



How the human right to a healthy environment could advance environmental justice in Scotland

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Overview

- What environmental justice means
- What environmental injustice looks like in Scotland
- How a human right to a healthy environment could help
- Current developments, and ERCS' work



Environmental justice: US definition

Environmental justice is the fair treatment and meaningful involvement of all people **regardless of race, colour, national origin, or income** with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

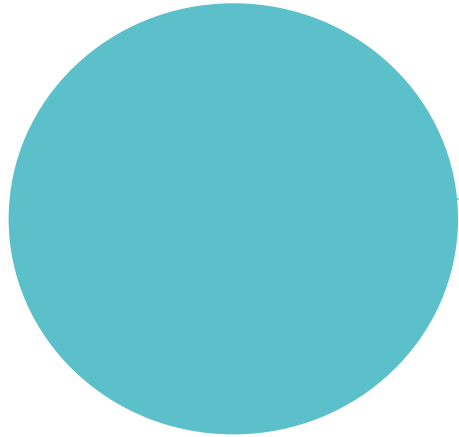
Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

Human Rights: Article 2 UDHR

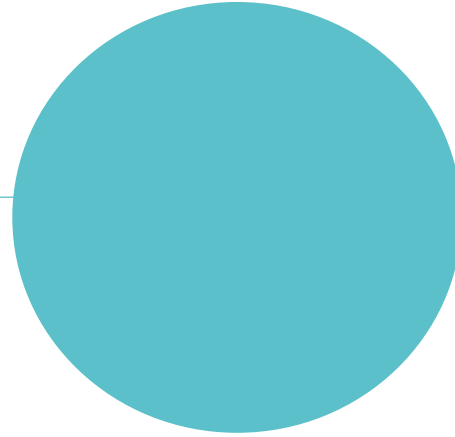
Everyone is entitled to all the rights and freedoms set forth in this Declaration, **without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.**

Environmental injustice happens when...

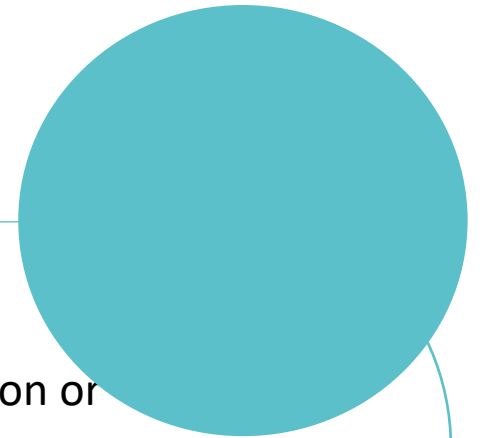
There is environmental damage that harms us all



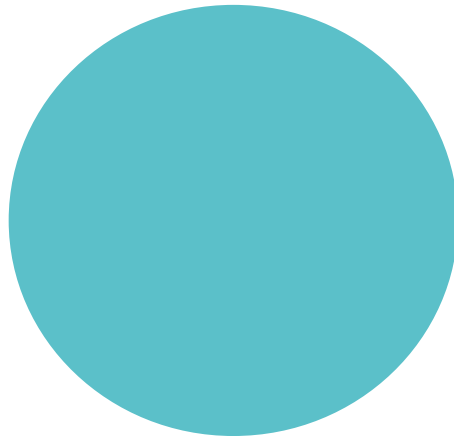
But with disproportionate impacts on marginalised groups and individuals, worsening inequality



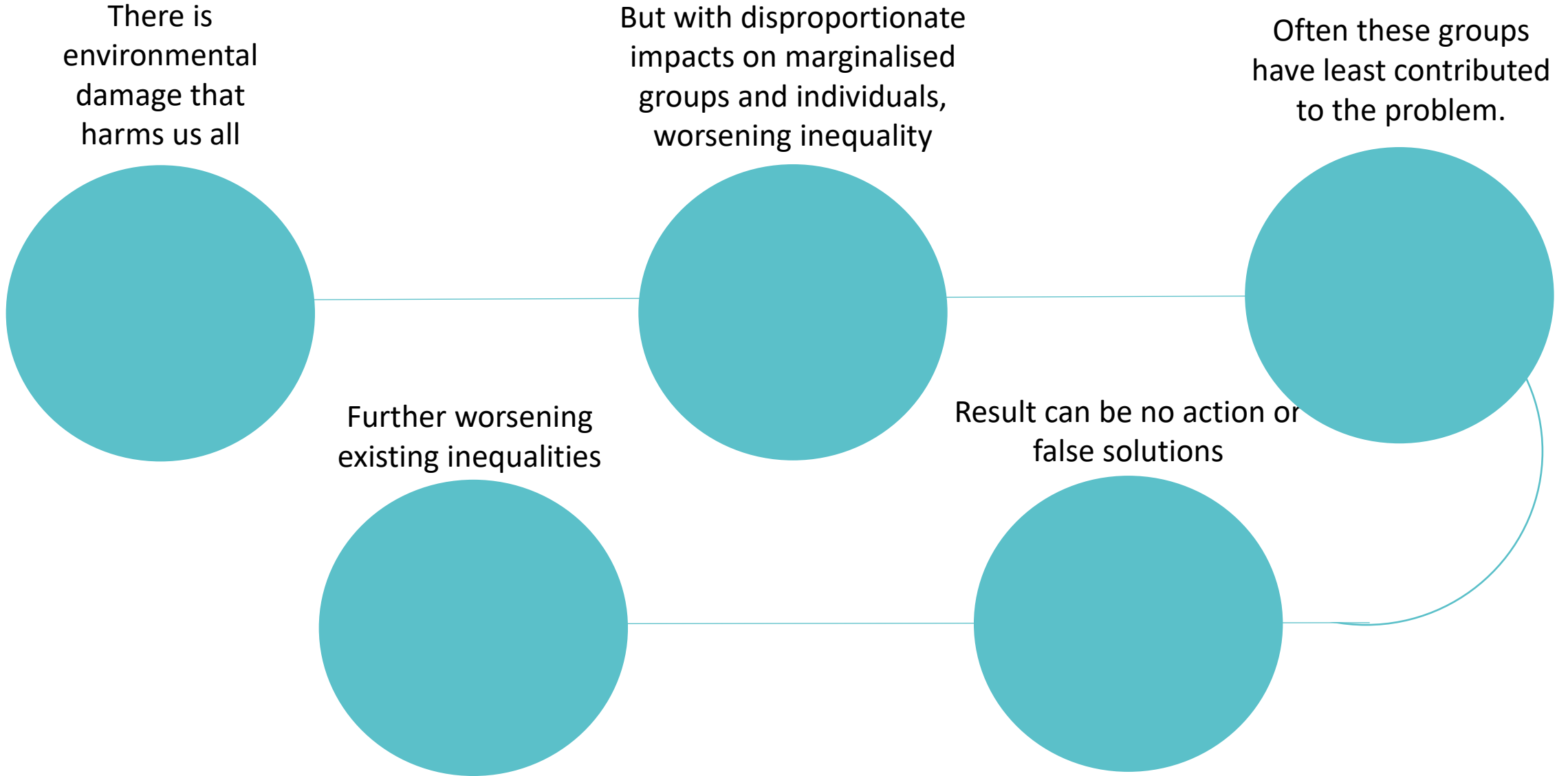
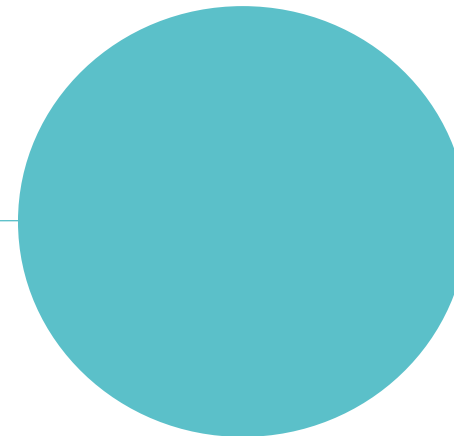
Often these groups have least contributed to the problem.



Further worsening existing inequalities



Result can be no action or false solutions



Example: air pollution

There is environmental damage that harms us all

Air pollution: shortens everyone's lives

But with disproportionate impacts on marginalised groups and individuals, worsening inequality

Unborn babies
Children
People with pre-existing health conditions

Often these groups have least contributed to the problem.

66% of people in most deprived areas don't have access to a car

Further worsening existing inequalities

Transport poverty
Worsened health
Forced car ownership

Result can be no action or false solutions

More lanes for more traffic
Underinvestment in walking, cycling, public transport

Advancing justice through rights

Empower citizens → accountability

→ Fairer & better outcomes

Why a legal human right to a healthy environment?

- Human Rights laws emerged in response to world wars
- Civil and political rights were top of mind, not the environment
- NOW '**Tipping Point**' - future of humanity is in jeopardy because of environmental destruction



The human right to a healthy environment

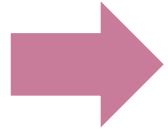


National Taskforce
for Human Rights
Leadership Report

‘Recommendation 2:

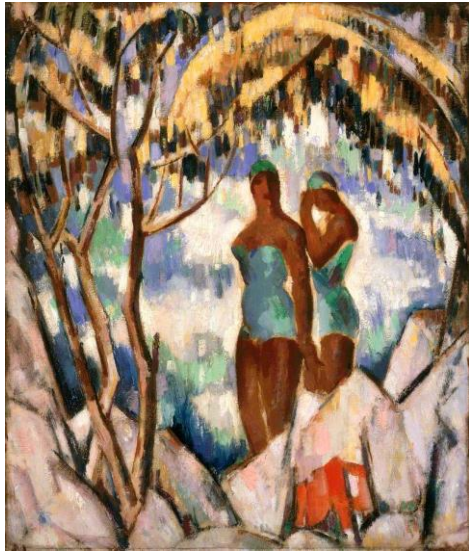
*Include the **right to a healthy environment with substantive and procedural elements in the statutory framework.**’*

Substantive



Not yet part of Scots law

= the **explicit** human right to a healthy environment



The UN Special Rapporteur: 'the right to clean air, safe climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study and play, and a healthy biodiversity and ecosystem.'

Both sides recommended by Taskforce

Procedural

Should be part of Scots law
Not being fully implemented

= **Processes** so we can influence environmental decisions



1. Access to information
2. Right to participate
3. Access to justice



Status quo

Can I **access** information and get involved?

Technically, yes – in practice, no

What is **basis** for my claim?

Complaint under Human Rights Act?

Only if I am suffering direct violation of other rights already protected

Can I afford review **proceedings**?

Only if I am willing and able to pay a big bill



Air pollution is breaking EU legal limits & a new motorway has been proposed in my area



ERCS' vision

Can I **access** information and get involved?

Support via ERCS' advice service



What is **basis** for my claim?

Complaint under new Human Rights (Scotland) Act?

My human right to a healthy environment means my right to clean air is not contingent on other rights



Can I afford review **proceedings**?

Yes!



To finish up

1. The human right to a healthy environment is one way to advance environmental justice: but it is by no means guaranteed. Contact your (new) MSPs, spread the word!
2. Help us to strengthen the law – we must push for:
 - a consultation for a Human Rights (Scotland) Act from autumn onwards
 - A low cost, accessible environmental court
3. Get advice relating to an environmental problem via our advice service – coming soon
4. Become a member or supporter of ERCS: <https://www.ercs.scot/support-us/>
5. Follow us on twitter: @ERCScot

Useful links

ERCS website: <https://www.ercs.scot/>

ERCS information sheet: Access to justice on the environment, and whether Scotland is providing it:

[https://www.ercs.scot/wp/wp-content/uploads/2020/08/Access to environmental justice Scotland general v2.pdf](https://www.ercs.scot/wp/wp-content/uploads/2020/08/Access_to_environmental_justice_Scotland_general_v2.pdf)

ERCS information sheet: Environmental information, and how to obtain it:

[https://www.ercs.scot/wp/wp-content/uploads/2020/08/Environmental information and how to obtain it v2.pdf](https://www.ercs.scot/wp/wp-content/uploads/2020/08/Environmental_information_and_how_to_obtain_it_v2.pdf)

Planning Democracy, Guide: 'Responding to a Planning Application' :

[https://www.planningdemocracy.org.uk/wp-content/uploads/2020/03/PD HOW-TO-RESPOND MAR20.pdf](https://www.planningdemocracy.org.uk/wp-content/uploads/2020/03/PD_HOW-TO-RESPOND_MAR20.pdf)

Planning Democracy, Guide, 'Judicial Reviews': <https://www.planningdemocracy.org.uk/get-help/screenshot-2020-05-02-at-13-56-07/>



Questions

- What are the environmental justice concerns for your communities?
- How can we support the delivery of the human right to a healthy environment in Scotland, and what can ERCS do to support us in this?