

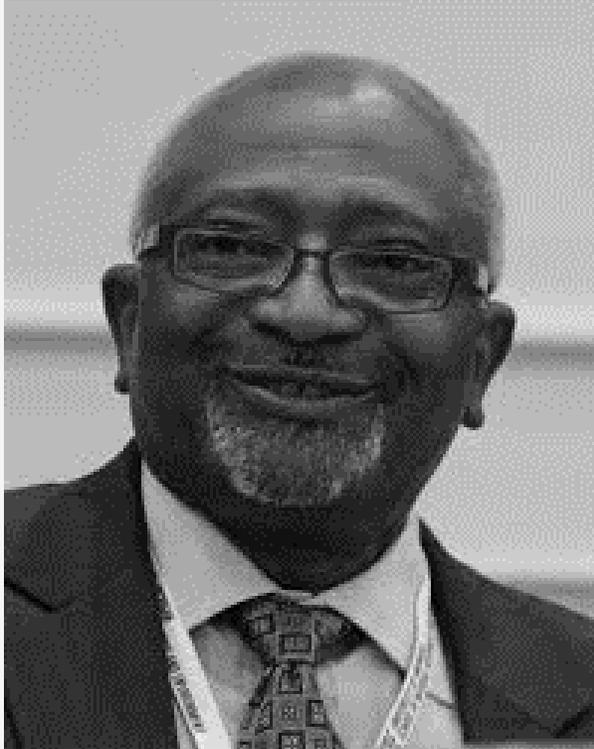
# *A TALE OF THREE CONTINENTS:*

*Environmental Justice in Australia, India and the UK*

Dr Simon Sneddon  
Faculty of Business and Law  
University of Northampton

[t @simonsneddon](https://twitter.com/simonsneddon)

# *What is Environmental Justice?*



Professor Robert Bullard



Professor Susan Cutter



Professor Rob White



# *Concept & Application*

Humans are both instigators of environmental damage and victims of a poor environment

Often the poorer areas of the city/country/world which suffer more because of (eg) rising sea levels, high pollution

Often the richer areas which benefit from the economic activity which causes the problems

States, local / regional governments / corporations need to recognise environmental (and associated social etc) impact of their activities in other areas

Recognition is a first step only

---

# *Example*

Kandi (Mossett) White / Eagle Woman

North Dakota (US) produces 6 times more energy than it consumes, so the pollution is felt unequally in the state.

“every single bit of North Dakota’s more than 11,000 miles of rivers, lakes, and streams is contaminated with mercury due to decades of coal extraction”



# *EJ in Australia*

Green, Sullivan and  
Nolan(2017)

“Aboriginal Australians are...  
disproportionately impacted by  
[mining] industries due to  
mining occurring on or near  
their lands, by the imbalance of  
power relationships, social and  
legal disadvantage, and  
poverty.”



# *EJ in India*

Garg et al (2011)

Delhi

Low income groups 64% higher risk of death and 68% higher risk of developing asthma from air pollution than those in high income groups.

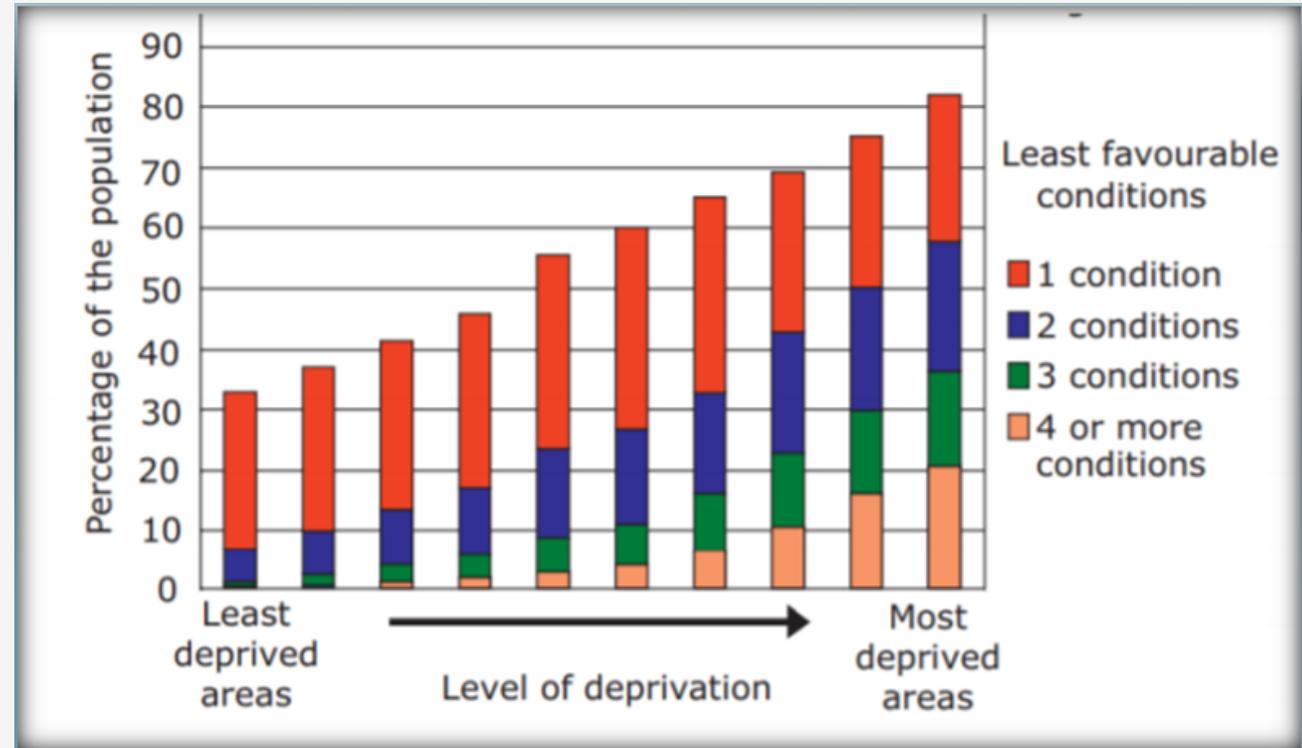


# *EJ in the UK*

Natural England (2019)

Clear link between deprivation and “least favourable” environmental conditions.

Those in more deprived areas three times more likely to suffer than those in least deprived areas.



*Universal  
Declaration  
of  
Human  
Rights  
Article 25(1)*

---

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”



# *UN Office of the High Commissioner for Human Rights*

---

“The environment is never specifically mentioned in the UDHR, yet if you deliberately dump toxic waste in someone's community or disproportionately exploit their natural resources without adequate consultation and compensation, clearly you are abusing their rights.

As our recognition of environmental degradation has grown so has our understanding that changes in the environment can have a significant impact on our ability to enjoy our human rights.

In no other area is it so clear that the actions of nations, communities, businesses and individuals can so dramatically affect the rights of others - damaging the environment can damage the rights of people, near and far, to a secure and healthy life”



# *Australia*

Pointon and Bell-James (2019):

“Australia remains one of only 15 countries without the right to a healthy environment enshrined in our federal laws or constitution.”

Key piece of legislation is the Environment Protection and Biodiversity Conservation Act 1999, which makes no mention of environmental rights in s3 (Objects of Act)

Australian Human Rights Commission points out that there are

“five explicit individual rights in the Constitution. These are the right to vote, protection against acquisition of property on unjust terms, the right to a trial by jury, freedom of religion and prohibition of discrimination on the basis of State of residency.”

---

# *India*

Virendra Gaur & Ors v State of Haryana (1994)

Supreme Court of India considered Article 21 (“No person shall be deprived of his life or personal liberty except according to procedure established by law”) and concluded that “Environmental ecological, air, water, pollution, etc. should be regarded as amounting to violation of Article 21.

Indian Bar Association (2013)

“It is true that Part III of the Constitution relating to Fundamental Rights does not specifically devote any Article to the Environment or protection thereof per se. However, with the development of law and pronouncement of judgments by the Supreme Court of India, Article 21 of the Constitution has been expanded to take within its ambit the right to a clean and decent environment” (p14).

---

# *UK*

Government must have regard to ECHR, via Human Rights Act 1998. No mention in either of "environment" "pollution" "nature" "air" or "water" and only mention "health" in the "health and morals" context, and always as a justification for limiting human rights.

No mention of a right to a clean or healthy environment in any of the environmental legislation, including the repeatedly-delayed Environment Bill.

European Court of Human Rights, concluded in *Guerra v Italy* (1998) that ""severe environmental pollution may affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely."

The UK confers no automatic right to a clean and healthy environment, but recourse remains to the ECtHR on a case-by-case basis.

---

# *Contrast*

<b>Australia</b>	<b>India</b>	<b>UK</b>
No constitutional entitlement, possible indirect	Constitutional right for 27 years However...	No constitutional right Possible recourse to ECHR on case-by- case basis

# *Closing thoughts*

---

Enshrining an actionable, rather than theoretical, right to a healthy environment for all citizens is the first step an individual state can take, to ensure that environmental injustices become a thing of the past.

Achieving national environmental justice would thus be an aspirational and admirable second step.

However, until global environmental injustice is tackled, these remain simply the first steps on a lengthy and difficult journey.



*THANK YOU FOR  
LISTENING*

Dr Simon Sneddon  
Faculty of Business and Law  
University of Northampton

[t @simonsneddon](mailto:s@simonsneddon)