACISM

Unlike the other countries in this report, the UK does not have an Indigenous population. However, Black, Caribbean, and Asian people living in the UK often face racist and discriminatory policies and attitudes, a result of a long legacy of dehumanization and exploitation that drove imperialism and colonialism.<sup>109</sup> Despite this, environmental justice research often focuses on income as a primary indicator of injustice, paying less attention to race and gender.<sup>110</sup> There are also gaps in the literature, including little to no research on ecosystem service disparities.<sup>111</sup>

Access to green spaces and nature is an exception to this trend. Recent research has focused on disparities affecting Black and other People of Colour, who are less able or likely to access rural or large green spaces.<sup>112</sup> Black and brown residents are twice as likely to have minimal access to green spaces, especially in cities.<sup>113</sup> Rural racism is a contributing factor preventing meaningful access to the countryside.<sup>114</sup>

Racialized and low-income people in the UK face similar trends of environmental injustice as the other countries surveyed. They tend to be located nearer to industrial sites, and also experience disproportionately higher levels of factory pollutant exposure.<sup>115</sup> Higher “social deprivation” also corresponds to greater exposure to waste hazards, including proximity to incinerators and lower water quality, especially when living in proximity to a

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<sup>108</sup> G Mitchell, *The Messy Challenge of Environmental Justice in the UK: Evolution, status and prospects*, No 273 (Natural England Commissioned Reports, 2019).

<sup>109</sup> “Racism and resistance” online: *Historic England* <[historicengland.org.uk/research/inclusive-heritage/another-england/a-brief-history/racism-and-resistance/](http://historicengland.org.uk/research/inclusive-heritage/another-england/a-brief-history/racism-and-resistance/)>.

<sup>110</sup> Gordon Mitchell & Danny Dorling, “An environmental justice analysis of British air quality” (2003) 35 *Environment & Planning A* 909; Ole W Pederson, “Environment Justice in the UK: Uncertainty, Ambiguity and the Law” (2011) 31:2 *Leg Studies* 279.

<sup>111</sup> Mitchell, *supra* note 108.

<sup>112</sup> Natural England, “Monitor of Engagement with the Natural Environment: The national survey on people and the natural environment” (10 September 2018) online: <[assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/738891/Monitorof\\_Engagementwiththe\\_Natural\\_Environment\\_Headline\\_Report\\_March\\_2016to\\_February\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/738891/Monitorof_Engagementwiththe_Natural_Environment_Headline_Report_March_2016to_February_2018.pdf)>.

<sup>113</sup> Friends of the Earth, “Access to green space in England: Are you missing out?” Online: *Friends of the Earth* <[friendsoftheearth.uk/nature/access-green-space-england-are-you-missing-out?\\_ga=2.51091756.425591225.1656609828-418060527.1656379859](http://friendsoftheearth.uk/nature/access-green-space-england-are-you-missing-out?_ga=2.51091756.425591225.1656609828-418060527.1656379859)>.

<sup>114</sup> Julian Agyeman & Bob Evans, “‘Just sustainability’: the emerging discourse of environmental justice in Britain?” (2004) 170:2 *Geographical J* 155.

<sup>115</sup> Jamie R Pearce et al, “Environmental justice and health: the implications of the socio-spatial distribution of multiple environmental deprivation for health inequalities in the United Kingdom” (2010) 35:4 *Transactions* 522; *Ibid*.

river.<sup>116</sup> Fuel poverty is also a well-known issue and prevents many from having access to adequately warmed homes.<sup>117</sup>

One of the most well-researched areas of environmental racism in the UK is air pollution. Low-income individuals, Black, and other People of Colour experience the highest levels of air pollution<sup>118</sup> while contributing to it the least, including by owning fewer cars.<sup>119</sup> Air pollution in the UK often exceeds allowable limits, causing severe respiratory issues in children and adults. A prominent example is the death of Ella Kissi-Debrah, a nine-year-old Black girl who died of an asthma attack.<sup>120</sup> She is the first person in the history of the UK to have her cause of death recorded as air pollution.<sup>121</sup> Air quality data and her medical records clearly showed that fluctuations in air pollutants and living in proximity to a road that the government knew regularly exceeded legal limits (but did little to mitigate) triggered her asthma and caused her death.<sup>122</sup>

Ella is not the only victim of environment-related health problems in the UK. Research demonstrates that Black and South Asian populations have higher rates of infant mortality, cardiovascular disease, and disability incidence, while also facing barriers to accessing non-discriminatory healthcare.<sup>123</sup>

## GOVERNMENT INVOLVEMENT & ACCOUNTABILITY

Laws in the UK have undergone significant shifts with Britain's departure from the European Union. Post-Brexit environmental legislation, particularly those relating to environmental justice considerations, are much more uncertain given the UK's departure from EU systems, including courts.<sup>124</sup> The 2021 Environment Act seeks to replace many European Union bodies that otherwise regulated environmental issues, including air quality and biodiversity conservation.<sup>125</sup> The implementation of an Office for

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<sup>116</sup> Mitchell, *supra* note 108.

<sup>117</sup> Agyeman & Evans, *supra* note 114.

<sup>118</sup> Daniela Fecht et al, "Associations between air pollution and socioeconomic characteristics, ethnicity and age profile of neighbourhoods in England and the Netherlands" (2015) 198 *Environmental Pollution* 201. See also Mitchell & Dorling, *supra* note 110.

<sup>119</sup> Mitchell & Dorling, *supra* note 110.

<sup>120</sup> Georgia Mcardell, "Environmental racism in the UK is real. Anti-racism is the answer" (19 April 2021) online: *Institute of development studies* <[alumni.ids.ac.uk/news/blogs-perspectives-provocations-initiatives/597/597-Environmental-racism-in-the-UK-is-real-Anti-racism-is-the-answer](http://alumni.ids.ac.uk/news/blogs-perspectives-provocations-initiatives/597/597-Environmental-racism-in-the-UK-is-real-Anti-racism-is-the-answer)>.

<sup>121</sup> Sandra Laville, "Ella Kissi-Debrah: how a mother's fight for justice may help prevent other air pollution deaths", *The Guardian* (16 December 2020) online: <[www.theguardian.com/environment/2020/dec/16/ella-kissi-debrah-mother-fight-justice-air-pollution-death](http://www.theguardian.com/environment/2020/dec/16/ella-kissi-debrah-mother-fight-justice-air-pollution-death)>.

<sup>122</sup> *Ibid.*

<sup>123</sup> Veena Raleigh & Jonathon Holmes, "The health of people from ethnic minority groups in England" (17 September 2021) online: *The King's Fund* <[www.kingsfund.org.uk/publications/health-people-ethnic-minority-groups-england](http://www.kingsfund.org.uk/publications/health-people-ethnic-minority-groups-england)>; Jacqui Wise, "Racial health inequality is stark and requires concerted action, says review" (2022) *BMJ* 376.

<sup>124</sup> Damilola S Olawuyi, "Advancing Environmental Justice in a Post-Brexit United Kingdom" in *Brexit: The international legal implications*, Paper No 13 (Waterloo: Centre for International Governance Innovation, 2018).

<sup>125</sup> *Environment Act 2021* (UK), 2021.



Environmental Protection to monitor and investigate the implementation of environmental law is a welcome piece of the legislative framework to ensure accountability.<sup>126</sup> However, critics have noted that the structure of the Act leaves considerable room for discretion, meaning that the strength and quality of environmental protections can vary depending on the government of the day.<sup>127</sup> Some have also noted that the law as it stands is not very ambitious and was created with minimal consultation.<sup>128</sup> It also does not seem to incorporate specific justice-oriented targets, notably with issues like air pollution that have specific human impacts. The 25 Year Environment Plan does incorporate environmental justice concerns and suggests a growing acknowledgment of environmental racism, but there is relatively little impetus to comprehensively tackle this “messy” issue.<sup>129</sup>

Critics are justified in their skepticism. The UK’s long history of environmental pollution, notably during the industrial revolution, has not ended. Citizens and nonprofit organizations have extensively documented the destruction of river ecosystems due to lax government policy that fails to effectively regulate agricultural runoff and industrial discharges.<sup>130</sup> Simultaneously, the government continues to periodically permit increased industrial and sewage dumping into rivers based on economic grounds, while having ineffective and toothless monitoring and compliance systems in place.<sup>131</sup>

UK laws surrounding anti-racism and combating discrimination exist, but are insufficiently developed to meaningfully contribute to fighting environmental racism. The Equality Act includes race as a protected ground against discrimination in workplaces, businesses, public services, and civil society.<sup>132</sup> The Act consolidated several laws, but chose to exclude “dual discrimination” from its coverage.<sup>133</sup> This means that discrimination drawing on multiple, intersecting forms of identity cannot be taken as a compounding, interrelated whole. Rather, the victimized person must litigate each ground separately. This decision is very harmful to individuals facing multiple forms of disadvantage (e.g., a woman who is racialized, a disabled person who is also religious) and is also regressive.<sup>134</sup> As a result, the legislation ignores lived realities and continues to minimize and deny the complex

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<sup>126</sup> ClientEarth Communications, “The UK Environment Act - What’s happening now?” (1 April 2022) online: *ClientEarth* <[www.clientearth.org/latest/latest-updates/news/why-the-uk-environment-bill-matters/](http://www.clientearth.org/latest/latest-updates/news/why-the-uk-environment-bill-matters/)>.

<sup>127</sup> Simon Tilling & Darren Abrahams, “The UK’s Environment Act 2021: A vehicle to “deliver the most ambitious environmental programme of any country on earth”” online: *Steptoe* <[www.steptoe.com/en/news-publications/the-uks-environment-act-2021-a-vehicle-to-deliver-the-most-ambitious-environmental-programme-of-any-country-on-earth.html](http://www.steptoe.com/en/news-publications/the-uks-environment-act-2021-a-vehicle-to-deliver-the-most-ambitious-environmental-programme-of-any-country-on-earth.html)>.

<sup>128</sup> ClientEarth Communications, *supra* note 126.

<sup>129</sup> Mitchell, *supra* note 108; Agyeman & Evans, *supra* note 114.

<sup>130</sup> George Monbiot, “Britain’s rivers are suffocating to death”, *The Guardian* (21 July 2021) online: <[www.theguardian.com/commentisfree/2021/jul/21/britains-rivers-suffocating-industrial-farm-waste](http://www.theguardian.com/commentisfree/2021/jul/21/britains-rivers-suffocating-industrial-farm-waste)>.

<sup>131</sup> *Ibid*; Lisa O’Carroll, “Sewage discharge rules eased over fears of chemical shortages”, *The Guardian* (7 September 2021) online: <[www.theguardian.com/politics/2021/sep/07/government-ease-sewage-discharge-rules-amid-chemical-shortage](http://www.theguardian.com/politics/2021/sep/07/government-ease-sewage-discharge-rules-amid-chemical-shortage)>.

<sup>132</sup> Equality and Human Rights Commission, “Your rights under the Equality Act 2010” (last modified 19 Feb 2020) online: *Equality and Human Rights Commission* <[www.equalityhumanrights.com/en/advice-and-guidance/your-rights-under-equality-act-2010](http://www.equalityhumanrights.com/en/advice-and-guidance/your-rights-under-equality-act-2010)>.

<sup>133</sup> Catherine Bourne, “Is it time to legislate for dual discrimination” (10 March 2020) online: *People Management* <[www.peoplemanagement.co.uk/article/1745465/is-it-time-to-legislate-for-dual-discrimination](http://www.peoplemanagement.co.uk/article/1745465/is-it-time-to-legislate-for-dual-discrimination)>.

<sup>134</sup> *Ibid*.

reality of racism. The decision to exclude this aspect of discrimination from the law clearly reflects a lack of care on the part of the government to fight racism substantively, and is particularly disappointing given that many countries, such as Canada, have recognized intersectional discrimination as a legitimate ground to sue since the 1990s.<sup>135</sup>

This weak legislative framework is further compounded by current institutional realities that seek to deny and downplay both the existence of racism and environmental crises. Racism is extremely prevalent and entrenched in the UK, including at the government level. The government reproduces harmful stereotypes about racialized populations and normalizes white supremacy, despite significant evidence of the harms of institutional racism and inequities in all sectors across UK society.<sup>136</sup> This is evidenced by the highly-criticized report released by Prime Minister Boris Johnson's government, which refused to acknowledge the existence of institutional racism.<sup>137</sup> It also downplays and justifies the enslavement of innumerable Black people, ignoring the ongoing legacies of generational wealth and power built on the death and exploitation of Black people.<sup>138</sup> The UK even continues to perpetuate ER abroad through its foreign policy and procurement.<sup>139</sup>

On the ground, government policy continues to harm those fighting for justice. Climate scientists and activists are routinely arrested for protesting government inaction on climate change.<sup>140</sup> Violence by police against racialized, particularly Black and Caribbean individuals, is rampant.<sup>141</sup> Police use force significantly more against racialized individuals than their white counterparts, and have even been exempt from laws seeking to ban discrimination.<sup>142</sup>

Although there is little evidence of intersectional efforts by the UK government to tackle environmental racism, the lack of meaningful progress on its components – environment and racism – suggests that the state is unwilling to examine their intersections.

## PUBLIC AWARENESS OF ENVIRONMENTAL RACISM

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<sup>135</sup> *Law v Canada (Minister of employment and immigration)*, 1999 1 SCR 497 at para 93.

<sup>136</sup> United Nations, "United Kingdom: UN experts condemn "reprehensible" racism report" (19 April 2021) online: *United Nations Human Rights: Office of the High Commissioner* <[www.ohchr.org/en/press-releases/2021/04/united-kingdom-un-experts-condemn-reprehensible-racism-report](http://www.ohchr.org/en/press-releases/2021/04/united-kingdom-un-experts-condemn-reprehensible-racism-report)> [United Nations, "'reprehensible' racism report"].

<sup>137</sup> *Ibid*; Mcardell, *supra* note 120.

<sup>138</sup> United Nations, "'reprehensible' racism report", *supra* note 136.

<sup>139</sup> Olawuyi, *supra* note 124.

<sup>140</sup> Associated Press, "Climate activists arrested at UK oil tanker climate protest" (18 April 2022) online: *Canada's National Observer* <[www.nationalobserver.com/2022/04/18/news/climate-activists-arrested-uk-oil-tanker-climate-protest](http://www.nationalobserver.com/2022/04/18/news/climate-activists-arrested-uk-oil-tanker-climate-protest)>.

<sup>141</sup> Flora Fitzpatrick, "Guide: Police brutality in the UK" (22 December 2021) online: *A News Education* <[www.anewseducation.com/post/police-brutality-in-the-uk](http://www.anewseducation.com/post/police-brutality-in-the-uk)>.

<sup>142</sup> *Ibid*.

Research indicates that the UK has been very slow to shift towards anti-racist and environmental justice attitudes. This is reflected by the relative disproportion of environmental justice research focusing on income and not race,<sup>143</sup> in addition to the chronic lack of Black leaders in environmental spaces, amounting to a mere 1.5 per cent across public and private sectors.<sup>144</sup>

Given the above analysis of the legislative and political framework, it is unsurprising that racism and colonial mindsets remain prevalent in the UK.<sup>145</sup> Black and other People of Colour report frequently experiencing racism at work and in daily life, including when receiving healthcare.<sup>146</sup> Further compounding this issue is the fact that media discourses of racism actively invisibilize perpetrators and white supremacy, foregrounding victims while ignoring the forces that victimized them.<sup>147</sup> Given this lack of attention to the perpetrators of racism and rampant lived experiences of racism, it is unsurprising that the domestic intersections of race and environment appear to be neglected in mainstream discourse.

The education system in the UK is also lacking in many critical areas related to environmental justice. First, mandatory science curricula covers climate change poorly. Cycle 4 science requires students to learn “evidence, and uncertainties in evidence, for additional anthropogenic causes of climate change,”<sup>148</sup> which erases the incontrovertible fact that current climate change patterns are driven by human activity, and allows for the integration of climate skepticism and false information. Students also learn about the “potential effects” and mitigation of increasing GHGs on climate.<sup>149</sup> Highlighting potentiality erases the current and concrete harms that many around the world are already suffering, including in the UK, and downplays the extreme harms that the world, particularly those who are victims of the UK’s legacy of colonialism, will experience.

Second, students are not required to take geography or history after age 14.<sup>150</sup> The geography curriculum does require students to understand how human and physical processes interact to influence and change landscapes, environments and the climate, in addition to how human activity relies on effective functioning of natural systems (geography curriculum).<sup>151</sup> This is a positive step because it emphasizes the human dimensions of environmental problems. However, given the lack of detail in the

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<sup>143</sup> Mitchell, *supra* note 108.

<sup>144</sup> Mcardell, *supra* note 120.

<sup>145</sup> Anna Bawden & Alexandra Topping, “Most women of colour ‘hide’ their heritage due to UK workplace racism”, *The Guardian* (25 May 2022) online: <[www.theguardian.com/world/2022/may/25/most-women-of-colour-hide-their-heritage-due-to-uk-workplace-racism](http://www.theguardian.com/world/2022/may/25/most-women-of-colour-hide-their-heritage-due-to-uk-workplace-racism)>.

<sup>146</sup> *Ibid*; Wise, *supra* note 123.

<sup>147</sup> Meghan Tinsley, “Whiteness is at the heart of racism in Britain - so why is it portrayed as a Black problem?” (19 May 2022) online: *The Conversation* <[theconversation.com/whiteness-is-at-the-heart-of-racism-in-britain-so-why-is-it-portrayed-as-a-black-problem-181742](http://theconversation.com/whiteness-is-at-the-heart-of-racism-in-britain-so-why-is-it-portrayed-as-a-black-problem-181742)>.

<sup>148</sup> Department for Education, “Science programmes of study: key stage 4” in *National curriculum in England*, (2014) at 13.

<sup>149</sup> *Ibid*.

<sup>150</sup> Department for Education, “The national curriculum in England: Key stages 3 and 4 framework document” (2014) at 6.

<sup>151</sup> *Ibid* at 92.

curriculum document, it is difficult to know whether this is framed through a lens of human planetary destruction and responsibility to conserve, or an anthropocentric, extractivist perspective that places humans above nature.

Although citizenship courses at stages 3 and 4 require students to learn “diverse national, regional, religious and ethnic identities in the United Kingdom and the need for mutual respect and understanding,”<sup>152</sup> little attention is paid to the intersections of mutual respect and the simultaneous legacy of dehumanization and colonialism that characterizes the UK’s past and present. Compounding this, the history curriculum does not mandate any discussion of colonization, although the transatlantic slave trade is listed as an optional example of the British empire, as is the US colony.<sup>153</sup> This is despite Britain being one of the world’s most extensive and harmful colonizers. The words ‘colonialism’ or ‘colonization’ are not mentioned at all throughout the history curriculum. Overall, the existence of racism in the UK is highly concerning given the apparently unwillingness of the state, whether explicitly in its policy or through education, to be reflective and accountable of its violent past and present. As a result, environmental racism and environmental justice will likely continue to exist at the margins of public discourse, given current attitudes and the lack of critical analysis of environmentalism and the UK’s legacy.

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<sup>152</sup> Department for Education, “Citizenship programmes of study: key stages 3 and 4” in *National curriculum in England* (2013) at 3.

<sup>153</sup> Department for Education, “History programmes of study: key stages 3” in *National curriculum in England* (2013).



# ENVIRONMENTAL RACISM IN **AUSTRALIA**



home to some of the  
oldest environmental  
activism movements...  
Indigenous Peoples have  
struggled to find a  
meaningful place in [them]



Australia is a settler colonial state founded by the UK. Like Canada, it is a federal system with a constitutional monarchy. Indigenous Australians have inhabited Australia for approximately 65,000 years, while settlers began arriving steadily in the 1700s. The term “Indigenous” in Australia encapsulates Torres Strait Islanders and Aboriginal Peoples, the latter encompassing hundreds of distinct nations.<sup>154</sup>

## MANIFESTATIONS OF ENVIRONMENTAL RACISM

Indigenous Peoples in Australia have long been subject to environmental racism. Since the 1990s, Indigenous Peoples have been locked in debates with the government to prevent the siting of nuclear testing and nuclear waste dumping on their lands, which have been sacred for thousands of years.<sup>155</sup> Indigenous Peoples have already been victims of the nuclear industry, yet the government refuses to commission studies of the impacts of nuclear activities on Indigenous peoples.<sup>156</sup>

Inequities in service provision and infrastructure investment driven by “malign neglect” are particularly harmful for Indigenous Torres Strait Islanders.<sup>157</sup> Language loss, land theft, criminalization, and poorly implemented “gap closing” strategies have meant that conditions for Indigenous Australians are stagnating or worsening, despite government policies purporting to advance reconciliation.<sup>158</sup>

Australia also exhibits common patterns of environmental racism, including disproportionately poor air, noise, heat, and water quality, worse housing conditions, more pollution and fewer green spaces in places home to Indigenous Peoples, immigrants, low-income groups, and People of Colour than predominantly white areas.<sup>159</sup> For example, Mount Isa in Queensland contains significant mining and smelting activities, and inequitable market forces have led to white flight and a concentration of marginalized peoples in this polluted area.<sup>160</sup> Life expectancies for Indigenous Australians can be as much as ten years shorter than non-Indigenous inhabitants.<sup>161</sup> Despite a decade of federal commitments to close health gaps, no progress has been made.<sup>162</sup>

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<sup>154</sup> Flinders University, “General Information Folio 5: Appropriate terminology, Indigenous Australian Peoples” online: <[www.ipswich.qld.gov.au/\\_\\_data/assets/pdf\\_file/0008/10043/appropriate\\_indigenous\\_terminology.pdf](http://www.ipswich.qld.gov.au/__data/assets/pdf_file/0008/10043/appropriate_indigenous_terminology.pdf)>.

<sup>155</sup> Maia Dombey, “Environmental Racism: How Governments Are Systematically Poisoning Indigenous Communities & the U.N.’s Role” (2020) 27:1 U Miami Int’l & Comp L Rev 131.

<sup>156</sup> *Ibid.*

<sup>157</sup> *Ibid.*

<sup>158</sup> Rosalie Schultz, “Closing the Gap and the Sustainable Development Goals: listening to Aboriginal and Torres Strait Islander people” (2020) 44:1 Australia & New Zealand J Public Health 11.

<sup>159</sup> Jason Byrne & Diana MacCallum “Bordering on neglect: ‘environmental justice’ in Australian planning” (2013) 50:2 Australian Planner 164.

<sup>160</sup> Dombey, *supra* note 155.

<sup>161</sup> Alison Markwick et al, “experiences of racism among Aboriginal and Torres Strait Islander adults living in the Australian state of Victoria: a cross-sectional population-based study” (2019) 19 BMC Public Health 309.

<sup>162</sup> *Ibid.*; Yin Paradies, Ricci Harris & Ian Anderson, *The Impact of Racism on Indigenous Health in Australia and Aotearoa: Towards a Research Agenda* (Casuarina: Cooperative Research Centre for Aboriginal Health and Flinders University, 2008).

## GOVERNMENT INVOLVEMENT & ACCOUNTABILITY

The Australian government has been very slow to recognize the need to tackle environmental conservation and racism in its country, much less its intersections.<sup>163</sup> Australia had a “white policy” until the early 1970s, which banned the immigration of any Person of Colour.<sup>164</sup> It also imposed curfews and segregation on Indigenous Peoples.<sup>165</sup> Since then, it has formally endorsed a policy of multiculturalism, but political parties continue to be elected based on racist platforms.<sup>166</sup> Furthermore, although the situation is improving, environmental movements in Australia have either ignored dimensions of Indigenous rights and racism or even endorsed racist policies.<sup>167</sup> For instance, Australia is home to some of the oldest environmental activism movements, which pioneered direct action tactics such as blockading to prevent resource projects from destroying ecologically important areas.<sup>168</sup> However, Indigenous Peoples have struggled to find a meaningful place in these movements. For example, the establishment of parks, even when driven by environmental activism, frequently restricts the exercise of traditional practices.<sup>169</sup>

As of 2013, national and state environmental legislation did not include any environmental justice provisions, particularly for land-use planning.<sup>170</sup> Redevelopment projects have displaced Indigenous and low-income populations in the process of remediating pollution in communities, meaning that they cannot even experience the benefits of remediation after experiencing pollution for decades.<sup>171</sup> There is also evidence that the government is slower to act when marginalized populations raise pollution issues, as compared to wealthier and white populations.<sup>172</sup> However, the government has made strides to advance reconciliation and recognize Indigenous title to land, in some cases giving land ownership back to Indigenous nations and establishing co-managed parks.<sup>173</sup>

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<sup>163</sup> “Environmental racism in Australia” chain reaction 206 [Chain reaction].

<sup>164</sup> Byrne & MacCallum, *supra* note 159.

<sup>165</sup> Dombey, *supra* note 155.

<sup>166</sup> Chain reaction, *supra* note 163.

<sup>167</sup> *Ibid.*

<sup>168</sup> McIntyre, *supra* note 14.

<sup>169</sup> OECD, Working Party on Environmental Performance, *OECD Seminar social and environment interface proceedings*, ENV/EPOC/GEP(99)13 (Paris: OECD, 1999) at 37–39.

<sup>170</sup> Byrne & MacCallum, *supra* note 159; Markwick, *supra* note 161.

<sup>171</sup> Dombey, *supra* note 155.

<sup>172</sup> *Ibid.*

<sup>173</sup> Robert Melchior Figueroa & Gordon Waitt, “Climb: Restorative Justice, Environmental Heritage, and the Moral Terrains of Uluru-Kata Tjuta National Park” (2010) 7:2 *Environmental Philosophy* 135.

The Australian government has enshrined the right to be free from racism in its laws.<sup>174</sup> However, there is no legislated right to a clean or healthy environment,<sup>175</sup> and human rights are not entrenched at the constitutional level.<sup>176</sup> Environmental laws have not prevented environmental degradation, and have in fact created environmental injustices.<sup>177</sup> Access to environmental information is regulated through a moderately successful framework, but a legal review panel recommends that Australia adopt a positive obligation to collect and publish information, well beyond reforming existing laws.<sup>178</sup>

Obligations to meaningfully consult with Indigenous peoples in Australia are also lacking. In many cases, involvement is cursory, insensitive, and exclusionary, meaning that development and natural resource projects are planned with negligible input from these communities.<sup>179</sup> Broadly speaking, environmental laws generally fail to require public participation in early project stages, nor does it require targeted involvement of public actors like non-profits.<sup>180</sup> Although there are a few examples of good practices of Indigenous involvement, the practice of free, prior, and informed consent is generally lacking.<sup>181</sup>

## PUBLIC AWARENESS OF ENVIRONMENTAL RACISM

Racist attitudes are also very prevalent in Australia, particularly against immigrants of Colour and Indigenous Peoples.<sup>182</sup> An example of racist attitudes, particularly in environmental conservation domains, was the public backlash against the Uluru National Park, a joint venture with the federal government and the Anangu Peoples that maximizes Indigenous administration and traditional land stewardship.<sup>183</sup>

A 2003 review of education curricula found that environmental education was integrated into science and social science courses, but had limited exploration of action and social

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<sup>174</sup> Paradies, Harris & Anderson, *supra* note 162.

<sup>175</sup> Environmental Defenders Office, “Legal analysis: The right to a healthy environment in Australia” (9 January 2020) online: *Environmental Defenders Office* <[www.edo.org.au/2020/01/09/right-to-healthy-environment-in-australia/](http://www.edo.org.au/2020/01/09/right-to-healthy-environment-in-australia/)>; Hanna Jaireth, Bruce Lindsay & Nicola Rivers, *Democracy and the Environment: Technical Paper 8* (Melbourne: Australian Panel of Experts on Environmental Law, 2017) online: <[www.academia.edu/33638739/Democracy\\_and\\_the\\_Environment\\_Technical\\_Paper\\_8\\_Australian\\_Panel\\_of\\_Experts\\_on\\_Environmental\\_Law](http://www.academia.edu/33638739/Democracy_and_the_Environment_Technical_Paper_8_Australian_Panel_of_Experts_on_Environmental_Law)>.

<sup>176</sup> Environmental Defenders Office, *supra* note 175.

<sup>177</sup> *Ibid.*

<sup>178</sup> Jaireth, Lindsay & Rivers, *supra* note 175.

<sup>179</sup> Dombey, *supra* note 155.

<sup>180</sup> Jaireth, Lindsay & Rivers, *supra* note 175.

<sup>181</sup> *Ibid* at 28.

<sup>182</sup> Atapattu, Gonzalez & Seck, *supra* note 11 at 466; James Forrest & Kevin Dunn, “Constructing Racism in Sydney, Australia’s Largest EthniCity” (2007) 44:4 *Urban Studies* 699.

<sup>183</sup> OECD, *supra* note 169 at 38–39; Figueroa & Waitt, *supra* note 173.



change.<sup>184</sup> In addition, educational curricula targeted at Indigenous Peoples is historically racist and has led to unequal attainment for Indigenous and non-Indigenous students.<sup>185</sup> The government rejected a national curriculum including education on colonization, Indigenous culture, and history in 2014.<sup>186</sup>

However, teaching strategies are becoming more inclusive and nuanced. The current national education curriculum identifies three major cross-curriculum priorities that are integrated across mandatory subjects, which are sustainability, Asia and Australia's engagement with Asia, and Aboriginal and Torres Strait Islander histories and cultures.<sup>187</sup> The Aboriginal and Torres Strait Islander curriculum objective is intended to teach students about the historical and contemporary richness of Australian Indigenous culture and community.<sup>188</sup> It was developed in consultation with its Aboriginal and Torres Strait Islander Education Advisory Group.<sup>189</sup> It specifically mentions learning objectives related to systemic racism and its impacts, including health, as well as traditional ecological knowledge and colonization.<sup>190</sup> The sustainability goal mentions learning objectives related to social justice and diversity, and mentions the importance of Indigenous knowledge for environmental protection in science classes.<sup>191</sup> If properly implemented, these curriculum documents appear to be very promising and potentially transformative for advancing environmental justice narratives for youth.

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<sup>184</sup> Debbie Heck, "The State of Environmental Education in the Australian School Curriculum." (2003) 19 *Australian Journal of Environmental Education* 115.

<sup>185</sup> Gawaian Bodkin-Andrews & Bronwyn Carlson, "The legacy of racism and Indigenous Australian identity within education" (2016) 19:4 *Race Ethnicity and Education* 784.

<sup>186</sup> Markwick, *supra* note 161.

<sup>187</sup> Australian Curriculum, Assessment and Reporting Authority, "Cross-curriculum priorities: Sustainability Version 9.0" (2022) [Australian Curriculum, Assessment and Reporting Authority, "sustainability"]; Australian Curriculum, Assessment and Reporting Authority, "Cross-curriculum priorities: Asia and Australia's Engagement with Asia Version 9.0" (2022); Australian Curriculum, Assessment and Reporting Authority, "Cross-curriculum priorities: Aboriginal and Torres Strait Islander Histories and Cultures Version 9.0" (2022) [Australian Curriculum, Assessment and Reporting Authority, "Torres Strait Islander Histories"].

<sup>188</sup> "Understand this cross-curriculum priority: Aboriginal and Torres Strait Islander Histories and Cultures" (last visited June 2022) online: *Australian Curriculum* <<https://v9.australiancurriculum.edu.au/teacher-resources/understand-this...m-priority/aboriginal-and-torres-strait-islander-histories-and-cultures>>.

<sup>189</sup> Australian Curriculum, Assessment and Reporting Authority, "Torres Strait Islander Histories", *supra* note 187.

<sup>190</sup> *Ibid.*

<sup>191</sup> Australian Curriculum, Assessment and Reporting Authority, "sustainability", *supra* note 187.



# ENVIRONMENTAL RACISM IN **NEW ZEALAND**

“

as part of their Treaty Settlement, the Te Urewera National Park was returned to Tūhoe to run in mutual coordination with the Department of Conservation

”

Originally part of the Australian colony of New South Wales, New Zealand gained its independence from the UK in 1947. Similarly to Canada, the United States, and Australia, New Zealand is a colonial state that is home to its own Indigenous population known as the Māori. The Māori people of New Zealand make up an estimated 17% of the total population.<sup>192</sup> In recent years, the country has been publicly applauded for their socially and environmentally conscious governmental and public dealings. The country's co-governance between Iwi and the Crown has been pivotal in seeking out an environmentally just future. Despite a very progressive social and environmental outlook, the country is still faced with environmental injustice issues primarily felt by racial minorities, including the Māori.<sup>193</sup>

## MANIFESTATIONS OF ENVIRONMENTAL RACISM

Even though New Zealand has done a good job in listening to and incorporating Māori voices into its social environmental dealings, the issue of environmental racism and injustice are still prevalent amongst its most vulnerable. As seen in other parts of the world, those most affected by environmental injustice are those of a racial minority or a lower socio-economic standing. In New Zealand, the Māori population are over represented in these groups. It is estimated that approximately 1 in 4 Māori families live in financially inadequate situations.<sup>194</sup> Similarly, Pacifica people (individuals of Pacific Islander descent) in New Zealand face a poverty rate of almost 1 in 3.<sup>195</sup>

A study done in 2008 on the correlation between air pollution and socioeconomic standing of neighbourhoods in New Zealand found that neighbourhoods with a lower socioeconomic standing had higher levels of air pollution.<sup>196</sup> The apparent correlation between these two variables confirms the risk associated with being a socially deprived individual in New Zealand and the likelihood of experiencing environmental injustice. Individuals in these communities are predisposed to an array of respiratory and heart diseases as well as various forms cancers.<sup>197</sup>

It is of the utmost importance that New Zealand makes efforts to investigate the presence of environmental racism and injustice within its borders. A lack of scholarly articles, publications, and research reports investigating the presence and impacts of environmental injustice leaves much room for misinterpretation on the matter. To some, the lack of critique and reporting seems indicative of an environmentally just country

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<sup>192</sup> Stats NZ, "Māori population estimates: At 30 June 2021" (16 November 2021), online: *Stats NZ* <[www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2021](http://www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2021)>.

<sup>193</sup> "New Zealand: Maori" (last modified January 2018), online: *World Directory of Minorities and Indigenous Peoples* <[minorityrights.org/minorities/maori/](http://minorityrights.org/minorities/maori/)> ["New Zealand: Maori"].

<sup>194</sup> "NZ election: The people left behind in Arden's 'kind' New Zealand", *BBC News* (13 October 2020), online: <[www.bbc.com/news/world-asia-54444643](http://www.bbc.com/news/world-asia-54444643)>.

<sup>195</sup> *Ibid.*

<sup>196</sup> Jamie Pearce & Simon Kingham, "Environmental inequalities in New Zealand: A national study of air pollution and environmental justice" (2008) 39:2 *Geoforum* 980.

<sup>197</sup> "Air Pollution and Your Health" (last modified 24 June 2022) online: *National Institute of Environmental Health Sciences* <[www.niehs.nih.gov/health/topics/agents/air-pollution/index.cfm](http://www.niehs.nih.gov/health/topics/agents/air-pollution/index.cfm)>.

while to others, it can also appear as though New Zealand hasn't taken the time to examine the presence of environmental injustice and racism.

## GOVERNMENT INVOLVEMENT & ACCOUNTABILITY

When examining both internal and external governmental efforts that have been made in addressing and approaching environmental injustice and racism as well as their adjacent matters in New Zealand, there were a number of promising efforts, initiatives and dealings that have been put forward with respect to tackling both social and environmental injustices.<sup>198</sup>

The "National Action Plan Against Racism" is a program against racism that reflects the history, challenges, and aspirations of Aotearoa New Zealand.<sup>199</sup> The goal of this action plan is to progressively eliminate racism in all forms. Consultation of New Zealand's Minister of Justice, as well as a collective of Iwi leaders from Aotearoa New Zealand is how this initiative supports the co-governance between Iwi and the Maori community, and the Crown. The heavy hand that Māori and Iwi have on overturning racial injustice within New Zealand carries over to environmental justice efforts within the country. Arrangements for co-governance over a number of ecological spaces with the country were passed seamlessly. In 2014, as part of their Treaty Settlement, the Te Urewera National Park was returned to Tūhoe to run in mutual coordination with the Department of Conservation.<sup>200</sup> In addition to the return of Te Urewera National Park, the Waikato, Waipā, and Whanganui rivers were also returned to the Iwi with the Whanganui river being granted "legal human" status.<sup>201</sup> The emphasis on Māori co-governance on a range of fronts is promising in the strive to eradicate environmental racism and injustice in New Zealand.

New Zealand also has a fairly unique governance structure, where the Māori are guaranteed several parliamentary seats to ensure that their voices are consistently heard.<sup>202</sup> Government websites also tend to operate bilingually, publishing in English and the Māori language and often intertwining the two.

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<sup>198</sup> "Key initiatives" (last modified 23 June 2022) online: *justice.govt.nz* <[www.justice.govt.nz/justice-sector-policy/key-initiatives/](http://www.justice.govt.nz/justice-sector-policy/key-initiatives/)>.

<sup>199</sup> "National Action Plan Against Racism" online: *justice.govt.nz* <[www.justice.govt.nz/justice-sector-policy/key-initiatives/national-action-plan-against-racism/#heading1](http://www.justice.govt.nz/justice-sector-policy/key-initiatives/national-action-plan-against-racism/#heading1)>.

<sup>200</sup> "Co-governance: Tūhoe on what is and isn't working in Te Urewera" (10 April 2022), online: *1 News* <[www.1news.co.nz/2022/04/09/co-governance-tuhoe-on-what-is-and-isnt-working-in-te-urewera/](http://www.1news.co.nz/2022/04/09/co-governance-tuhoe-on-what-is-and-isnt-working-in-te-urewera/)>.

<sup>201</sup> *Ibid.*

<sup>202</sup> "New Zealand: Maori", *supra* note 193.

# PUBLIC AWARENESS OF ENVIRONMENTAL RACISM

When it comes to public awareness and access to knowledge on issues of environmental justice in New Zealand, the country does a good job on educating its population on the prevalence and importance of anti-racism as well as hosting space for Iwi leadership. Additionally, the New Zealand government and education ministries emphasize the "EfS" curriculum (Education for Sustainability), which place emphasis on learning to think and act in ways that cultivate the wellbeing of our people and our planet,<sup>203</sup> as well as the "key concepts". The key concepts associated with this part of the curriculum include sustainability, interdependence, connection, equity, and participation for change. Under the key concept of equity, the curriculum draws on the importance of environmental justice and the fact that climate change and climate related issues do not exist in isolation from other more broad societal issues such as racism.<sup>204</sup> It also deeply embeds and engages with the Māori way of learning across the curriculum.<sup>205</sup>

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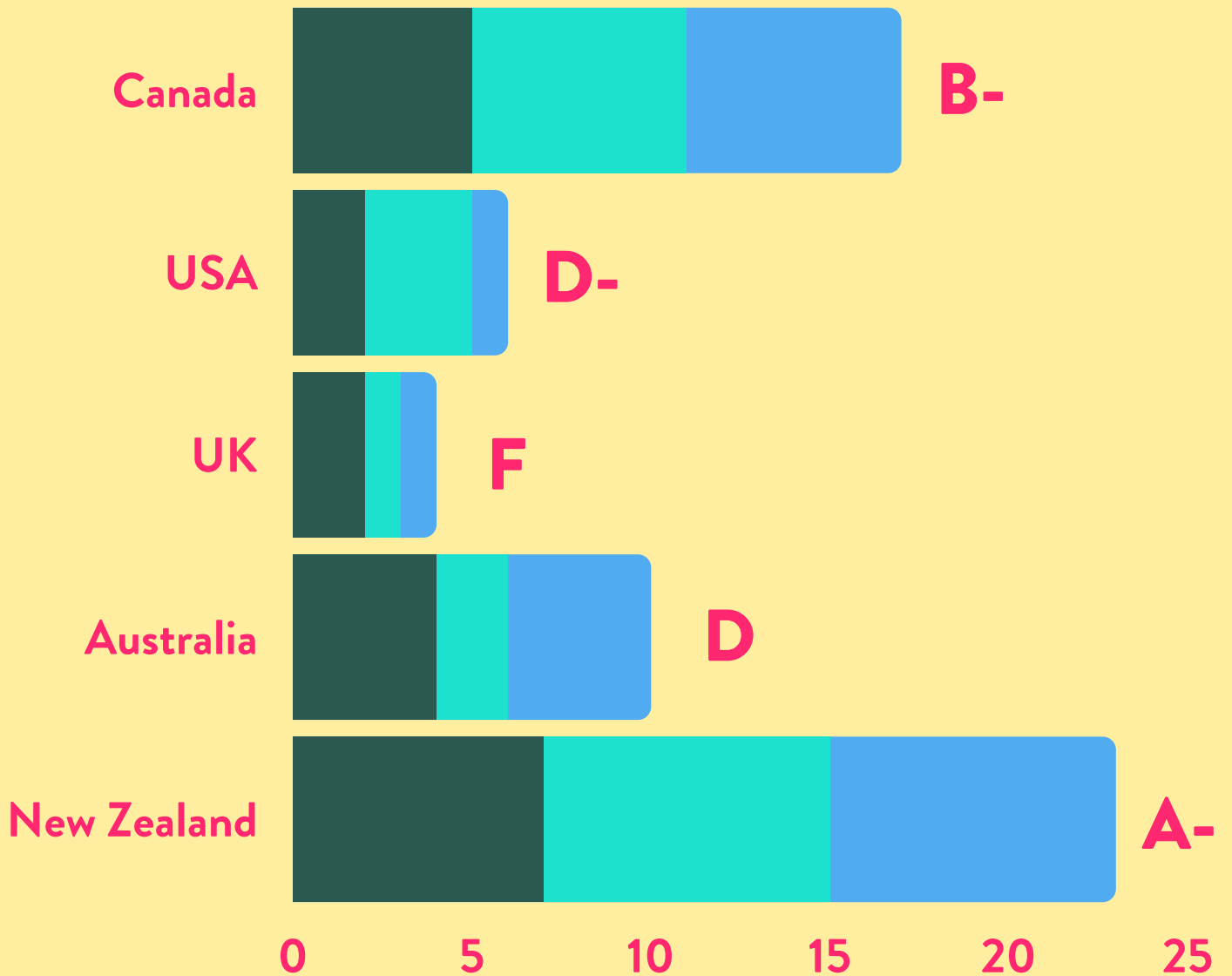
<sup>203</sup> "Education for Sustainability" (last modified 22 April 2022) online: *Ministry of Education: Te Tāhuhu o te Mātauranga* <nzcurriculum.tki.org.nz/Curriculum-resources/Education-for-sustainability/Why-EfS>.

<sup>204</sup> *Ibid.*

<sup>205</sup> *Ibid.*

# SCORE CARD

■ Prevalence ■ Government Action ■ Education & awareness



# NEXT STEPS

Although no country assessed was found to be perfect in their approach to addressing environmental racism, New Zealand and the United Kingdom were the best and worst performing nations respectively. Although Canada is close behind New Zealand, the UK, US, and Australia all performed poorly for several reasons. In broad terms, their ratings (as shown in Figure 1: Score Card) suffered due to:

- A lack of meaningful recognition of environmental racism as an issue;
- Very poor environmental conditions that disproportionately affect BIPOC communities;
- Prevalence of racist attitudes, institutions, policies, and practices in the population and the government; and,
- Poor public education on environmental issues and racism, notably on their interlinkages and overall connection to colonialism.

Both Canada and New Zealand performed relatively better due to their systemic attempts to include Indigenous voices in legislation, to codify environmental rights, and their recognition of racism, climate change, and environmental justice as important issues. Although their implementation is imperfect (especially in Canada), there is significantly better potential to engage deeply and radically with transformative environmental justice. The US does have laws specifically codifying approaches to address environmental racism, which is unique, but it does not appear to have meaningfully stopped inequities from being perpetuated.

Based on the above analysis, there are several steps governments can take to advance meaningful forms of environmental justice at the legislative and policy levels. The FCSS-FESC recommends that States:

1. Implement cumulative, culturally-relevant, trauma-informed, and distinctions-based impact assessments for all resource development, where affected communities can make submissions on impacts they judge to be relevant. Where cumulative impacts already exist, the project should not go forward until existing harms have been addressed;
2. Adopt free, prior, and informed *consent*, notably for Indigenous Nations, instead of systems of mere consultation;
3. Codify environmental rights, including the right to a healthy environment. This right should be legally binding upon the state as both a human right and an inherent right of the environment. More specific rights could also be implemented, such as France's right to breathe clean air;<sup>206</sup>
4. Implement educational action plans to embed education on the environment, racism, and their intersections across the core curriculum, particularly for secondary students;

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<sup>206</sup> Yann Aguila, "The Right to a Healthy Environment" (29 October 2021), online: *IUCN* <[www.iucn.org/news/world-commission-environmental-law/202110/right-a-healthy-environment](http://www.iucn.org/news/world-commission-environmental-law/202110/right-a-healthy-environment)>.

5. Acknowledge the State's role in perpetuating environmental racism and undertake a legislative review to begin dismantling systematically problematic structures, where it has not already been done;
6. establish accessible long-term funding programs to support social sector organizations that are working on the issue of environmental racism in their communities.

## CONCLUSION

As global awareness expands on issues of social and environmental injustice, there has been a cumulative push for people, governments, and institutions to make tangible efforts to ensure that disparities are kept at a minimum. It has been understood amongst most socially and environmentally progressive thinkers that issues of climate justice and environmental injustice are not isolated injustices, but symptoms of interlocking forms of oppression. A fundamental part in understanding environmental injustice and racism is being cognizant of colonial powers and impacts.



## FURTHER LEARNING

### THERE'S SOMETHING IN THE WATER

Based on Ingrid Waldron's incendiary book, this film, directed by Elliot Page, explores areas of Nova Scotia that are plagued by toxic fallout from industrial development.

### ENVIRONMENTAL RACISM: WHAT IS IT, AND WHAT CAN WE DO ABOUT IT?

The David Suzuki Foundation provides an explainer on environmental racism in Canada and resources to take action.

### SUS MONTREAL

Explore spatial data on sustainability and justice and see how they interact and correlate in a city in this interactive, customizable map of Montreal, Canada.

### JUST SUSTAINABILITIES: DEVELOPMENT IN AN UNEQUAL WORLD

Learn more about the foundations of environmental justice movements in the USA in this groundbreaking book by Julian Agyeman, Robert Bullard & Bob Evans. These authors are among the very first to recognize and explore the intersections of social and environmental issues and their implications for achieving justice.

### GLOBAL ENVIRONMENTAL JUSTICE OBSERVATORY : FILMS & VIDEOS

Watch short films and videos on select environmental justice issues across the world.

### POLITICAL ECOLOGY NETWORK

Watch and listen to films and podcasts from PEN's extensive selection to learn more about the intersections of politics, capitalism, and ecology. Each resource is labelled by topic and region.