PSGR

Physicians & Scientists for Global Responsibility

Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill

ORAL TRANSCRIPT: hearing of evidence (part II, 4 November 2021)

FACEBOOK LINK HERE -

ENVIRONMENT SELECT COMMITTEE MEMBERS IN ATTENDANCE:

Eugenie Sage, Rachel Booking, Anahila Kanongata'a-Suisuiki, Angie Warren-Clarke, Nicola Willis, Tangi Ukitere, Scott Simpson, Shanan Halbert

LINK TO PSGR SUBMISSION HERE at 26 minutes

Thank you for this opportunity to present to you on behalf of the PSGR. This legislation is important. However, our concern is that this shift will be potentially invalidated by the inability of the present regulatory culture to effectively contest industry claims. Our submission emphasises the importance – if we are to shift legislation to enable our EPA to apply data, information, assessments, and decisions from trusted regulators – the *importance* of pivoting to regulatory environments that are better than ours, - but also for funding an independent science enterprise that can balance industry claims.

Our greatest concern is that if New Zealand Environmental Protection Authority is to structure the future Methodology document, they will structure deliberation towards other Anglo nations with similar processes as New Zealand, and away from European Commission decisions. Let us explain this.

Elected members, we ask that you think carefully about how information flows, and how it impacts and informs both knowledge and policy. We focus on information because the priorities, policies, decisions of the state– are a product of information, or intelligence. The thickness or denseness of the information web around yourselves, around officials at the EPA informs your judgements. This is the intelligence that takes Aotearoa into the future.

For a very long time, the web of information that has surrounded our EPA– in relation to hazardous substances, is produced, selected and forwarded to them – by the industry that our EPA is charged with regulating. The entire policy environment of our EPA is structured around authorising chemicals based on industry supplied data. Frequently this data is secret and hidden by commercial in confidence agreements. When our EPA considers a cost-benefit scenario, it is based on the proposed economic cost or loss to the chemical user. Cost-benefit analyses are never based on escalating pollution in groundwater, freshwater or soil. Or lost business into the European Union because the chemical is banned there. We don't do that sort of science.

Regulatory capture works in different ways, by valorising science supplied by the industry being regulated, and by starving the public interest science that could properly inform the regulator.

Our science policy disincentivises the production of public good human and environmental science because this type of science only fits a small range of funding parameters. Scientists lack the freedom to undertake the long-term basic science to explore chemical mixtures in our soil, water and diets, in order to draw a picture of risk to our invertebrates, and vertebrates – including our children. We lack a strong science community that can discuss without professional or personal risk – the implications of chemical pollution in New Zealand. So - we don't see public interest scientists submitting to EPA proposals – just laypersons who lack the same authority. We're exporting $45 billion worth of agricultural product, but no scientist has secure funding to explore pesticides in the environment.

So - We have regulatory capture through the industry produced science our EPA considers – and the science that we are *not* producing that might help us contest or affirm the claims of the chemical industry. Science policy today - prioritises science that produces a product, or a good or a service – not knowledge of the upstream drivers of disease and biodiversity loss.

Let's be clear here, Chemicals are not broadly 'safe'. Of the 40,000 to 60,000 industrial chemicals in commerce globally. 6,000 of these chemicals account for more than 99 per cent of the total volume. 62% of the volume of chemicals produced are hazardous to health.

It is very clear that science that looks at the environmental effects of hazardous chemicals is 'uncomfortable knowledge'. This science explores how pollution happens, how agriculture, industry & even wastewater and biosolids releases, produce inhospitable environments that produce disease, infertility and damages intelligence from freshwater species – to human children.

We don't produce the sort of science that shows harm. In fact most Anglo nations are terrible at prioritising this form of science. Recently colonised states link economic benefit to science funding. Our science funding for innovation and technology dwarfs, absolutely dwarfs our miniscule commitment to environmental and human health. The Commissioner for the Environment has expressed dismay at the mess our environmental science is in. So - it's not just the PSGR who are aware of this problem.

So, we have these two problems that produce sustained ignorance – firstly, we have a regulator uses built in protocols to exclusively depend on industry data to make decisions, while secondly – we simply do not produce any science at a meaningful level to help guide – and challenge - policy. Our scientists are great – it's just that the funding channels are not. MP's, you try and get research funding to understand the human health effects of glyphosate. It's impossible. We now have generations of scientists who work within the system, their work is structured around ensuring they are approved for the next funding round. So - they don't want to produce uncomfortable science that might rub public-private partnerships the wrong way.

Scientists know that science showing pollution, or demonstrating the harms of pollution, is political. And in Aotearoa, the information webs surrounding Ministry officials, and our EPA officials – are much more tightly bound to the corporations that work hard to **not** be regulated.

Because of this under-regulation – because of pro-pollution policy, for a very long time New Zealand has been slipping. The ratio of chemicals that are banned in Europe – increase in our streams, soils and children, every year. Then we have other off-target effects, such as honey shipments being turned back because of glyphosate contamination, or the massive problem of herbicide resistant weeds in 50% of farms that 'crept up' on us. We lack dense webs of science that can produce a public good feedback loop back into our EPA.

This culture of ignorance - the status quo – enables the EPA to maintain a 'business as usual' approach. What that means – is that if there is any uncertainty, policy will shift in favour of non-regulation. Because the agency lacks the data – uncomfortable knowledge - to support regulation – it is captured.

The European Commission's regulatory environment is more water-tight than ours. the European Chemical Agency and the European Food Safety Authority (EFSA) have a stronger independent science voice around them, challenging them and taking them to court. The European Commission provides much greater funding for environmental science.

We can't afford any future Methodology to marginalise Europe because they deliberate differently.

Over the longer term the stronger the feedback loops between law, citizenry, science and ethics – the better the decision-making. Perhaps older cultures appear better at protecting the environment. Are they better at understanding that there is a limit to environmental pollution? – extraction? – and admitting that science can rarely precisely determine a tipping point? Because the tipping point – when a species goes into an unrecoverable tailspin – is never a black and white position. Younger cultures, the colonisers, engage science for business. For economic gain. They simply don't want to make a decision that might be seen to harm the 'economy'. Younger cultures – set aside the inconvenient truth that the economy is utterly dependent on the surrounding environment.

In New Zealand, we have defanged the precautionary principle. We stick it low down in legislation – we hide the instructions that render it toothless – in a Methodology document.

By comparison, in Europe, they put the precautionary principle at a high level in their legislation. It is overarching – it is powerful. I personally, cannot think of a principle we should engage at a high level, that is more consistent and supportive of the principles of the Treaty of Waitangi, than the precautionary principle. Why is the precautionary principle so important?

There will never be a scientist or scientific finding in the world – who can tell you when toxic exposures that result from human technologies - lead to catastrophic system failure in a biological organism. Even less – a juvenile organism. Yet right now, our legislation is simply not structured to help us navigate those – forever uncertain – choppy waters.

As part of the European precautionary approach, they recognise that we never know when we tip into cancer, or at what level an endocrine disruptor causes infertility. So they don't permit levels of these chemicals in the environment. They use a hazard-based approach. We adopt a risk-based approach. We get all the data from industry, then we do a cost-benefit analysis based on industry/exporter claims, and then say, it's not worth the risk of banning the substance.

There are economic implications from this manufactured ignorance. When does New Zealand's reputation pivot from that magical green island to just another commodity producer? Manufactured ignorance also - removes important signals back into our innovation and science system. We're not going to innovate like Europe is as long as we assume we can spray 5, 7, 10 times over the growing season. Their investment in soil science, machinery and technologies reflect this. All we can think about is genetics, while ignoring the inconvenient biological fact that environmental stressors play a much greater role in human and environmental health.

Australian, Canadian, U.S.A. and the WHO-FAO institution adopts the same basic framework as New Zealand. They prioritise industry data and they ignore the published literature. The WHO-FAO are institution is deeply problematic – lacking democratic accountability.

We've watched for decades, how the EPA shifts and shops and structures the most important parameters outside the scope of any consultation. It puts off regulating highly toxic pesticides. It uses farcical cost-benefit analyses that have no meaning, because they are supplied by the institutions intent on stopping regulation. Because – of course – we underfund and dismiss any 'controversial' science. Then our EPA wonders why submitters are so frustrated, and citizen trust is at record lows.

This is why – while we support the current initiative, we come with caveats. Our submission noted that other jurisdictions should be relied on to protectively tighten or ratchet regulations, rather than shopping around in race to the bottom jurisdictions. We remain concerned: If we apply decisions from a more protective jurisdiction – how will our EPA legitimise this – when it's entire knowledge pool, for decades, has been aligned and structured around industry data – and lacked local independent science input?

We also ask, how can our EPA take responsibility for producing arguably the most important document, the Methodology, when it's culture and decision-making frameworks have been so closely bound to industry for decades?

We are very concerned that if the EPA is responsible for producing the future Methodology, that decisions will be made that weaken, or downplay the potential for the EPA to prioritise European decisions.

We know that the European Commission, like our EPA, is vulnerable to industry lobbying. However, the policy structures appear tighter and more resilient than the Anglo-colonial nations appear to be. These policy structures produce feedback loops into agency cultures, which provide the guiding rails for the agency moving forward.

In finishing, there is no doubt that our EPA absolutely must turn to international decisions if they are to have any chance of protecting our water, our soil, our air and our health. No single country can assess and regulate all chemicals due to the torrent of hazardous chemicals emitted into the environment and into human bodies. Our chief concern remains that all the good being done by this potential Bill, will be undone, if nuances in the future Methodology document explicitly or implicitly downplay European decisions because Europe might be subtlety positioned to not operate 'in like manner'. Right now, if you look at how Europe structures their risk assessment, looks at mixtures, looks at formulation, considers persistence in the environment, they are undoubtedly best practice.

Due to the information and culture expressed in the EPA over the past two decades, we do not consider that the EPA should have oversight of the Methodology document

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