

Shell to Sea Ireland

Submission to the United Nations
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EXECUTIVE SUMMARY

Shell to Sea is part of the campaign which opposes the building of an inland refinery and raw gas pipeline that comprise the Corrib Gas Project as is currently proposed in North West Mayo, Ireland. The campaign against the project has now been running for 11 years and in this time the human rights of the campaigners involved have been abused on many occasions. The project has the full backing of the Irish State which has seen private security, Gardaí (Irish Police Force), uncover police and the Irish Navy sent in at different times to deal with protests against the Corrib Project. Many campaigners have been assaulted by both Gardaí and private security, while intimidation and harassment of campaigners in the area is now commonplace. Campaigners have been routinely denied access to any justice both in the regulatory dealings with actual project and also in any attempt to redress the wrong-doings done to them. Campaigners have also been hauled up before courts on trumped up charges and in some case been dealt with extremely vindictively by the courts. Media campaigns against Shell to Sea and other campaigners have been vicious.

I. BACKGROUND AND FRAMEWORK

Shell to Sea is a national campaign with active groups based across Ireland. The Shell to Sea campaign has three main aims. 1) To have the Corrib gas field exploited in a safe way that will not expose the local community in Erris to unnecessary health, safety and environmental risks. 2) To renegotiate the terms of the Oil and Gas Giveaway. 3) To seek justice for the human rights abuses suffered by Shell to Sea campaigners due to their opposition to Shell's proposed inland refinery.

In April 2010, over 400 members of Kilcommon Parish, a small isolated parish in North West Mayo with an adult population of around 1200 people sent a letter to Shell offices in Belmullet, accusing Shell of causing "*ongoing and escalating harassment*". What has caused this "harassment" is basically the Corrib Gas Partners (Shell, Statoil and Vermilion) supported by all agencies of the Irish State continue to try to force through their plan to process the gas from the Corrib Gas field at Ballinaboy in the heart of Kilcommon Parish.

II. An Garda Síochána (Irish Police Force)

The Gardaí have been the group which has caused the largest amount of human rights abuses in relation to the Corrib Gas protest. Some of the Garda violence can be seen in this YouTube clip: http://www.youtube.com/watch?v=UZ4_TZQTj3Y

In 2009 at a conference on Police Governance and Accountability, Professor Dermot Walsh stated that An Garda Síochána were "one of the most secretive police forces in the Western world". One of the reasons which Prof. Walsh gave for stating this was that the Gardaí refuse to publish its policies in relation to operational policing, the

policies that direct how Gardaí police the country. Therefore we can only say what our experience has been in how the Gardaí have dealt with the Corrib Protests.

2006 & 2007

The Superintendent in charge of Belmullet Garda station during this time period was Supt. Joe Gannon. In the November 2006 issue of the Garda Review, Supt. Gannon stated what his policy was *“There were no arrests. That was part of our strategy: we did not want to facilitate anyone down there with a route to martyrdom. That has been the policy ever since.”*

Supt Gannon’s time in charge of policing the protests were characterised by extreme violence by both him personally and the many Gardaí that were drafted into the area. Since there was a policy of no arrest, the way that the protests on the roads were controlled was by brute force. In countless incidents people were pushed off the road, thrown in ditches and punched, kicked, kneed, choked, pulled or pushed. One human rights report from a fact finding visit into the situation at this time was the Global Community Monitor Report: <http://www.gcmonitor.org/article.php?id=598>

In relation to 2006 & 2007 at Ballinaboy, the report by Frontline [1] states *“But on a number of occasions there was scuffling between Gardaí and protestors. Disturbingly, on a number of occasions there is footage from protestors and a documentary maker of Gardaí throwing several protestors off the road and down into ditches. Much of this footage dates from 10 November 2006. It is assumed that the protestors were trying to block the road, but the manner in which they were treated appears disproportionate. It was outside my remit to investigate these events, but they are nonetheless a matter of real concern. The danger with not arresting people is that, instead, force may be unnecessarily used, particularly as frustration builds among Garda officers. Some of the footage supplied supports the view that this is what in fact happened.”*

2008

In 2008, the site of the protests against Corrib switched from the refinery site in Bellanaboy to Glengad, the site at which the offshore section of the raw gas pipeline hits land. During this period the Superintendent in charge of Belmullet Garda Station was Supt. John Gilligan and despite some notable exceptions, this period saw a lessening of the violence that was used by Gardaí to police the protests. However it also saw the introduction of a private security force IRMS to the area, and in many situations the Gardaí left the policing of the protests to these private security personnel. In 2008, Shell attempted to lay the offshore pipeline using the large pipe-laying ship, the Solitaire.

The no arrest policy changed and over the summer 2008 there was at least 43 arrests at the Glengad landfall site. All arrestees were subsequently released without charge.

2009

As Shell failed to lay the offshore pipeline in 2008, they attempted again in 2009. The protests in 2009 were policed from Belmullet Garda Station by Supt Michael Larkin and Inspector Joe Doherty. In June 09, Supt. Larkin was quoted as seeing the conflict over Corrib *“as a battle for democracy”* and this zeal for battle was illustrated in some of the handling of protestors [2]. In the Frontline report it is stated that Supt. Larkin made *“clearly misleading”* statements to the media, with regard to the assault

of a protestor, Willie Corduff by security personnel, which sought to lessen the image of the severity of the assault involved.

In 2009, the Garda policy of dealing with protestors changed once again, this time with a considerable number of protestors being arrested and prosecuted.

The 9 protestors arrested on 28th June 09

One case that deserves highlighting is the case of 9 protestors who were arrested on 28th June 2009. Five of the protestors were arrested for a lock-on (lying on the road with their arms in concrete tubing) while one protestor was arrested for climbing a tripod structure blocking a road. The other 3 protestors were arrested for being on a road. After being arrested on the public road, a number of the protestors were then driven into the nearby Shell compound where the Gardaí had established their local base, and held for up to 2 hours there. The protestors were then brought to Ballina Garda Station for processing. All nine protestors were held overnight and brought before Judge Mary Devins at Ballina District Court at 5:30pm the following day. In total the first person arrested would have been in custody for 27 hours at this stage.

Despite none of the 9 having previous convictions and all the charges were either Section 6, 8 or 9 of the Public Order Act, 7 out of the 9 were refused bail and remanded in custody. The prosecuting Gardaí opposed bail stating that the protestors were likely to re-offend (it is believed that this cannot be used as a reason for refusing bail for Public Order issues), and due to fact that that some of the protesters had overseas addresses. Judge Devins denied or deferred decisions on activists' legal aid, although it was evident that some of the protesters were not able to afford legal representation. Judge Devins said, "Legal aid can no longer be dished out like Smarties." When one of the protestors attempted to articulate the legal presumption of innocence until proven guilty, Judge Devin's reply was "Did you take up a law degree?" The seven who were remanded in custody appealed their incarceration to the high court and ended up being released from jail after 4 or 5 days. On releasing the 3 male prisoners involved from Castlerea Prison, Judge Geoffrey Browne stated that the '*Objection to bail was a pure waste of time and money*'.

All of the 9 were barred from County Mayo as a bail condition (except for the numerous times their case was called up for mention in court) until the cases ended 9 months later.

Eventually the cases of the 9 were withdrawn or dismissed by Judge Gerard Haughton on the 25th March 2010, because the 9 had been unlawfully detained following their arrest and they were not brought to court 'as soon as practicable', amounting to a '*conscious and deliberate violation of their constitutional rights*'. Despite their rights being vindicated eventually, this case illustrated the extremely repressive attitude that both the Gardaí and the Courts have taken in dealing with Corrib protestors.

The Table Observers' Report No. 2 deals with a week of special sittings of Belmullet District court including the case above of the 9 protestors. In all 27 campaigners were up in court that week and the charges were either withdrawn or dismissed for all but 2 of the people[3].

The case of Pat & Jonathan O Donnell at sea in 2008 & 2009

Some of the issues around fisherman Pat O Donnell's dealings with the Solitaire (Shell's pipe-laying ship) and the Gardaí on the sea in 2008 has been dealt with

recently in the film “The Pipe”[4]. Basically the issues involved in this, are the conflicting rights between the traditional fishing rights in Broadhaven Bay and the rights of Shell to lay their offshore pipeline through Broadhaven Bay. Pat O'Donnell and his son Jonathan had crab pots in Broadhaven Bay and refused to move them despite the Solitaire's wish to lay their pipeline through the area where the O'Donnell's crab-pots lay. In the Frontline report they state “there is at least real doubt as to the entitlement of Shell to move or damage Mr O'Donnell's crab pots”.

Despite this doubt, what resulted was the Garda Water Unit arresting Pat and his son Jonathan on 4 occasions in their boats in both 2008 and 2009 as the Solitaire was entering Broadhaven Bay.

1. 9th September 2008 - Pat & Jonathan O'Donnell arrested, held for 5 to 6 hours and released without charge
2. 10th September 2008 - Pat & Jonathan O'Donnell arrested and again released without charge some hours later.
3. 25th June 2009 – Pat O'Donnell arrested but was injured and so brought to Castlebar Hospital. His boat, the “*John Michelle*” was impounded by Gardaí. Gardaí contacted the Naval Service to carry out an inspection of Pat O'Donnell's boat. The Naval Service then wrote to the Dept of Transport asking it to carry out a survey of the boat. An Inspector for the Dept of Transport found that the boat was unseaworthy. No other boat was surveyed by the Dept of Transport at the same time and only one other boat was surveyed in Broadhaven Bay that summer.
4. 25th June 2009 – Jonathan O'Donnell arrested and remanded in custody by Judge Mary Devins. A habeas corpus case was brought and Jonathan was released from jail on the condition that he stayed out of Broadhaven Bay. On the 7th December 2009 after several court appearances in the meantime, the case against Jonathan O'Donnell was dropped.

After seeing video evidence of the arrest of Jonathan O'Donnell, human rights lecturer Vicky Conway wrote

*“Gardaí boarded his boat and politely asked him to remove his pots and vacate the area. While they were polite, he was entitled to be there and there is no clear authority for this request. When he refused the police stated that they were arresting him. O'Donnell asked why and was told that he was a danger to other boats in the area. In what way he was a danger was unclear, particularly as the only boat in the visible vicinity was the Garda boat. Eventually Jonathan had to drop his gear, with a value of several thousand Euro, and submitted to arrest. The Solitaire was now free to lay the pipes. **It's hard not to feel that this was an instance in which the Gardaí were exercising their coercive power without authority. It was as if their job was to ensure that the pipes got laid, Jonathan was in the way, and if an arrest in this manner did not later lead to a conviction that was irrelevant: the pipes would be laid.**”[5]*

2010

2010 saw another new Superintendent in charge of Belmullet Garda Station, this time Supt. Patrick Diskin. During this period there was a more low-key approach to policing the protest however with selected incidents of extreme violence against certain campaigners.

Eoin Lawless - *“I had told Gardaí that I would leave the area but I was dragged from the water and they proceeded to kneel on my back. I was not informed whether I was under arrest or why I was being manhandled. One Garda then pinched my throat with his two fingers and cut off my air supply. He was obviously trained in how to do it. He held me like that for about 90 seconds, allowing me to take one or two gasps. He kept saying into my ear that he had my last breath in his hands.”*

II. Gardaí Síochana Ombudsman Commission (GSOC)

In 2007, the GSOC sought to do a “policies and practices” investigation into public order aspects of the Corrib protests. However permission to do this investigation was rejected by the Minister for Justice Brian Lenihan. As the FrontLine reports states this creates “the impression that the State does not want the Garda Síochana held properly to account over the policing of the Corrib dispute”.

In November 2009, GSOC stated that they had received 111 complaints to their office from when GSOC opened in May 2007, which were the most complaints from any one situation. However none of these complaints have resulted in any repercussions for the police officers involved. GSOC sent seven of these complaints to the Director of Public Prosecutions (DPP) for prosecution, however in each case the DPP refused to take any action. GSOC in turn then sent one of these rejected cases involving Superintendent Joe Gannon to the Garda Commissioner recommending some punishment. However the Garda Commissioner chose to take no action, and Supt. Gannon remains in charge of the Dublin city centre station.

III. Media

The media dealing with the campaign and campaigners has overall been highly hostile to the campaign and at times bordered on incitement to hatred. Some of this stems from the fact that a large part of Irish print media is owned by Tony O Reilly who also has oil and gas interests off the Irish coast through Providence Resources.

In 2007, Kevin Myers one of the columnists in Tony O Reilly’s papers wrote *“I hate to criticise a multinational, because generally speaking I am a great fan of multinationals (they being the basis of our present prosperity) but I have to say that Shell has been scandalously remiss in not employing someone to bump off a few of these fellows.”*

And one of Kevin Myers articles on which he urged Gardaí to baton the protestors hung in Belmullet Garda Station during Supt. Joe Gannon’s time there.

The State broadcaster RTE has also been hostile to the campaign.

APPENDIX

[1] Front Line Human Rights Defenders – “Breakdown of Trust: a Report on the Corrib Gas Dispute http://www.frontlinedefenders.org/files/en/corrib_gas_report.pdf

[2] Second summer of conflict looms as ship returns to lay final pipes <http://www.irishexaminer.com/ireland/second-summer-of-conflict-looms-as-ship-returns-to-lay-final-pipes-94559.html>

[3] Human Rights report from the Table Monitoring Group <http://www.shelltosea.com/content/human-rights-report-table-monitoring-group>

[4] The Pipe - <http://www.thepipethefilm.com>

[5] Policing in Ireland by Dr. Vicky Conway <http://www.humanrights.ie/index.php/2010/12/02/blog-carnival-policing-in-ireland>