

BREAKDOWN IN TRUST: A REPORT ON THE CORRIB GAS DISPUTE

**BRIAN BARRINGTON BL
FOR FRONT LINE**

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PREFACE

Front Line decided to commission a report on issues related to the right to defend human rights in the context of the Corrib gas dispute following several requests from protesters and others over a number of years. In 2006 Front Line sent a small delegation of human rights observers to monitor protests in North Mayo. As the number of reported incidents and requests to look into the situation increased during 2007 and 2008 it became clear that it was not possible to respond on an ad hoc basis and that the best approach would be to commission an independent review that could look into the matters in a thorough and objective manner.

Front Line was founded in Dublin in 2001 with the specific aim of protecting human rights defenders at risk, people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights (UDHR). Our work is primarily focused on countries around the world where repressive Governments threaten, denigrate, arrest, torture and sometimes kill human rights defenders because of their work. However, it is important that the right to defend human rights as set out in the United Nations Declaration on Human Rights Defenders adopted by consensus in 1998 is respected universally.

Front Line has taken up cases in a number of Western countries and in 2004 produced a report on the situation of human rights defenders in the USA. As an international organisation based in Ireland, which has worked closely with the Irish Government on the international protection of human rights defenders, with generous support from Irish Aid, we have a particular obligation to look carefully at any allegations that the right to defend human rights was not being fully respected in Ireland. Given its firm commitment to the promotion and protection of human rights internationally Ireland must itself be fully compliant with all relevant international standards.

When we decided to commission a piece of independent research we were most fortunate to be able to obtain the services of Brian Barrington BL who has extensive and relevant experience related to policing and human rights in the context of his work in Northern Ireland. The purpose of the research was to examine whether those engaged in protests can be considered to be human rights defenders and to ascertain whether there are any legitimate human rights concerns as regards the policing of the dispute. Front Line does not take any position on the safety of the proposed Corrib gas pipeline, or whether it should proceed through Rossport or along any other route. Our exclusive aim is to ensure that the right to defend human rights is upheld in Ireland in accordance with the United Nations Declaration on Human Rights Defenders.

The report is based on interviews and meetings with protesters, An Garda Síochána, IRMS, Shell, local observers, local residents in favour of and against the project, journalists and commentators, and a former Garda who was a human rights observer. A number of Freedom of Information requests were also made. Extensive legal and other research was also undertaken. We would like to thank all those who met with us and who provided us with information.

The report concludes that there is a situation of human rights' defence to which the UN Declaration on Human Rights Defenders is applicable. The report highlights a number of concerns in relation to the policing of the protests in the Rossport area and the conduct of private security agents. In particular, the report identifies concerns regarding:

- the failure to permit the Garda Síochána Ombudsman Commission (GSOC) to undertake an investigation into certain policies and practices of the Garda Síochána regarding the Corrib gas dispute. The fact that the Minister for Justice can – and did – veto such an investigation is a major weakness in the system;

- the vetting of private security personnel;
- the police response to the assault on Willie Corduff on 22/23 April 2009;
- the overall pattern of failure to take issues raised by protesters and residents seriously – even when they have the law on their side.

The report also notes that Garda personnel have at times faced great hostility and have been placed in a very difficult position with regard to trying to ensure the rule of law, both in terms of the right to peaceful protest and in terms of the rights of workers and companies to proceed about their lawful business. It is clear that there has been a breakdown in trust between the police and some members of the local community. It is inevitable in such circumstances that the police will be extremely sensitive to any allegations against them, but this is precisely why it is so important that there is an investigation of Garda policies and practices by the GSOC.

Front Line urges all concerned parties to review carefully the recommendations contained in this report and hopes that they can provide a basis for a strengthened protection of the right to peaceful protest and the defence of human rights in the context of the Corrib gas dispute.

Mary Lawlor
Executive Director
Front Line

I. EXECUTIVE SUMMARY

(a) Background

This report was commissioned by Front Line into the Corrib gas dispute. Front Line is a non-governmental organisation that seeks to protect human rights defenders.

This report's purpose is to examine whether those engaged in protests against the Corrib gas development being undertaken by Shell can be considered to be human rights defenders and also to consider any related human rights issues in respect of the Corrib gas dispute, particularly with regard to the right to defend human rights as reflected in the UN Declaration on Human Rights Defenders.

Human rights defenders are recognised in the UN Declaration on Human Rights Defenders. To be a human rights defender a person can act to address any human right on behalf of individuals or groups. It is not necessary for a person to be correct in his or her arguments in order to be a human rights defender. But actions taken must be peaceful.

The primary focus of this report was to examine events in 2008 and 2009. Issues in the dispute prior to that date are also examined, but in less detail.

This report is not – and does not claim to be – a full investigation of all incidents that occurred in the dispute. In many cases the purpose was to record allegations of human rights abuses. In some cases it was possible to draw conclusions. The report also makes recommendations for the future.

Four separate visits were made to North Mayo in 2008 and 2009 and meetings were held with all the major parties involved in the dispute, as well as uninvolved third parties familiar with it. The author is very grateful for the time that those interviewed gave to him.

(b) Corrib gas – issues and history

Gas was found off North Mayo in 1996 by Enterprise Oil and a consortium of oil companies was established to develop the gas field called Enterprise Energy Ireland (EEI) including Saga Oil and Statoil. Shell subsequently became the major stakeholder in the development when it took over Enterprise Oil in 2002, but other oil companies have been involved – now being Statoil Hydro and Vermilion Energy.

Successive governments have been keen to bring the gas onshore and develop the gas field. But the regulatory framework is a complicated one, with licences, permissions or authorisations required under a number of different Acts.

While details and routes have varied, EEI – and now Shell – have planned a pipeline coming onshore at Glengad, then crossing under Sruwaddacon Bay to Rosspport and then journeying some 9 kilometres overland to a refinery at Bellanaboy.

The development is controversial for a number of reasons. The planned pipeline is a high pressure one. It also carries raw gas, which is more volatile. Some residents argue that it goes too near to their houses – and fear the effects of an explosion. The refinery is located in – and the pipeline passes through – ecologically sensitive areas.

Shell to Sea, the original group representing locals opposed to the project, has another concern – that the terms upon which the State has granted rights to oil companies were too generous. But this issue has not been considered in this report.

Shell to Sea wants the gas refined at sea on a shallow water platform. In 2008, a new group was formed, Pobal Chill Chomáin. It states that it represents most locals opposed to the development. It proposed the alternative of building the refinery elsewhere – such as at Glinsk, a remote area in Mayo – with the pipeline coming onshore by a different route. Shell has rejected this proposal. The refinery at Bellanaboy has now been substantially built.

In order to pass over the lands at Rosspport, either the consent of landowners had to be sought or compulsory purchase orders had to be made in favour of EEI. Most landowners consented but six did not.

In 2004 planning permission was granted by an Bord Pleanála for the refinery at the Bellanaboy site, but the decision was a controversial one. Previously, a planning

inspector had advised that the proposed development defied “any rational understanding of the term ‘sustainability.’”

Some Rosspoint residents defied a court order by preventing Shell agents entering lands over which the planned pipeline was to run. As a result, they were imprisoned for 94 days. The men concerned became known as the Rosspoint 5. They were released on 30 September 2005, by which stage their campaign against Shell’s plans had become an international news story.

In response to concerns about safety, the then Minister for Communications, Marine and Natural Resources, Noel Dempsey TD, commissioned an “independent review” of safety. What the Minister did not know at the time was that the firm commissioned by his Department to carry out the review, British Pipeline Agency (BPA), was 50% owned by Shell. BPA never mentioned this to the Department, even though they knew that the Minister wanted the review to be independent. Nor did Shell mention this to the Department, even though they admitted that they had known that BPA had been appointed over a fortnight before the Minister published BPA’s report on 24 May 2005. It was only the day after publication, when the media raised this issue with the Department, that the Minister became aware of the conflict. This debacle hardened the belief of protesters that Shell could not be trusted.

Separately, protesters were also concerned that Shell had gone ahead with some works at Bellanaboy without authorisation in the summer of 2005. The Minister agreed and wrote to Shell stating that he was “very concerned” about their “failure to fully appreciate [their] legal and regulatory obligations.”

Meanwhile, new consultants, Advantica, were appointed by the Minister. Advantica’s report was published on 3 May 2006. It found that proper consideration had been given by Shell to safety issues. But it expressed some concerns and made a number of recommendations. Most important was the recommendation that the maximum pressure for the onshore pipeline be more than halved from 345 bar to 144 bar. Shell accepted this recommendation and reworked its plans for the pipeline. Their new plans for the pipeline also involved a minimum distance of 140 m from houses, rather than the original 70 m.

Protesters, however, were not satisfied with the Advantica report as it had not been within its remit to consider whether processing should be offshore. Nor was it able to consider alternative routes for the pipeline or an alternative site for the refinery.

In the years that have followed there have been further controversies on regulatory issues. For example,

- levels of aluminium in discharge water from the Bellanaboy plant regularly exceeded those permitted by very large margins. However, drinking water was never affected;
- a slip road was built without planning permission at Glengad;
- the Minister for the Environment stated that some drilling carried out by Shell consultants in a Special Area of Conservation in October 2007 was unauthorised.

These issues should, in fairness, be considered in the context of what is a very large development project. But they have done nothing to reassure protesters.

More significantly, on 2 November 2009 an Bord Pleanála stated:

“The design documentation for the pipeline and the quantified risk analysis (QRA) provided with the application does not present a complete, transparent and adequate demonstration that the pipeline does not pose an unacceptable risk to the public.”

In particular, it found that part of the route – between Glengad and Aghoose – was unacceptable because houses were within the hazard range should failure occur. It also found that there would be an unacceptable impact on the local community at Rosspoint both during the construction and operational phases.

The Bord did not, however, reject the planning application. Indeed, it stated that it was provisionally of the view that it would be appropriate to approve the pipeline should alterations be made. Specifically, the Bord stated that the pipeline should take an alternative route within Sruwaddacon Bay. It also required further information on 14 separate issues.

(c) The right to defend human rights

In order to qualify as a human rights defender, human rights must be engaged. It is clear that human rights are engaged in the Corrib gas dispute, including the rights to life and health.

It is difficult, however, to identify *individual* human rights defenders in the Corrib gas dispute – since the situation is more one of a community of protesters without clear leadership structures. But the situation can be characterised as one where groups of individuals are clearly seeking to defend human rights and where the rights set out in the UN Declaration on Human Rights Defenders are applicable. This issue therefore comes within the remit of organisations like Front Line that concern themselves with the Declaration.

In view of the real questions raised as to the safety of the pipeline, and in view of the recent findings of an Bord Pleanála that its safety had not been demonstrated, the concerns of protesters cannot be disregarded as so irrational that human rights ought to be deemed not to be engaged. Whether or not the protesters are actually correct in the human rights that they are asserting is not relevant under the UN Declaration on Human Rights Defenders. Also, the fact that there are many in the community who support Shell's current plans does not mean that protesters cannot be human rights defenders.

What is key is that a special effort be made. This requirement appears satisfied. Protesters do not appear to be motivated merely by protection of their own economic interests.

There have been acts of criminal damage against Shell property. Some protesters have been convicted of assault. There is also footage showing verbal abuse of police officers by some protesters. This however does not characterise the overall situation.

There have been other allegations of intimidation also. Some – but not all – of what people call intimidation simply involves people no longer talking to each other.

Of course, those proved to be involved in violent or intimidatory behaviour cannot be regarded as human rights defenders – and there is no human rights objection to proportionate sanctions being applied against them in accordance with law.

There have been allegations of republican direction of protests in Mayo. This author has not found evidence of this. However, the occasional presence on some days of protest of persons with paramilitary backgrounds is relevant to assessing how those protests are policed.

(d) The policing of the dispute – and issues around security guards

Following the imprisonment of the Rossport 5, protesters prevented works being carried out at Bellanaboy by blocking access to the Shell site – and deciding who could and could not enter. However, on 3 October 2006 Gardai cleared the entrance to the site so that workers could get access. Access has been ensured ever since, despite attempts by protesters to prevent this.

Footage supplied by protesters in the period from **3 October 2006 through to 2007** for the most part shows both peaceful protests and a reasonably well organised Garda operation.

But on a number of occasions there was scuffling between protesters and Gardai. Disturbingly, on a number of occasions there is footage from protesters and a documentary maker of Gardai throwing several protesters off the road and down into ditches. Much of this footage dates from 10 November 2006. It is assumed that the protesters were trying to block the road, but the manner in which they were treated appears disproportionate.

During this period there were few arrests. The then Superintendent stated that this was part of Garda strategy and that they did not “want to facilitate anybody down the route to martyrdom.” It is understandable in the wake of the imprisonment of the Rossport 5 that the Gardai did not wish to see people imprisoned for fear that this would escalate the conflict. But that does not mean that people should not be arrested. Further, 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.

Another major dispute occurred at Pollathomas pier on **11 June 2007** when the Garda Síochána assisted Shell agents in transporting a digger and portacabin down a lane and to a pier.

However, a local resident was emphatic that he owned the lane and that Shell had no authority to go across it. Protesters gathered in support of him. The incident at the pier might have been avoided had the Gardaí addressed the issue of ownership of the lane with protesters, but they did not. Further, the Garda in charge refused to speak to the resident's solicitor. Some other aspects of the Garda operation on the day appeared poorly conducted.

The issue of the entitlement of Shell agents to carry out certain works at Glengad also gave rise to protests on **22 July 2008** which saw 13 people arrested. The protesters asked to see the statutory consents that Shell had to have for works to be carried out. The Garda in charge got Shell agreement to stop work for a few hours so that the protesters could verify whether consent had been obtained, but protesters wanted the works stopped for the day. That being so, the Gardaí warned that they would arrest protesters, and subsequently did so in a proportionate way. However, the matter might have been resolved had Shell been asked simply to produce the consents, which they ought to have had. The protest might also have been averted – or less serious – had the relevant Department posted the consent on its website beforehand, as was their standard practice. But it had not done so.

Protesters have also raised issues regarding **IRMS**, the security company that started working for Shell at Glengad in April 2008.

Many raised concerns regarding surveillance by IRMS. In particular, this was raised by Colm Henry, a Glengad resident who has claimed that his house was under constant surveillance in 2008. He also claimed that footage of him with his grand children was taken while walking on the beach at Glengad. The local parish priest, Father Michael Nallen, has also complained publicly of surveillance.

Shell policy is that footage only be recorded if it is believed that criminal acts are taking place or are about to take place. But Mr Henry's allegation cannot be lightly dismissed given that the editor of the *Mayo Echo* has claimed to have seen IRMS staff record a swimmer bathing on a separate occasion. That swimmer was a well known protester, but it is hard to see what legitimate purpose recording him while swimming could serve.

It is disappointing therefore that then Chief Superintendent Tony McNamara stated that Mr Henry's complaint was a civil matter. In fact, harassment – which is what Mr Henry complained of – is a crime. This is not to say that Mr Henry was harassed: Mr Henry's statement alone would not have been sufficient proof. But his complaint should not have been dismissed as a civil matter by the Chief Superintendent when speaking to the media.

Protesters also complained that IRMS staff did not wear identification in 2008. However, this author is satisfied that they were not legally required to do so at that time. As part of a voluntary initiative, IRMS did start wearing identification in 2009 before this became legally mandatory. It is unfortunate, however, that it took the Private Security Authority so long to make wearing of identification mandatory, given how contentious this issue was. Further, it is at least arguable that the Authority was, for some of the time from 1 April 2006 to 1 September 2009, in breach of a statutory duty by failing to make these regulations. It is also unfortunate that the Garda Síochána at times gave incorrect explanations as to why IRMS was not obliged to wear identification. That led protesters (wrongly) to conclude that the Garda Síochána simply were not enforcing the law on identification against IRMS.

Following the death of former IRMS employee Michael Dwyer in Santa Cruz, Bolivia, some protesters have alleged that Shell employed mercenaries. It is clear that Mr Dwyer was in very dangerous company in Bolivia. The group he was part of reportedly intended to destabilise the Government of President Evo Morales because of a number of steps that government has taken including land reform and the redistribution of gas revenues. The Bolivian authorities allege that two other former IRMS employees also appear to have been involved. One of those returned to Ireland prior to the revelation

of the plot and resumed employment with IRMS. But there is no evidence to suggest IRMS knew anything of the plot. The man who had resumed employment was subsequently dismissed.

However, one of the men had inappropriate material regarding operations on Glengad on a website he ran. He also headed a far right group, the Szeckler legion. With better systems, IRMS could have detected this. Also, some IRMS staff were not licensed.

The events in Bolivia were troubling. There are serious allegations that Michael Dwyer was the victim of a “shoot to kill” policy by the Bolivian authorities. There are other unanswered questions about what exactly those killed were involved in and who else was also involved. **It is recommended therefore that the Irish authorities press their Bolivian counterparts consistently to carry out a full independent inquiry into all the circumstances surrounding the killing of Mr Dwyer and related events. Should the Bolivian authorities not agree to this, it is recommended that the Irish authorities liaise closely with their Bolivian counterparts and monitor the progress of the Bolivian investigation.**

While most of the controversies have been on land, some – involving fisherman **Pat O'Donnell** – have been at sea.

Mr O'Donnell claims that his boat was sunk by masked men on **11 June 2009**. It is clear that Mr O'Donnell's boat was sunk. But beyond this it has not been possible to make any findings regarding the events of that date.

Separately, Mr O'Donnell's crab pots were laid in Broadhaven Bay, including along the intended route of the pipeline. In both September 2008 and June 2009 Mr O'Donnell took his boat to sea and positioned it along the route of the pipeline, with a view to protecting his crab pots from Shell's pipelaying vessels. This led to his arrest by Gardaí. The crab pots appear to have been moved and may well have been damaged in the pipe laying process. However, this author does not conclude that this constituted criminal damage.

It was left to the Gardaí to resolve the conflict between Mr O'Donnell's crab pots and Shell's right to lay the pipeline through the use of their public order powers. There should instead have been a clear statutory framework put in place to resolve this conflict of property rights. The dispute arose in September 2008 and again in June 2009. The failure to put in place appropriate legislation by June 2009 was particularly regrettable.

Mr O'Donnell's boat was also detained in June 2009. Basic fair procedures mean that he should have been entitled to accompany the inspector so that he could answer any concerns regarding the boat's safety. He was not permitted to do this by Gardaí. As a result, the detention of his boat appears unlawful. The fact that:

- the inspection of Mr O'Donnell's boat was requested by the Garda Síochána,
- O'Donnell was denied an opportunity to accompany the boat inspector,
- Mr O'Donnell's boat was the only boat inspected that day and one of only two inspected in Broadhaven Bay that summer and
- the fact that the local Superintendent was only empowered to act under marine safety legislation two days before the arrival of the pipe laying *Solitaire* ship in June 2009,

together indicate an improper motive in the detention of Mr O'Donnell's boat – that is to say that a motive was to prevent Mr O'Donnell going to sea and disrupting the laying of the pipeline. This too strengthens the view that the detention of Mr O'Donnell's boat was unlawful.

Most controversial of all have been the events of **22/23 April 2009** when Willie Corduff claims to have been assaulted by Gardaí and IRMS staff.

Mr Corduff had been staging a sit in under a truck. He claims to have been assaulted by Gardaí who were attempting to remove him from under the truck on the afternoon of 22 April 2009. It has not been possible to make a finding regarding this allegation.

Mr Corduff came out from under the truck in the early morning of 23 April 2009 to stretch his legs and was come upon by IRMS staff.

IRMS stated to this author that Mr Corduff was conscious that night upon being

come upon. This author concludes that this was not accurate. He was semi conscious. Not only is the claim that he was conscious contradicted by the witness statements from protesters, it is also contradicted by what an IRMS security staff member told ambulance control that night.

IRMS also stated to this author that Mr Corduff was not assaulted, that he simply sat down and that not a finger was laid upon him. This author concludes that, in fact, he was set upon and kicked. Mr Corduff's medical records diagnose him as having bruises from kicking. The suggestion that he simply sat down also appears to have been contradicted by Shell's own briefing to *The Irish Times*, as well as by protester witnesses.

Superintendent Michael Larkin of Belmullet Garda station stated publicly that Mr Corduff "was escorted from the site and spoke to Gardaí and it was decided in the best interests that he be transferred to a hospital that that he complained of feeling unwell." This was clearly misleading. He was not "escorted from the site." He was taken away by ambulance on a spinal board and cervical collar on a stretcher. Two Gardaí were present when he was taken away. It is not suggested that Superintendent Larkin intended to mislead when he made his remarks. But he should have corrected himself subsequently. He did not do so.

Finally, Willie Corduff stated to this author that he believed that the security guards intended to murder him. Mr Corduff may well have genuinely feared this – and what happened on 23 April 2009 must have been genuinely frightening. But Mr Corduff had only relatively minor injuries.

This author also concludes that there are serious questions about the quality of the investigation into Mr Corduff's allegations. In order to ensure public confidence, **it is recommended that Mr Corduff's complaint be reinvestigated by Gardaí based outside Mayo.**

On **14 November 2007**, Monica Muller, a Rosspoint resident, succeeded in getting a court order prohibiting Shell and its agents from entering on the commonage at Rosspoint.

Despite this, Shell agents entered the commonage to carry out site investigations. They had bought a share of the land and believed that this entitled them to do so. But they had never vacated the order of the District Court and were found guilty of contempt. A case has, however, been stated to the High Court on the issue.

The court order had been clearly signposted on the commonage at Rosspoint, which the Garda Síochána would have passed on a regular basis. Ms Muller also brought the court order to the attention of a senior Garda in Belmullet Garda station and sought the assistance of the Gardaí when the order was broken. She was told that a court order "was debatable."

Despite this, Superintendent Larkin of Belmullet and Tony McNamara, then Chief Superintendent for Mayo and based in Castlebar, claimed ignorance of the order.

This author is satisfied that some Garda Síochána in Belmullet were aware of the order. If Superintendent Larkin was not aware, he should have been. The order was a civil matter. But so too, for example, are many matters – like the right of Shell workers to get to their place of work at Bellanaboy. For the Gardaí to uphold one order, but claim ignorance of another which had been brought to the attention of Belmullet Garda station, was damaging to the perception of their impartiality.

Bernard McCabe is a retired Garda Sergeant. On 28 June 2009 he monitored a lockdown by five protesters. The Garda Síochána gathered and erected screens to prevent other protesters seeing them. A Garda, who appeared to be in charge, allowed Mr McCabe past the screens so that he could observe. However, other Gardaí objected and Mr McCabe claims that he was suddenly grabbed by one of these men who was in plain clothes and pushed and dragged towards the cordon where he was manhandled by the Gardaí there.

Mr McCabe stated that 14 separate police officers performing public order functions did not wear identification that evening. The Garda Síochána have not disputed that some public order Gardaí did not wear identification.

Many protesters have also alleged that their phones are tapped. **It is recommended that the Garda Síochána review any surveillance or monitoring to ensure that it**

is proportionate. It is further recommended that any interception of communications be considered as part of the review procedure provided for by s.8 of the Interception of Communications Act 1993.

(e) Some general conclusions and recommendations

The concern that some works by Shell have not been properly authorised fuelled many protests. In some cases, the protesters have been wrong. But in other cases, they have been right. **It is therefore recommended that Shell intensify its existing efforts to ensure regulatory compliance.**

Shell and its agents working on the Corrib project at present employ a former Mayo County Secretary, a former Chief Superintendent of the Garda Síochána in Mayo and a former editor of a Mayo paper. Although the announced role of the former Chief Superintendent is to liaise with the community, Pobal Chill Chomáin have stated that he has never contacted them.

It is normal to engage former journalists to do communications work. It is also normal to engage consultants in other capacities.

But both the County Council and the Garda Síochána have the job of ensuring that the law is applied. While the integrity of the persons concerned is in no way called into question, the engagement of a former County Secretary and a former Chief Superintendent gives rise to the appearance that Shell is seeking to influence those who regulate them, rather than to comply with those who regulate them. **It is recommended that Shell and its agents review these arrangements.**

It is accepted that it is not the job of the Garda Síochána in the first instance to satisfy the public that all necessary authorisations have been obtained. But it is their duty to be impartial. When deciding on the exercise of their public order powers, it is important that Gardaí are well advised on legal issues, including whether works are lawful. **It is recommended that the necessary resources be made available to ensure that the Garda Síochána can properly assess the legality of works undertaken by Shell and its agents.**

It is also important that the public can be reassured that all necessary authorisations have been obtained. That way, they can have greater confidence that the project is well regulated, and that their safety is assured. The Department of Communications, Energy and Natural Resources has taken steps in this regard by putting authorisations on their website. But they have not always been consistent in doing this. And they are not the only body responsible for regulating the project. Others, like the Private Security Authority, the Environmental Protection Agency and Mayo County Council have important roles too.

Large amounts of public money have been spent on the policing operation in Mayo. This author believes that it may help to reduce conflict, and save on the policing budget, if greater efforts are made to explain the legal situation to protesters and all other interested parties. This should not be made conditional on participation in any forum, such as the North West Forum, or any acceptance of Shell's project. **It is therefore recommended that the Department of Communications, Energy and Natural Resources work with Mayo County Council and other interested bodies to ensure that in Belmullet there is an official available at relevant times who can explain the regulatory status of any works clearly and transparently.** The amount of money that this would cost would pale into insignificance compared to the €14 million spent since August 2005 on the policing operation.

Protesters are often unaware of their rights, are haphazard in gathering documentation and sometimes fail to pursue avenues of redress open to them. At the same time, serious issues have been raised by this report regarding the policing of the project, as well as regarding the project more generally. Should the pipeline proceed along a contested route, there is a real potential for confrontation. **It is therefore recommended that human rights non-governmental organisations agree to appoint a human rights observer in the event that planning permission for the pipeline is given along a contested route.** That observer should gather information and advise on and pursue any human rights issues.

It is further recommended that the Garda Síochána cooperate with any such

observer – and ensure respect for the role of human rights observers generally.

The Corrib gas dispute has been the single greatest cause of complaints to the Garda Síochána Ombudsman Commission (GSOC) since its foundation. In 2007 the GSOC sought to do a “policies and practices” investigation into public order aspects of the dispute. Consistent with the UN Paris Principles, in Northern Ireland the Police Ombudsman can do this of his own volition. Even though the Garda Síochána Act 2005 was introduced to emulate many of the reforms recommended by the Patten report in Northern Ireland, the consent of the Minister for Justice is required for any such investigation.¹ The then Minister for Justice, Brian Lenihan TD, denied his consent to this investigation. No reasons were given. This has created the impression that the State does not want the Garda Síochána held properly to account.

It is recommended that the requirement that the consent of the Minister for Justice be obtained in order for the GSOC to conduct a policies and practices investigation be repealed.

In view of the findings of this report, **it is also recommended that the GSOC seek again to conduct a policies and practices investigation into the policing of the Corrib gas dispute. Specific issues for investigation would include:**

- how human rights issues are mainstreamed in practice;
- how the duty to act impartially is given effect;
- how legal advice is sought and acted on;
- public order training;
- performance in public order situations, including the use of force;
- the use of public order powers in civil law disputes;
- the wearing of identification;
- timing and practice in connection with the service of summonses and the bringing of prosecutions, particularly in matters where complaints have been brought to the GSOC; and
- the keeping of records.

Pending any repeal of the requirement for the consent of the Minister for Justice to such an investigation, it is recommended that the Minister give that consent.

The belief of many protesters is that the Garda Síochána are on the side of Shell and have not behaved impartially. This report has certainly highlighted real concerns in this regard. It has also highlighted cases where legal issues in operations appear not to have been fully thought through. This is not easy work – and it is important that Gardaí on the ground are well advised.

In Northern Ireland, the Policing Board has a human rights adviser. The first such adviser, Keir Starmer QC – now Director of Public Prosecutions for England and Wales – did much to improve policing practice, to the benefit of the police and the public alike. Unfortunately, there is no equivalent of the Policing Board in the Republic. But that does not mean that the Garda Síochána could not – and should not – do more to human rights proof their proposed actions.

It is recommended that the Garda Síochána appoint a trained lawyer with relevant experience as human rights adviser. It is also recommended that that adviser not only review police policies and practice generally, but also provide input into the planning of operations. Specifically in the context of the Corrib dispute, it would be helpful to provide guidance to the Garda Síochána on how they can best discharge their functions in an impartial way. The Garda Síochána have already entered into discussions with the Irish Council for Civil Liberties regarding mainstreaming human rights. This would be the next step in that important work.

The number of cases where the GSOC has sent files to the DPP has been low – at only seven cases by November 2009. That is not surprising – in many cases there will be a lack of evidence to justify charges. Nor is it surprising that the Director of Public Prosecutions has not brought charges. Indeed, it may well be that in some cases the GSOC referred files to the DPP as a precaution, rather than because it was believed that a prosecution should be brought. However, there has been a suggestion that the fact that a complaint is brought close to the six month time limit has been a factor in

declining to prosecute. In fact, complaints are sometimes brought late by protesters out of a fear of retaliatory prosecution by the Garda Síochána. **It is recommended that the lateness of the bringing of complaints be viewed in its proper context when decisions are arrived at on whether to prosecute.**

Often with police complaints, it is clear that there was a wrong but it is not clear what police officer was responsible. Often also, establishing the truth matters as much to complainants, if not more, than getting a successful prosecution. In Northern Ireland published reports by the Police Ombudsman which have established what wrong was done – but not who did it – have been enormously significant. An example is the Police Ombudsman's report on the Omagh bomb investigation. Under s.103 of the Garda Síochána Act 2005, the GSOC has the power to provide information on the results of an investigation to any person that the Commission considers to have sufficient interest in the matter. **It is recommended that the power in s.103 be used to publish reports on the outcomes of investigations in appropriate instances.**

Some Gardaí have been working on the Corrib gas dispute for ten years. That is stressful for them, and also impairs their ability to do other community policing work if it involves protesters. That is because many protesters distrust the police. Some have suggested that they would not now report any ordinary concerns that they might have, such as a burglary. **It is recommended that Gardaí who have been involved for long periods in policing work on the Corrib gas dispute be deployed to other duties such as the investigation of ordinary crime in Mayo.**

During this author's meeting with the Gardaí, it was admitted that Gardaí performing certain public order functions do not wear identification. This was blamed on the design of the uniforms that they wore. **It is totally unacceptable for Gardaí in public order work not to wear identification and it is recommended that this be addressed as a matter of urgency.**

Regarding other Gardaí, they get their public order training before qualification at Garda College. Of course, those doing dedicated public order work get further training. But most ordinary Gardaí working on the dispute discharge public order functions at some stage. **It is recommended that they get refresher training to assist them in carrying out this difficult work.**

II. INTRODUCTION

(a) About Front Line and the author

This report was commissioned by Front Line into the Corrib gas dispute.

Front Line was founded in Dublin in 2001 with the specific aim of protecting human rights defenders at risk, people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights. Front Line aims to address some of the needs identified by defenders themselves, including protection, networking, training and access to international bodies that can take action on their behalf.

The author is a practising barrister at law in Dublin since October 2007. Prior to that he served as a special advisor to Seamus Mallon MP MLA and Mark Durkan MP MLA respectively in their roles as Deputy First Ministers of Northern Ireland. Following the suspension of the institutions of the Good Friday Agreement in October 2002 he served as a special adviser to Mr Durkan as SDLP Party leader and, upon restoration of those institutions in May 2007 as special adviser to Margaret Ritchie MLA as Minister for Social Development. During this time he advised on a range of issues, including police reform, human rights and reform of the criminal justice system.

Neither Front Line nor the author takes any position on the safety of the proposed Corrib gas pipeline, or whether it should proceed through Rosspoint or along any other route.

(b) Scope of this report

The purpose of this report is to examine whether those engaged in protests against the Corrib gas development can be considered to be human rights defenders and to consider any related human rights issues, particularly with regard to the right to defend human rights as reflected in the UN Declaration on Human Rights Defenders, in respect of the Corrib gas dispute.²

The primary focus of this report was to examine events in 2008. However, the author was subsequently asked to extend the report to cover events up to the summer of 2009. Issues in the dispute prior to that date are also examined, but in less detail.

As a result, four visits were made to North Mayo: on 23-26 October 2008, 4-10 July 2009, 23-27 September 2009 and 1-3 November 2009. Meetings were also held in Dublin with some parties. While the focus of the report is not on events in the period 2006-2007, materials from then were accepted and reviewed to gain an overall understanding of events.

This report is not – and does not claim to be – a full investigation of all incidents that occurred in the years 2006 to 2009, or even in the years 2008-2009. Neither the resources nor the legal powers were available to conduct such an exercise, which would necessarily involve interviewing all those on all sides involved in each incident considered, whether they wished to be interviewed or not.

In many cases therefore, the purpose was to record allegations of human rights abuses. In some cases evidence was provided – such as statements or footage taken of events. That footage and those statements came in particular from the side of the protesters in the dispute, although information and footage were sought from all sides to the dispute.

As a result, it has not been possible in most cases to draw specific conclusions about specific events. However, in some cases this has been possible. In other cases while specific incidents could not be fully verified some general observations could be made as to the nature and scale of the problem in the Corrib gas dispute and how some of the human rights concerns could be better managed.

In the course of the report's compilation, the author met with all sides to the dispute. This included protesters, the Garda Síochána, Shell representatives, IRMS security, journalists and uninvolved members of the local community who favoured, or who opposed, the development. A number of those who were interviewed asked not to be named in the report and this request has been honoured.

The author is grateful to all those interviewed for their cooperation.

III. HUMAN RIGHTS DEFENDERS

(a) The UN Declaration on Human Rights Defenders

Human rights defenders are recognised in the UN Declaration on Human Rights Defenders. That Declaration essentially recognises the rights most relevant to Human Rights Defenders. For example, Article 12 of that Declaration recognises the right of everybody “individually and in association with others, to participate in peaceful activities.”

But limits can be placed on these rights. Article 17 recognises that “in the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

(b) Who are human rights defenders? UN Factsheet No 29

While the UN Declaration sets out in general terms the rights relevant to human rights defenders, it does not provide detailed guidance on who is or is not a human rights defender. But this is set out in a UN Factsheet No 29.³ A few points are particularly worth noting in this regard.

First, *to be a human rights defender, a person can act to address any human right on behalf of individuals or groups.* These do not have to be merely civil or political rights, but can include economic, social and cultural rights. As the Factsheet explains, the rights covered could include:

- forced evictions,
- toxic waste and its impact on the environment,
- the right to life, to food and water and to the highest attainable standard of health.

Second, *it is not necessary for a defender to operate on a national or international stage. It is also sufficient to operate locally.*

Third, *it is not necessary to be a non-governmental organisation or in a non-governmental organisation: Individuals can be human rights defenders.* Nor is it necessary to have any professional background. One does not need to be a lawyer, a journalist or a seasoned activist.⁴ UN Factsheet No. 29 gives the following example of who can be a human rights defender:

“An inhabitant of a rural community who coordinates a demonstration by members of the community against environmental degradation of their farmland by factory waste could also be described as a human rights defender.”⁵

Fourth, *the key to identifying a human rights defender is to look at how people support human rights and to see whether a “special effort” is made.* That is because human rights defenders should not be merely acting on their own behalf or defending their own economic interests. Rather they must be acting on behalf of individuals or groups.

Fifth, *it is not necessary for a person to be correct in his or her arguments in order to be a human rights defender.* The critical test is whether or not the person is defending a human right, not whether they are correct about what they claim the human right means. The Factsheet gives the following example:

“[A] group of defenders may advocate for the right of a rural community to own the land they have lived on and farmed for several generations. They may conduct protests against private economic interests that claim to own all of the land in the area. They may or may not be correct about who owns the land. However, whether or not they are legally correct is not relevant in determining whether they are genuine human rights defenders. The key issue is whether or not their concerns fall within the scope of human rights.”⁶

Sixth, as the Factsheet makes clear:

“the actions taken by human rights defenders must be peaceful in order to comply with the Declaration on human rights defenders”

Thus, one cannot be a human rights defender if engaging in violent or intimidatory behaviour.

(c) What kinds of abuse can human rights defenders face?

UN Factsheet No 29 gives examples of some of the abuses that human rights defenders may face. These include obvious matters like killings, beatings, torture, arbitrary arrest and detention.

They also include harassment. The Factsheet explains the many different kinds of harassment that can be faced. This includes surveillance, tapping of telephones and placing under investigation.⁷ Other forms of abuse recognised by the Factsheet include:

“defamation campaigns, with slanderous allegations appearing in State-controlled media attacking their integrity and morals... Defenders and their work have been publicly misrepresented, being described as, among other things, terrorists, rebels, subversives or actors for opposition political parties.”⁸

(d) The role of State and non-State actors

It is not enough for a State not to engage in harassment or any other abuse of a human rights defender. UN Factsheet No 29 also makes clear that States must investigate acts committed against defenders, to provide temporary protection if needed and to prosecute those responsible.

While the State bears responsibility to protect human rights, the Factsheet recognises the role of non-State actors (that is to say private individuals or companies). Thus it states:

“While the State bears the primary responsibility to protect human rights defenders, it is essential to recognize that non-State actors can be implicated in acts committed against them, both with and without State complicity”.

“Private economic interests — such as transnational corporations or major landowners — have an increasingly recognized impact on the economic and social rights of people from the community in which they are based. In some countries, where human rights defenders have conducted peaceful protests against the negative human rights impact of transnational corporations, the security forces have used violence to repress the protests. In other cases, the authorities have failed to intervene when unidentified individuals, suspected of acting on behalf of private economic interests, have attacked human rights defenders. The Special Representative of the Secretary-General on human rights defenders has noted that, in some of these attacks, the complicity and responsibility of private sector entities are clear and must be recognized.”

To some, the notion that human rights defenders may be involved in the Corrib gas dispute may seem surprising. However, it is clear from the above points that UN Factsheet No 29 is *potentially* applicable to the Corrib gas dispute.

Later, this report considers whether human rights defenders are active in the Corrib gas dispute and whether there are concerns that their rights have been breached. First, however, it is appropriate to outline the background to the dispute and to understand some of the key events in its history.

IV. BACKGROUND TO THE CORRIB GAS DISPUTE

(a) Some basic geography

Rossport is a townland in the North Mayo Gaeltacht. Southwest of Rossport, across the narrow waters of **Sruwaddacon Bay**, is the townland of **Glengad**.

To the west of Rossport and Glengad is **Broadhaven Bay**. 80 kilometres out to sea is the **Corrib gas field**, which was discovered in 1996. Roughly 9 kilometres to the south east of Rossport and Glengad is **Bellanaboy**, also sometimes spelt as **Ballinaboy**. It is here that Shell has built a refinery to process the raw gas which it intends to bring from the Corrib gas field in a pipeline coming on land at Glengad and then crossing under Sruwaddacon Bay, across Rossport and through to Bellanaboy. Close to Bellanaboy is **Carrowmore Lake**.

The area is ecologically sensitive. For example, Broadhaven Bay, Carrowmore Lake and the Glenamoy bog complex are Special Areas of Conservation.⁹ Broadhaven Bay and Carrowmore Lake are also Special Protection Areas under the EU Birds Directive.¹⁰

Even more important than the geography of the dispute is its history. It is to this that the report now turns.

(b) Gas is found

The Corrib gas field was found in 1996 by Enterprise Oil, which established a subsidiary, Enterprise Energy Ireland (EEI) to develop it.¹¹

EEI identified a site at Bellanaboy – owned by the Irish forestry agency, Coillte – where it proposed a terminal to process the untreated (or raw) gas. Coillte sold the site to EEI. To bring the gas to Bellanaboy, EEI planned a pipeline that would run across lands at Rossport.

(c) Government support for the Corrib gas project

The development of the Corrib gas field has been strongly supported by successive Governments. Ministers have consistently stated their belief that the Corrib gas project is in the national interest.¹²

A report by trade unionist Peter Cassells into the dispute points out that in 2006 over 80% of the gas used in Ireland was imported from Scotland and that, without Corrib gas, this import level was likely to increase. The report also states that the volumes which can flow from the Corrib field could provide up to 60% of the annual gas demand in Ireland at peak flows. While this figure of 60% has been disputed, there is no doubt that the gas find is a very significant one.¹³

The development has had an important economic context locally too. North Mayo is not a prosperous area – and has had a long history of emigration. According to Shell, up to 1,500 people were employed during the 2009 construction programme and the project will provide 130 permanent jobs in the locality.¹⁴

(d) A complicated regulatory framework

The regulatory framework in Ireland for the Corrib gas development is a complicated one. It is not necessary for the purposes of this report to consider this framework in depth. Suffice to say that a number of legislative provisions are engaged. For example:

- Working the gas required a petroleum lease under the Petroleum and Other Minerals Development Act, 1960;
- Construction of a structure to extract on the continental shelf required authorisation under the Continental Shelf Act 1968;
- Parts of the offshore pipeline, the works at sea, and the landfall works required a licence under the Foreshore Act, 1933;
- The pipeline required consent under the Gas Act, 1976. At the time of the initial application, planning permission was not required for the pipeline itself;
- The terminal required planning permission under the Planning and Development Act 2000;

- An integrated pollution licence was required under the Environmental Protection Agency Act 1992.

Further, consents are required under other legislation in respect of some aspects of the development, or under the terms of some of the licences, leases or permissions above.

(e) An Bord Pleanála rejects permission for Bellanaboy

The development of the refinery at Bellanaboy (which is now substantially completed) and the proposed overland pipeline have been the most controversial aspects of the project, although fishermen have been concerned also about discharges at sea also. It is hardly surprising that the refinery and overland pipeline have been the most controversial aspects since they come closer to where people live.

Controversy began in August 2000 when EEI sought to dig trial holes along part of the pipeline route through Rosspoint. Members of the local community persuaded the oil company to hold a public meeting to explain their intended project. Locals claim that the company stated at that meeting that they could obtain a Compulsory Purchase Order very easily from the relevant Minister.¹⁵ Residents also complained of misinformation by EEI. Many residents also wished for the pipeline to travel across rougher commonage land in the northern part of Rosspoint, rather than through private greenland property, which had a higher value and better agricultural use.

They were also concerned that the maximum pressure of the pipeline was 345 bar. This was later described by Minister Noel Dempsey as an “extremely high design pressure”.¹⁶ Another concern was that the gas was raw gas. Raw gas is more corrosive because it contains impurities.¹⁷ It is also odourless and therefore potentially more dangerous as leakage is less easily detectable. They also had other concerns, including that the control cables for the pipeline would be laid in the same trench as the pipeline itself and, also, that the refinery would be located in an environmentally sensitive area.

EEI received planning permission for its planned refinery at Bellanaboy from Mayo County Council in August 2001. In November 2001, regulations were made giving the Minister the power to compulsorily acquire lands for private gas pipelines.¹⁸ Powers to enter onto private land were also provided for. In April 2002 the Minister for the Marine and Natural Resources issued statutory consent for the construction of the pipeline under the Gas Act 1976.

It was at the end of 2001 and beginning of 2002 that residents of the lands across which the pipeline was to run were formally told that their lands would be compulsorily acquired unless they consented to the voluntary sale of those lands. While some residents agreed, others did not and were angered. Some complained that those who went door to door around Rosspoint behaved in a heavy handed manner, threatening with compulsory acquisition unless consent was given. They complained that this had a particular impact on old people in the area. Shell, who were not then involved in the project, agree that matters were not well handled at that stage and that this did much to break down trust in the development.¹⁹ The relevant Minister, Frank Fahey TD, issued the first Compulsory Acquisition Orders in May 2002.

A decision granting planning permission for the construction of the terminal by Mayo County Council was appealed to an Bord Pleanála, with an oral hearing held by the Bord in February 2002. The Bord’s Planning Inspector, Kevin Moore, in the conclusions of his report of May 2002, recommended refusal and stated:

“the proposed development of a large gas processing terminal at this rural, scenic, and unserviced area on a bogland hill some 8 kilometres inland from the Mayo coastland landfill location, with all its site development works difficulties, public safety concerns, adverse visual, ecological, and traffic impacts, and a range of other significant environmental impacts, defies any rational understanding of the term ‘sustainability’.”²⁰

An Bord Pleanála requested further information from Shell and the oral hearing was resumed in November 2002. Following this a further report was compiled by the Inspector in which he recommended refusal, concluding:

"It is my submission to the Board that:

- From a strategic planning perspective, this is the wrong site;
- From the perspective of Government policy which seeks to foster balanced regional development, this is the wrong site;
- From the perspective of minimising environmental impact, this is the wrong site; and consequently
- From the perspective of sustainable development, this is the wrong site."

He recommended refusal on three grounds, including on grounds related to peat, visual/ecological grounds and on grounds of unacceptable risk to members of the public. An Bord Pleanála in its decision also recommended refusal, but on narrower grounds related to peat only. Importantly, it disagreed regarding risk to the public.²² Of course, an Bord Pleanála is not legally bound by the recommendations of its inspectors.

Earlier, in April 2002, Enterprise Oil was taken over by Shell. Reflecting this, EEI became Shell E&P Ireland Limited. For convenience Shell E&P Ireland Limited is referred to in this report simply as "Shell". However, it should be borne in mind that Statoil and Marathon had minority involvement. Marathon sold its stake to Vermilion Energy in June 2009.

(f) Shell's response to the decision of an Bord Pleanála

A note of a meeting of the Committee of Managing Directors of Shell, dated 22-23 July 2002 records their discussion of the planning application, by which stage an Bord Pleanála rather than granting permission had sought further information from Shell. It states:

"It was noted that development of the Corrib gas field may be delayed until 2004 as planning consent had been refused for the terminal. The Committee queried whether the Group had sufficiently well placed contacts with the Irish government and regulators. [X] undertook to explore this issue further in consultation with the Country Chairman in Ireland."

The document, marked most confidential, emerged only in the context of litigation against Shell in the United States on matters unrelated to the Corrib dispute.²⁴

On 19 September 2003 Shell met with the then Taoiseach Bertie Ahern TD, and the then Minister for Communications, Marine and Natural Resources Dermot Ahern TD, and the then Minister for Environment, Heritage and Local Government Martin Cullen TD. Shell raised its concerns about the Corrib gas project. There was at that time no planning application lodged, and the Taoiseach advised them that were they to proceed, they should lodge a further application under existing legislation.²⁵ This was significant because at the time a new regulatory regime for approving strategic infrastructural projects was under consideration (which culminated in the Planning and Development (Strategic Infrastructure) Act 2006).

Four days later, on 23 September 2003 Shell met with an Bord Pleanála, including the chair and deputy chair. According to a note of the meeting, the representatives of the Bord indicated that they could not discuss individual cases (and it should be noted that at that stage there was no application before either Mayo County Council or the Bord). Instead, Shell gave a presentation on the case for indigenous gas.²⁶

In December 2003 Shell applied again to Mayo County Council which granted permission in April 2004. Residents again appealed that decision to an Bord Pleanála. A different inspector was appointed on this occasion and he recommended in favour of granting permission, subject to conditions.²⁷ The Bord subsequently decided unanimously in October 2004 to grant planning permission, subject to 42 conditions.²⁸

An attempt to bring a judicial review of that decision was unsuccessful.²⁹

An attempt to bring a planning injunction against Shell for breach of certain planning conditions also failed. In very brief summary, the judge accepted that some extracted peat from the works at Bellanaboy had been left on Coillte lands contrary to the terms of the planning permission, but that this was explicable by the delay to the project by the bringing of the judicial review challenging an Bord Pleanála's decision. The applicants also failed in arguing that the condition requiring security to be provided

had not been complied with. The judge found that it had been complied with, although formalities remained outstanding.³⁰

There have been allegations that an Bord Pleanála was placed in a difficult position, particularly at a time when new legislation was being contemplated by the Government for strategic infrastructure. It has not been within the scope of this report to examine these allegations, which have been strongly denied by Ministers.³¹

It is not surprising that Shell was concerned at delays in the planning process, and it is legitimate that they would wish any future application to be determined quickly.

It would also be wrong to read too much into any individual minute of the Shell Committee of Managing Directors, which may not reflect the full discussion had. Nonetheless, it is disconcerting that the recorded reaction of the Committee of Directors was to query whether they had appropriate contacts with the Irish regulatory authorities, rather than appropriate compliance with Irish regulatory requirements.

(g) The imprisonment of the “Rossport 5”

Compulsory purchase orders were made in respect of the lands of the Rossport landowners who had refused to consent voluntarily to the laying of the pipeline.

In March 2005 Shell issued proceedings against the six Rossport landowners seeking a permanent injunction prohibiting obstruction of the pipeline works, including obstruction of entry of Shell agents onto land. In April 2005 Shell secured an interlocutory order prohibiting interference with the laying of the pipeline, that is to say a temporary order until the court had heard the proceedings fully.

On 29 June 2005 five people were found by the High Court to be in contempt of the order. Three were landowners along the route of the pipeline: Philip McGrath, Brendan Philbin, and Willie Corduff. The other two were Vincent McGrath, brother of Philip McGrath, and Michael O’Seighin. All five are Rossport residents and became known as the Rossport 5.

Their imprisonment generated much local sympathy and Shell contractors were prevented by protesters from gaining access to the Bellanaboy site. Environmental protesters also arrived and founded the **Rossport Solidarity camp**, which remains in North Mayo to this day, but at a different location – it is now at Glengad.

Meanwhile, the imprisonment of the Rossport 5 received international publicity and led to the formation of the **Shell to Sea** campaign, which was a loose campaign involving a number of people including Dr Mark Garavan of Galway Mayo Institute of Technology, Maura Harrington a (now retired) school principal from North Mayo, Independent TD Dr Jerry Cowley and many others. A support group was also established in Dublin – with smaller groups elsewhere.

The Rossport 5 spent 94 days in prison. On 30 September 2005 Shell applied for the lifting of the interlocutory injunction on the basis that no works would be done through the winter months so that the injunction served no useful purpose. Given that the injunction was lifted, the five men applied for their release. However, the five men refused to give a commitment to abide by any future court orders. As a result, although the men were released, the judge queried whether they should nonetheless be punished for contempt and took submissions on this issue. The following April the judge, having heard submissions as to the law, determined that while the court could have punished them for refusing to purge their contempt, they would not in fact be returned to prison, given that they had already spent 94 days there.³²

It is not clear whether there was another motive for Shell’s application for the lifting of the injunction. The fact that work would not be undertaken over the winter was certainly a reason to seek the lifting of the injunction. But another could potentially have been the huge publicity and substantial public sympathy that the Rossport five had gathered. Shell was legally entitled to the order that it had secured – but the imprisonment of the men had been a public relations disaster. Shell subsequently apologised for the hurt caused by the imprisonment of the Rossport 5.³³

(h) Reviews of safety commissioned in 2005: BPA and Advantica

One of the reasons why no work would be conducted over winter was because the then Minister for Communications, Marine and Natural Resources, Noel Dempsey TD,

had asked Shell to suspend work pending a safety review. This was the second safety review commissioned by the Department in 2005 and before considering it, it is worth noting the very unusual circumstances of the first review commissioned that year.

One of the key concerns of the protesters was that the Quantified Risk Assessment (QRA) for the onshore pipeline, which had been commissioned by Shell, had never been published. The previous Minister, Frank Fahey TD, had, however, commissioned an independent review of the QRA by Dr Andrew Johnston, which had been published in March 2002. It concluded that the pipeline was safe provided certain recommendations were followed, which were made conditions of the statutory approvals for the development.³⁴

Nonetheless, the failure to publish the QRA itself fuelled the concerns of protesters and those sympathetic to them. They feared that there was something to hide.³⁵

On 10 March 2005, Minister Dempsey indicated that he would publish the latest version of the QRA (it had been modified over time) along with a review of it commissioned by his Department. An “independent review” of the pipeline from British Pipeline Agency (BPA) was duly commissioned and published along with the latest version of the Quantified Risk Assessment on 24 May 2005.³⁶ The BPA report described itself as an “independent review” and it was explicit that it was the Shell pipeline that was being considered.

The BPA report concluded that the Quantified Risk Assessment had generally followed industry norms, but recommended that some matters should be reviewed. It also concluded that “the design of the pipeline incorporates measures to contain the high operating and design pressures and has been conservative in the use of materials and integrity management procedures.”³⁷

However, according to the Department, neither at the tendering stage nor at any stage prior to publication did BPA indicate that there was a conflict of interest in carrying out the independent review. According to the Department, it was only following media inquiries on 25 May 2005, the day after publication, that it found out that BPA was in fact 50% owned by Shell.³⁸

Asked by *The Irish Times*, Shell indicated that they had become aware that BPA were the consultants on 10 May 2005, a fortnight before publication. But they did not consider it “necessary or appropriate to question the qualifications of the contracted consultants as management of the review was solely a matter for the department.”³⁹

This was meant to be an independent review. But the appearance of independence was fundamentally compromised by Shell ownership of BPA. It is extraordinary that BPA did not see fit to mention to the Department that it was owned by Shell.

It is no less extraordinary that Shell did not do so. While it was for the Department to select the review team, Shell owed a moral duty to the Department to notify them of the conflict of interest as soon as they became aware of it. They did not do so.

This debacle did nothing to build confidence in Shell’s good intent. To the contrary, it widened the gulf of distrust between protesters and Shell and hardened the belief of protesters that Shell could not be trusted.

On 27 May 2005 a second review was commissioned by the Minister.⁴⁰ The findings of this review, conducted by the consultants Advantica, are considered in a later section.

(i) Minister expresses concern regarding regulatory non-compliance

In the summer of 2005, protesters had become aware of significant welding of piping by Shell at the Bellanaboy site and had informed the media. An inspector was subsequently sent to report to the Department of Communications, Marine and Natural Resources regarding this. He found that over two kilometres of piping had been welded.⁴¹ These works were not permitted by the consents published by the Minister.

The Department sought an explanation for this but did not secure a response to its satisfaction. The Minister therefore wrote on 31 July 2005 to Andy Pyle, Managing Director of Shell in Ireland, stating:

“I am very concerned that not only does your letter fail to provide an acceptable explanation for the specific works, which have been undertaken beyond the

scope of your extant consents, but I am also concerned that your letter may demonstrate a failure to fully appreciate your legal and regulatory obligations.” The Minister added:

“The fact that Shell sought consent by letter dated 12 May 2005 to commence welder qualification testing, joint coating qualification testing and pipe bending activities indicates that Shell believed at that stage that such works were beyond the scope of its extant consents.... [The Department] acknowledged receipt of the letter dated 12 May 2005 but at no stage was consent given to Shell to undertake welder qualification testing, joint coating qualification testing and pipe bending activities. Notwithstanding this, Shell not only proceeded to undertake welder qualification testing, but also undertook significant welding activities.”⁴²

The Minister therefore decided to appoint officers to ensure monitoring and supervision of Shell’s works. He also noted that Shell had agreed to suspend work on the pipeline pending the Advantica review.

In Andy Pyle’s letter of response to the Minister, dated 5 August 2005, it was not denied that Shell had sought consent for welder qualification testing, joint coating testing and pipe bending activities and that consent for these works had been outstanding.⁴³ Nor was it denied that Shell had nonetheless proceeded to undertake significant welding activities.⁴⁴

It should, in fairness, be pointed out that there is no suggestion that Shell had attempted to conceal its activities. Shell had, in fact, written to the Department to indicate that they were commencing welding work at their own risk.⁴⁵ The problem was that they should have – but did not – wait for authorisation from the Department.

(j) Report of Dr Richard Kuprewicz

On 24 October 2005, Dr Richard Kuprewicz of Accufacts Inc, a pipeline consulting firm, made a report to the (controversial and now defunct) Centre for Public Inquiry.⁴⁶ It raised a number of concerns regarding the pipeline proposal and stated:

“our analysis indicates that pipeline routing should be at least 200 metres from dwellings and 400 metres from unsheltered individuals to avoid massive casualties and/or multiple fatalities. The large safety zones necessitated by an onshore Corrib pipeline rupture reflect the exotically high potential operating pressures and subsequent fatal radiation thermal fluxes associated with a rupture”⁴⁷

He pointed in particular to a pipeline rupture in Carlsbad, New Mexico. An extended family of 12 camping 206 metres from the explosion site were all killed due to the blast and thermal radiation. The pipeline had failed due to internal corrosion, he stated, even though it complied with corrosion monitoring programmes required by the US regulatory authorities. That pipeline had been operating at 46.6 bar only – less than the maximum pressure of 345 bar then envisaged by Shell or the planned normal operating pressure of 90-100 bar.⁴⁸

(k) The Advantica review

The Advantica report was published on 3 May 2006. It found that proper consideration *had been* given to safety issues in the selection process for the preferred design option and the locations of the landfall, pipeline route and terminal. However, it expressed some concerns and made a number of recommendations.

In particular, it expressed concern that there was insufficient evidence that the scheme would be managed properly throughout its lifetime and recommended that a plan be put in place in this regard. It also stated that there was significant uncertainty about the risk calculations at the maximum pressure of 345 bar. It recommended that the pressure in the “*onshore pipeline should be limited to no greater than 144 bar.*”

It concluded that provided the report’s recommendations were implemented, the design should be accepted as meeting or exceeding international standards.

Both the Minister⁵⁰ and Shell⁵¹ committed to implement the report’s findings. However, protesters remained concerned. Advantica was confined to examining the safety of the chosen route. It was not mandated to consider alternative routes – and did not do so. The option favoured by protesters of offshore shallow water processing

of the gas was therefore not considered by Advantica. For this reason, protesters did not regard it as addressing their concerns. Shell, for their part, state that there are greater risks associated with working on and travelling to an offshore platform. Of course, those risks would not necessarily be borne by the same people.

(l) The Cassells report

Following the release of the Rosspoint 5, Minister Dempsey had committed to appoint a mediator.⁵² Peter Cassells was duly appointed in November 2005. His report was published on 28 July 2006. The mediation was unsuccessful. However, Mr Cassells made a number of recommendations. Some of these were on wider socio-economic issues, others on better community consultation and dialogue. One was particularly important. The proposed route of the pipeline brought it to within 70 m of houses. Mr Cassells recommended that this be reconsidered. However, he did not say how far away the pipeline should be or offer a scientific rationale for his recommendation. Rather the recommendation was stated to be to “*address community concerns.*”

Shell agreed to this and consultation began on a new pipeline route.

To the protesters, by contrast, the Cassells recommendations were unsatisfactory. The socio-economic recommendations did not – and of course were not intended to – address their safety concerns. Meanwhile the recommendation on having the pipeline less close to houses did not to their minds go far enough. Their point was that they did not believe the pipeline, carrying raw gas, was safe near their houses at all.

(m) Events regarding the pipeline since the Advantica report

There followed a period of consultation on the new pipeline route. At the same time, there were a number of further controversies concerning Shell’s activities, including a number of allegations of regulatory non-compliance. The most significant of these are examined below. Some others are examined in the section on the policing of the dispute.

(i) Carrowmore Lake

The first of these concerned Carrowmore lake. Carrowmore lake supplies drinking water for 10,000 residents of North Mayo. It is also a Special Area of Conservation under the EU Habitats Directive.⁵³ Protesters were concerned that the works removing peat carried out by Shell at Bellanaboy would cause aluminium stored in the earth underneath to flow into the lake. Data appears to justify those concerns to some extent.

Under terms set by its licence, Shell was not permitted to have aluminium in the water discharged from the Bellanaboy site at levels in excess of 200 ug/l. This is the World Health Organisation limit for *drinking* water – and so was a stringent standard. In the last half of 2005, the levels in the discharge exceeded this level regularly and on 8 September 2005 Mayo County Council threatened to prosecute under the Local Government (Water Pollution) Act 1977 unless Shell took immediate action.

However, despite Shell’s efforts at mitigation, the problem persisted and the limit set by the Council was frequently exceeded thereafter through to the middle of 2007 according to statistics released by Mayo County Council.

The levels in the water were the subject of a report by the North West Fisheries Board in April 2006. It concluded that there was no risk to fish in the lake. The Environmental Protection Agency also considered the aluminium levels in the lake at that time and found them not to be a significant concern. Indeed, it stated that aluminium was helpful in order to combat the presence of phosphorous in the lake (which could, for example, be caused by fertiliser). At that time, the average level of aluminium in the lake was 96.8 ug/l on average at intake.⁵⁴

However, the problem was to worsen substantially in the early months of 2007. Data provided by Bord na Móna to the Council for the period from 30 January to 8 March 2007 showed an average level of aluminium in the discharge from the Bellanaboy site over seven readings of 1910 ug/l, nine times above the level that Shell were permitted to discharge. The average level from 11 readings at Carrowmore lake during that time was 332 ug/l.⁵⁵ This does not prove that Shell caused these high levels in the lake –

aluminium may come from other natural sources and its levels may increase during periods of high rainfall. But against this background, the high levels of aluminium in the discharge were more significant. Despite the warning of Mayo County Council's letter, protesters were concerned that no prosecution was ever taken.

While the levels of aluminium in the discharge regularly exceeded those permitted, it is important to note that the levels in drinking water only exceeded those permitted on one occasion, being on 23/24 January 2007. However, Mayo County Council has stated that this was not caused by the discharge from the Shell site, but rather by an accident at their water treatment plant.⁵⁶

(ii) Unauthorised development at Glengad – the road

Separately, Shell had purchased a site at Glengad where the pipeline was to come ashore. It is here, onshore, that a Land Valve Installation is planned to ensure that the maximum pressure onshore thereafter does not exceed 144 bar.

In order to facilitate these works, Shell widened the entrance to a field that they had bought and built a road through that field to the intended Land Valve Installation. Protesters claimed that the widening of the entrance to the field and the construction of a road down through it required planning permission, which had not been sought. On 31 May 2006, an Bord Pleanála declared that planning permission was indeed required both for the widening and the construction of the access road.⁵⁷ This followed clearly from the provisions of the regulations on exempted development.⁵⁸ (An application for retention was subsequently made and granted.⁵⁹)

The Bord also declared that certain waste pipes, construction compounds and other matters were exempted development – and therefore did not require planning permission.⁶⁰

(iii) Unauthorised drilling by Shell agents

There was further controversy in October 2007 when RPS, consultants hired by Shell, admitted that they had drilled in the Glenamoy bog Special Area of Conservation (SAC) without consent.⁶¹ The consultants also conceded that they had not consulted the National Parks and Wildlife Service before drilling boreholes in the SAC.

Although the Minister for the Environment, John Gormley TD, considered bringing a prosecution, he decided instead to direct the Shell contractors to restore the site to its original condition. While he stated that the damage done was minor, he added that it was a serious concern given the efforts that his department had made to communicate with Shell.⁶²

(iv) Allegations of unauthorised development at Glengad

A further controversy exists about the works at Glengad. Fencing has been erected around the Shell compound there. Temporary prefabricated buildings were also erected. Diggers and machinery have also been stored there. These have since been removed.

Protesters argue that these works required planning permission. The Department sought the position of the planning authority, Mayo County Council, on this issue. The Council gave its reasons why the works do not require planning permission, which were published on the DCENR website.⁶³

It was useful that Mayo County Council set out its reasons for believing the fencing, prefabricated buildings etc. to be exempted development. But the Council's letter does not deal with what appears to be the most substantial point made by the protesters. They point to the fact that since the Planning and Development (Strategic Infrastructure) Act 2006 strategic gas infrastructure development requires planning permission. That being so, they argue that all incidental works must have planning permission also. Shell, for their part, argue that planning permission is not required to the extent that the pipeline follows the route authorised by the Minister under the Gas Act 1976.

It is beyond the scope of this report to examine these competing arguments, which are presently being litigated before the High Court.⁶⁴ But it would certainly have been helpful if Mayo County Council had addressed them in the letter.

(v) Controversy regarding missing information

Following several months of consultation, Shell proposed a new pipeline route in 2008. It still came ashore at Glengad and crossed under Sruwaddacon Bay and through Rosspoint and on to Bellanaboy. And the gas being transported was still unprocessed (and therefore more corrosive). A new pipeline authorisation was therefore sought under the Gas Act 1976, as amended, on 28 April 2008. Approval for an amended plan of development was also submitted. Both were matters for the Minister for Communications, Energy and Natural Resources.⁶⁵

By this stage, the law had been amended to require planning permission for strategic gas infrastructure development. Accordingly, a planning application was also lodged. The law had also been changed so that the application could be made directly to an Bord Pleanála.⁶⁶

That application ran into controversy because an official of the National Parks and Wildlife Service in an internal report found that key information had been withheld from specialists whose opinions were included in the planning documents submitted by Shell and that, in particular, protected habitats likely to be affected by the development were excluded from maps provided by the company. The Department of the Environment, in response to a press query, confirmed that it was the view of the Department that the Environmental Impact Statement submitted by Shell was deficient and that an Bord Pleanála was seeking clarification on a number of these issues.⁶⁷

Shell subsequently decided to modify the pipeline route and seek a wider corridor in which the pipeline could be laid. This was, Shell explained, to allow for deviations that may be necessary for archeological or environmental reasons. Accordingly, both the planning permission application and the applications to the Minister for Communications, Energy and Natural Resources were withdrawn.⁶⁸

As a result, on 9 February 2009, Shell submitted a further application to construct a pipeline under the Gas Act 1976. A renewed application for planning permission was also submitted on 12 February 2009.⁶⁹

Separately, Shell progressed its works at sea. On 27 June 2008, ministerial consent issued to undertake offshore pipelaying works. In September 2008, the pipelaying vessel, the *Solitaire* arrived to lay the pipeline at sea.⁷⁰ However, it was unable to do so. It returned in June 2009 and did so.⁷¹

All this has had implications for the protesters and the police. Up to 2005, the main areas where protests occurred were at Rosspoint. In 2006, most of the disputes were at Bellanaboy where the refinery was being built. But by 2008 events shifted to Glengad where works started taking place where the pipeline was to come onshore. They also shifted to out at sea, where the pipeline was being laid. Should planning permission ultimately be granted for the pipeline on land, the locus of the dispute is likely to shift again.

(vi) Concerns at oral hearing regarding the new pipeline

A significant feature of the new pipeline is that it is 140 metres away from the nearest inhabited dwelling, just over twice the distance of the original pipeline.

However, protesters believe that this is not adequate. They point, for example, to the recommendation of Dr Kuprewicz regarding the original planned pipeline that there be a distance of 200 metres from dwellings and 400 metres from unsheltered individuals.

They also express concern at certain comments made by Shell's own technical experts at the oral hearing held on the latest pipeline. A transcript of the oral hearing was not available at the time of writing, but a journalist, Lorna Siggins of *The Irish Times*, was present. According to her report, Shell's technical experts stated in response to questioning from an Bord Pleanála's expert that:

- the pipeline was unique;
- houses within 230 metres could burn spontaneously from heat radiation if gas in the pipe was at full pressure (i.e. 345 bar)⁷² ;
- residents would have just 30 seconds to escape to safe shelter, again if the pipe was at full pressure;
- safe shelter had not yet been identified for residents;
- houses within 171m would be at risk if the gas pressure was at 144 bar – the

- maximum onshore pressure level agreed by the developers after the Advantica safety review;
- the risk of terrorist attack had not been factored into the Quantified Risk Assessment;
- one of the Advantica report recommendations was not being implemented.

The concession that houses within 171m would be at risk if the gas pressure was 144 bar was significant. It appeared to contradict the assertion made by the then Minister for Communications, Marine and Natural Resources, Noel Dempsey TD, in 2005 that –

“even in the worst case of the pipeline being ruptured and the gas being ignited, the occupants of a building 70m away would be safe.”⁷³

The hearing also heard evidence from Desmond Branigan of DB Marine Research and Associates that Lloyd’s Marine Intelligence Unit had recorded 1,200 deaths in the decade to 2008 as a result of pipeline fractures in 58 countries.⁷⁴

Protesters called Commandant Boyle, a former Army bomb disposal expert of the Irish Army. He indicated his belief that a separation distance of at least 500 metres from residences should be imposed.⁷⁵

Shell point out, however, that they submitted large volumes of evidence as to the safety of the project – and that this did not receive the same media coverage. They also point out that Commandant Boyle does not have specific expertise in the field of gas pipelines.

(vii) An Bord Pleanála seeks further information

On 2 November 2009 an Bord Pleanála wrote to Shell.⁷⁶ It stated that:

“The design documentation for the pipeline and the quantified risk analysis (QRA) provided with the application does not present a complete, transparent and adequate demonstration that the pipeline does not pose an unacceptable risk to the public.”

Specifically, it found that part of the route, between Glengad and Aghoose, was unacceptable because houses were within the hazard range should failure occur. It also found that there would be an unacceptable impact on the local community at Rossport both during the construction and operational phases.

The Bord also pointed out that part of the pipeline where the pipe made landfall had been omitted from the planning application. This had been a source of concern to protesters at the oral hearing.

The Bord did not, however, reject the planning application. Indeed, it stated that it was provisionally of the view that it would be appropriate to approve the pipeline should alterations be made. Specifically, the Bord stated that the pipeline should take an alternative route within Sruwaddacon Bay.

The Bord also required additional information on 14 issues. These included:

- A site specific quantitative risk assessment, which should include all potential risks, including intentional damage by third parties and wet gas in the pipeline;
- A qualitative risk assessment for those risks that cannot be easily defined mathematically;
- Hazard distances, building burn distances and escape distances for the entire pipeline, including the assumptions made for determining these;
- An assessment of the societal risk along the route;
- An examination of the potential for a vent to prevent pressure at Glengad reaching wellhead pressure levels.

The additional information was originally to be submitted to the Bord by 5 February 2010, but this has been extended by an Bord Pleanála to May 2010.⁷⁷

The leading protester group, Pobal Chill Chomáin, stated in response that the Bord’s decision was a vindication of the health and safety concerns of local people.⁷⁸

However, the chief technical officer of the Department of Communications, Energy and Natural Resources has criticised aspects of the approach to risk adopted in the Bord Pleanála decision, arguing that it was solely based on consequence and not on the risk of an event’s occurrence.⁷⁹

Shell, for its part, stated that it remains firmly of the view that the pipeline, as designed, is safe and meets all international standards and industry best practice. They have nonetheless committed to give detailed consideration to the Bord's requests for further information and modifications to the route.⁸⁰ While Shell intends to do extensive survey work in Sruwaddacon Bay, it does not intend to carry out works at Glengad or Rossport in 2010.⁸¹

V. GROUPS INVOLVED IN THE CORRIB GAS DISPUTE

A number of groups are involved in the Corrib gas dispute. The most significant ones are summarised here.

(a) Shell to Sea

The Shell to Sea campaign was founded at the time of the imprisonment of the Rossport 5.

Shell to Sea in Mayo has consisted largely of people from the Rossport and Glengad areas. However, some – like Maura Harrington – live a number of kilometres away. There is also an active support group in Dublin and there are smaller supportive groups and individuals in other Irish cities.

Shell to Sea has a number of concerns about the project. These include:

- risk to health and life posed by both the pipeline and the terminal;
- risk to the environment posed by the pipeline and the terminal;
- the terms upon which oil exploration companies are taxed and licences granted.

The principal demand of Shell to Sea, as its name suggests, is that the gas should be treated at sea on a shallow water platform.

(b) Pobal Chill Chomáin

Pobal Chill Chomáin (People of Kilcommon) was formed in April 2008, essentially breaking away from the Shell to Sea campaign. Kilcommon is the parish in which Rossport is situated.

The split with Shell to Sea came over a proposal made by Father Michael Nallen PP and two other local priests for an alternative terminal site, such as at Glinsk in Mayo, with an alternative pipeline route. Glinsk is a sparsely populated area a few miles to the east of the intended pipeline route and refinery. Many in Shell to Sea were keen to accept this proposal, but others did not want it discussed. Those who wished to consider the proposal left to form Pobal Chill Chomáin.

The Chair of Pobal Chill Chomáin is Vincent McGrath, one of the Rossport Five. The group states that it involves most of those in the Rossport and Glengad areas who previously would have supported Shell to Sea, including Willie Corduff. This has left Maura Harrington the most prominent member of the Shell to Sea group in the area, along with Niall Hartnett of Rossport Solidarity camp and others.

Pobal Chill Chomáin has since accepted and promoted the Glinsk alternative. The proposal has secured the support of some, including Michael D Higgins TD, Fine Gael TD Michael Ring and the Bishop of Killala. However, it has been rejected by Shell. Shell argues that Glinsk is an unsuitable site – in particular because of the steep cliffs where the alternative pipeline would make landfall.⁸² Pobal Chill Chomáin does not believe that the cliffs pose any insuperable difficulties.

Another difference with the Shell to Sea campaign is that Pobal Chill Chomáin's concerns are solely to do with risks to life and health and to the environment. They do not take a formal position on the taxation of those engaged in oil and gas exploration – although this is not to say that individually their members do not have views regarding this issue.

Also, while it welcomes outside support, Pobal Chill Chomáin is – and wishes to remain – above all a local group. It has not organised days of action in which those from outside the area have been invited in to protest. Such days of action have, at times, involved public order incidents.

Pobal Chill Chomáin has made a number of formal complaints regarding the Corrib gas development, including to the European Commission and the Organisation for Economic Cooperation and Development (OECD).

(c) Rossport Solidarity Camp

Rosspport Solidarity Camp was formed in 2005. Originally, it was a camp on land in Rosspport. However, the location of the camp has varied, depending largely on where works have been undertaken by Shell and its agents. At the moment, the camp is located in Glengad.

The camp has attracted a number of activists who support non-violent direct action. The camp consists mostly of people who are not themselves from Mayo. Some have been involved previously in other protests. For example, Niall Hartnett – one of the camp's most prominent members – was previously involved in anti-war protests at Shannon. Niall Hartnett is also a spokesman for the Shell to Sea campaign.⁸³

(d) Pobal Le Chéile

Pobal Le Chéile is a group of business people in the North Mayo area who support the Glinsk option. It is chaired by Ciarán Ó Murchú.

(e) Pro Gas Mayo/Pro Gas Erris

Pro Gas Mayo is a group of businessmen from Mayo who are supportive of Shell's current plans for developing gas in the area. Its chair is Padraig Cosgrove and secretary is Mr Brendan Cafferty. There is also a related group of business people from the Erris area of North Mayo who have formed the group pro-gas Erris.

These groups believe that Shell's proposals are safe and, further, that they are bringing jobs and economic development to an area which has suffered from a chronic lack of employment in the past.

VI. QUALIFICATION FOR HUMAN RIGHTS DEFENDER STATUS

A number of issues arise regarding the qualification of protesters as human rights defenders.

(a) The existence of a human right

One of the issues that has arisen in this dispute concerns the terms on which exploration is licensed and taxed in Ireland. Under terms introduced by Minister Ray Burke in 1987, oil and gas production are exempt from royalty payments to the State and there is no mandatory State participation in oil and gas production.⁸⁴ In 1992, the applicable corporation tax for such activity was reduced to 25% for licences granted before certain dates.⁸⁵

While the level of corporation tax is twice the standard 12.5% rate, these are nonetheless very favourable terms by international standards. To their supporters, they are necessary to encourage oil exploration. To their opponents, including some of the protesters in the Corrib gas dispute, they represent a very poor deal for the Irish people.

But these are essentially political issues. There is no internationally recognised human right regarding the taxation of natural resources. Accordingly, those who raise these points cannot *on those grounds* be considered to be human rights defenders.

By contrast, the right to life is well recognised by international human rights instruments.⁸⁶ So those who are acting out of a concern that lives may be lost can on that account be human rights defenders. Likewise those who are acting to protect health can cite international human rights instruments.⁸⁷

The right to a clean environment is a less explicitly protected right. For example, it is not recognised by the European Convention on Human Rights. But the European Court of Human Rights has recognised that pollution can breach Article 8 of the Convention, which guarantees the right to family and private life.⁸⁸ This is so even if the pollution does not threaten health. Article 37 of the Charter of Fundamental Rights of the EU also requires a high level of environmental protection in EU policies. Those who are acting out of a concern to protect a right to a clean environment can therefore be human rights defenders.

(b) The allegedly fanciful nature of human rights concerns

It has been suggested to this author, however, that particularly since the Advantica report, great efforts have been made to ensure the safety of the pipeline project and that those who are protesting have an entirely tenuous link with any human right. They ask whether a person can be a human rights defender no matter how fanciful the concerns they have.

Two points can be made in response.

First, while this report takes no position on the safety of the pipeline, it is clear from:

- the report of Dr Kuprewicz regarding the first proposed pipeline;
- the reports of an expert in explosions called by Pobal Chill Chomáin at the oral hearing into the pipeline;
- the reported comments of Shell's own expert witnesses at the 2009 an Bord Pleanála oral hearing into the pipeline;
- the findings of an Bord Pleanála in their letter to Shell of 2 November 2009

that the concerns of protesters cannot be described as simply fanciful. Further, it is clear that there have been a number of instances of regulatory non-compliance by Shell, as set out in this report. In the light of these, it is not irrational for protesters to have environmental and safety concerns. It is true, of course, that much of the evidence before the 2009 an Bord Pleanála oral hearing was that the pipeline was safe, but that of itself does not render the views of those who differ irrational, not least when those views appear to have been supported, in part at least, by an Bord Pleanála.

This is not to say that the concerns of protesters – or indeed an Bord Pleanála – are

scientifically correct. This author has neither the competence nor the remit to judge this – or to judge Shell's plans safe.

Second, as UN Factsheet No. 29 makes clear, it is not necessary for human rights defenders to be correct. The key issue is whether or not their concerns fall within the scope of human rights. In the case of the protesters, it is clear that they do.⁸⁹

(c) The extent to which protesters represent the views of the community

Another point frequently made is that the protesters are not representative of the views of their community. For example, Shell points out that the clear majority of Rosspoint landowners, and Broadhaven Bay fishermen, reached agreements with Shell regarding their land and fishing rights. This is true.

However, in 2007 the *Western People* commissioned an opinion poll of the views of those living in Mayo. It found that 55 per cent of those surveyed wanted the gas to be processed offshore with a low pressure pipeline to the gas terminal at Bellanaboy. Only one-third of those surveyed wanted the project to continue in its current format while just seven per cent said they did not want the project to go ahead at all.⁹⁰ An earlier opinion poll for TG4 also found high levels of support for the offshore option.⁹¹

That said, it also appears that there is less support for the tactic used by protesters of blocking access to Shell worksites. An opinion poll for the *Irish Independent* in November 2006 of Mayo residents asked a number of different questions. On the issue of whether the protests should continue, 14 % said that they should continue including blocking access to the Bellanaboy site, 38% said that they should continue but without blocking access to the Bellanaboy site and 32% said that they should cease.⁹²

Those who support the development also point to the fact that protesters have never fielded a candidate in local elections and further that Dr Jerry Cowley, who supported the protesters, lost his seat as a TD in the 2007 elections.

For present purposes, the results of opinion polls and elections are not strictly relevant. There is no requirement that a human rights defender have majority or minority public support. What is required, as UN Factsheet No 29 makes clear, is that the person acts to address any human right on behalf of individuals or groups. That is clearly satisfied by the protesters, since they do not act merely on their own behalf but on behalf of others who hold the same view. How many or how few of those people there are is not relevant to whether they are human rights defenders.

(d) Special effort

A number of those involved in the dispute have property interests. For example, Philip McGrath and Willie Corduff are landowners. Similarly, Pat O'Donnell, who has opposed the development, fishes in Broadhaven Bay. He also has a small and successful shellfish business.

This is significant. As already stated above, a person cannot be a human rights defender if acting only to protect his or her own economic interests. The key is to see if a special effort is made.

It is clear that there has been a special effort made by many protesters. Philip McGrath, Willie Corduff and other landowner members of the Rosspoint Five went to prison because of their opposition to the project. Were it the case that they were acting solely out of their own economic interest, it might have been more advantageous to reach a deal with Shell.

Pat O'Donnell has probably more to lose than other fishermen, given his shellfish business. However, his opposition has not been confined to concerns about pollution at sea – and he has also been active in protests in Bellanaboy and elsewhere. Further, he has been willing to face arrest on a number of occasions (and at the time of writing is in prison). Were he merely acting out of economic self interest, it is unlikely that he would have been willing to put himself in such a situation.⁹³

It was briefly suggested that, for example, those who defend the right of Shell workers to go to their place of employment could be human rights defenders. It is certainly true that such persons could potentially be human rights defenders. However,

this author was not presented with – and did not find evidence of – a special effort being made by such persons or of such persons being harassed or intimidated by state authorities or failing to be protected by state authorities. While it must have been deeply unpleasant for Shell workers to have to go to work in convoys past protests, that alone cannot qualify them as human rights defenders.

(e) The disparate nature of the groups involved

To be a human rights defender one must act on behalf of others. This poses some difficulty in the case of the Corrib gas dispute.

It is true that protesters are organised into different groups. While some associate more with Pobal Chill Chomáin and some associate more with Shell to Sea, the dividing line between the two is not always distinct in practice. Also while, for example, Vincent McGrath is the chair of Pobal Chill Chomáin, others such as Pat O'Donnell, Willie Corduff and Mary Corduff, PJ Moran, Terence Conway, Maura Harrington and Niall Hartnett appear to play an equal – and sometimes greater – role in the protests. The opposition to Shell's proposals is not led by any single individual, but rather driven by a community of many individuals in different organisations without defined leadership structures.⁹⁴

It follows that it is probably more appropriate not to single out individual human rights defenders, but rather to characterise the situation as one where groups of individuals are clearly seeking to defend human rights and where the rights set out in the UN Declaration on Human Rights Defenders are applicable. This issue therefore comes within the remit of organisations, like Front Line, that concern themselves with the Declaration.

(f) Allegations of intimidation, violence and criminal damage

As stated above, UN Factsheet No 29 requires that *"the actions taken by human rights defenders must be peaceful in order to comply with the Declaration on human rights defenders."* It follows that protesters cannot act in a violent or intimidatory manner.

What follows are details of the main incidents and allegations regarding intimidation, violence and criminal damage by protesters and those sympathetic to them. It does not purport to be an exhaustive account of these incidents and allegations. Equally, the allegations and incidents regarding the Garda Síochána and Shell security staff later in this report do not purport to be exhaustive, but rather are intended to state the main incidents and allegations.

(i) Convictions related to threatening/abusive behaviour or assault

Some protesters have been convicted of assault. For example, Maura Harrington was convicted in March 2009 of assault on slapping a garda across the face.⁹⁵ In September 2009 she was also convicted of assault on a Shell security guard.⁹⁶

Fisherman Pat O'Donnell has been convicted of wilful obstruction of a peace officer. At his trial, Gardaí gave evidence that on 14 September 2008 they had joined a motor cavalcade protest in support of a hunger strike held by Maura Harrington. The cavalcade stopped and the Garda car was surrounded by protesters, led by Mr O'Donnell who, Gardaí gave evidence, shouted at them abusively. Although the Gardaí had video cameras, they did not use them, they stated, for fear of exacerbating the situation. Mr O'Donnell was therefore convicted on the evidence of the Gardaí present.⁹⁷ His appeal was subsequently unsuccessful, with Judge Groarke describing him as a bully and a thug. Three others were also convicted in relation to this incident. Mr O'Donnell has also been convicted of threatening and abusive behaviour in relation to an incident involving a Garda on 13 September 2008.⁹⁸

Rossport Solidarity Camp member Niall Hartnett has been convicted of assault on a Garda in 13 September 2008 by pulling twice on his arm.⁹⁹ Mr Hartnett was convicted on the word of two Gardaí, the video evidence which Mr Hartnett offered to explain the circumstances having been found by the court to be inconclusive. On appeal, Mr Hartnett apologised to the Garda concerned.¹⁰⁰

Terence Conway, another protester, has been convicted of threatening and abusive

behaviour during a protest at Shell offices in Belmullet on 17 September 2009. Mr Conway had been filming the protest and followed a Shell employee to his car with the camera and asked to talk to him. When he was asked to desist by Sergeant Seán Cunnane he refused to do so. Judge Groarke said that Mr Conway had hoped to provoke a reaction from the employee and convicted him of the offence.¹⁰¹

(ii) Allegations of intimidation/harassment

This author met with a number of Rosspoint and Glengad residents at the suggestion of Shell. One indicated in fact that he had not been intimidated by protesters. Others indicated that they had felt intimidated. Much – but not all – of what was complained about appeared to involve people no longer talking to each other. While this was perceived as intimidatory, it could also be a consequence of a breakdown in what once were good relationships due to divisions over the gas project.

One person complained of minor vandalism to his property. While the acts of vandalism were not of themselves significant, their motivation worried him. He believed that the vandalism had been conducted by protesters, though did not have specific evidence of this. He also complained of unfair treatment of a family member, which he believed to be because of his support for Shell's proposals. The man asked not to be identified, and so further details regarding this are not given. The incident, while upsetting for the person involved, did not involve any breach of the law.

A number of Gardaí with whom I spoke found the protests to be intimidatory. In part, their complaints seemed to reflect the same shock that protesters had that relations in the community had deteriorated. However, some allegations were of personalised abuse.

In some cases, there is footage showing abuse. For example, a local protester taunts the Gardaí about the death of a Garda in Letterkenny who had been crushed against a stolen car. "A few more of ye should have run into the wall" she states.¹⁰² Another shouts at Shell security guards "The IRA didn't kill half enough of ye fuckin' cunts in the North – and they'll come to the South ye fuckers ye."¹⁰³ These incidents occurred at a time of high tension on 22 April 2009 when protesters believed that Gardaí had assaulted Willie Corduff. The Gardaí deny any such assault. Whatever the circumstances, the abuse was unacceptable – but the context of heightened tension is relevant.

On another occasion at Glengad a protester shouts at police "fucking turncoats". In other footage at Bellanaboy a woman is seen pushing a police officer.¹⁰⁴

There have also been allegations made of abusive late night telephone calls.¹⁰⁵ Judge Mary Devins, one of the District Court judges in Mayo, has also stated publicly that she has received hate mail.¹⁰⁶

When this author met with Gardaí, they stated that there had been many other such incidents. Prosecutions, however, had generally not been brought. This was, the Gardaí stated, because members of the public were often unwilling to make statements. As regards abuse of Gardaí, they stated that this was generally not prosecuted out of a desire not to escalate the situation. These are allegations, not proof. That said, it would be surprising if incidents of, for example, verbal abuse of Gardaí were limited solely to those caught on camera or those prosecuted in the courts.

(iii) Blocking entry to Bellanaboy – and elsewhere

During 2006, in particular, protesters blocked entry to the site at Bellanaboy, preventing workers from entering. Protesters also decided who was, and who was not, gaining entry. For example, they state that they allowed those doing environmental work on the site to enter. Eventually, workers were taken in by convoy, with some among the protesters jeering at them. This taunting appears largely to have come from those who were not themselves from the North Mayo region.¹⁰⁷

The blocking of the site was clearly illegal – and there can be no objection on human rights grounds to proportionate policing methods to ensure that workers could get to their lawful place of work. The blocking of the site must also have been both frustrating and unpleasant for workers. Of itself, that does not, however, render the protests intimidatory. More serious is the allegation made by Chief Superintendent McNamara,

who then headed the Garda Síochána in Mayo, that workers were followed home from work.¹⁰⁸

Other sites have been blocked also, but on a less consistent basis. For example, Maura Harrington was convicted of obstructing a gate with her car at the Shell compound in Glengad in August 2008.¹⁰⁹

(iv) Other criminal incidents

There have been incidents of criminal damage which appear related to the gas dispute.

On the evening of 9 November 2007, following a day of protest at Bellanaboy, damage was done to the property of two quarries that supplied Shell. Lorries were damaged, a window was smashed and a computer was damaged in one of the quarries. The windows of five lorries and a jeep were smashed in the other quarry. A Shell to Sea spokeswoman condemned the violence. She accepted that Shell to Sea did not have control over who turned up at protests.¹¹⁰

On the evening of 22 February 2008, over 100 bog mats were burnt in an arson attack. The wooden mats, which were used to construct temporary roadways over bogland by Shell contractors, were worth €250 euro each. Again, the incident was condemned by a Shell to Sea spokesman, who commented also that the incident had done protesters no good.¹¹¹

On the evening of 22 April 2009, it was reported that a number of masked men damaged property at the Shell refinery in Glengad. The circumstances surrounding this event are disputed, and dealt with in a later section of this report.

A serious incident occurred on 15 September 2008 when what was described by Gardai as a viable device was found outside Shell headquarters in Dublin. It was made safe by army bomb disposal experts. Again, the incident was condemned by a Shell to Sea spokesman.¹¹²

Finally, in 2008 netting covering the nesting grounds of sandmartins that Shell had erected during construction works at Glengad was burnt. Shell claimed in July 2008 that damage done to the nets had cost by then €30,000.¹¹³

Nobody has been convicted in relation to the above incidents although it is reasonable to assume that they are related to the gas dispute.

Netting covering the nesting grounds at Glengad has also been cut on a number of occasions.¹¹⁴ Maura Harrington has pleaded guilty to damaging the netting on 10 April 2009.¹¹⁵

(v) The extent of republican involvement

- Sinn Féin and the Provisional IRA

Related to accusations of criminal damage are accusations of republican infiltration of the Shell to Sea campaign.

For example, an October 2006 article in the *Sunday World* entitled “How the Shinners Hijacked Rossport” claimed that Sinn Féin had taken control of the protests in County Mayo.¹¹⁶

It is certainly true that a few protesters in Mayo are or have been Sinn Féin supporters. But it seems equally clear that many are not. For example, Philip McGrath, one of the Rossport Five, has in the past manned polling stations for Fine Gael.

Sinn Féin politically have been supportive of the Shell to Sea campaign – and have been active in particular in Dublin.¹¹⁷ Their politicians have attended Shell to Sea protests, such as current NI Minister for Education – and Mayowoman- Caitriona Ruane MLA. Their activists have also attended protests. Some of those have had serious IRA pasts, such as Jim Monaghan of the Colombia Three.

But it is also true that people of very different political persuasions have been supportive of the Shell to Sea campaign. Protests have on occasion been attended by Labour Youth, some trade unionists, and TDs such as Michael D Higgins, Joe Costello, Tony Gregory, Joe Higgins, Jerry Cowley, Seamus Healy and Councillors such as Declan Bree and Catherine Connolly, a variety of leftist organisations as well other rival republican groups such as Éirigi.¹¹⁸ The current Minister for Communications, Energy and Natural Resources, Éamon Ryan TD, was among those who attended Shell to Sea protests.¹¹⁹

Further, following IRA decommissioning, the standing down of the IRA and the decision to support policing and the rule of law in Northern Ireland, it is not clear that mainstream republican involvement presents any major concerns – even if real questions do remain about their cooperation with police investigations when their own members are in question.¹²⁰

- Éirígí

Concern has also been expressed at the involvement of Éirígí and dissident republicans in anti-Shell protests.

Éirígí is a republican political party which broke away from Sinn Féin in 2006. Its website records that between half a dozen and a dozen of its activists attended Shell to Sea days of protest in 2006 and 2007.¹²¹ In February 2008 three of its activists Dominic McGlinchey, republican ex prisoner Rab Jackson and Cathal Larkin were convicted of blocking the public thoroughfare at a Shell to Sea protest in Mayo and were given the Probation Act.¹²² I have no evidence that, in so doing, the three were behaving any differently from many other protesters who had at times blocked roadways.

The Independent Monitoring Commission is an international commission set up by the British and Irish Governments, but independent of it, to monitor paramilitary activity in Northern Ireland. Commenting on Éirígí, it stated:

“We said in our previous report that *Éirígí* was a political group with a focus on aggressive protest activities. This remains the case, though we cannot ignore the fact that amongst members or former members there may have been involvement in serious violence.”¹²³

Two people associated with Éirígí have been charged with the murder of two British soldiers at Massereene Barracks in Antrim in March 2009. Éirígí claims that the first of these left the organisation in the month before the murder.¹²⁴ It initially denied that the other had been in the organisation, but subsequently claimed that he had left the organisation four months before the murders.¹²⁵ Following the murders Éirígí spokesman Brendan McCionnaith denied that they were linked to any armed organisation. “While supporting the right of any people to defend themselves from imperial aggression, éirígí does not believe that the conditions exist at this time for a successful armed struggle against the British occupation,” he stated.¹²⁶

Despite these developments, the Independent Monitoring Commission in its November 2009 report has not altered its assessment of Éirígí:

“As regards Éirígí, we have said in recent reports that we believed it was a political group with a focus on aggressive protest rather than a paramilitary group. We have also pointed out that amongst its members or former members there were some who may have been involved in serious violence. We do not change this overall assessment. We note that some of its members are elected local representatives. We do not believe that its leaders direct acts of terrorism, but we note its ambiguous attitude towards the use of physical force, which it has not condemned.”¹²⁷

Maura Harrington addressed Éirígí’s conference in May 2009. “Anybody who comes to North Mayo comes on their own terms and they are welcome,” she stated. In her speech, she made a call for direct action, commenting that it had been successful in 2008. She concluded her comments stating “We will welcome help of any kind from any quarter.”¹²⁸

This author asked Maura Harrington about her attendance at the Éirígí Ard Fheis – and indeed her attendance at the Republican Sinn Féin Ard Fheis. She stated that she would accept any invitation to speak that she was given. She had, for example, spoken to the National Women’s Council of Ireland.

If Fianna Fáil wanted to invite her to speak at their Ard Fheis, she would attend there too, she stated.

- 32 County Sovereignty Movement

Whatever ambiguity there may be about the use of violence among Éirígí and its supporters, there is none about the use of violence among the 32 County Sovereignty

Movement, which is the political wing of the Real IRA. The Real IRA has claimed responsibility for the murders at Massereene Barracks and also for the shooting in recent times of police officers in Dungannon and Derry.¹²⁹

Derry Republican and 32 County Sovereignty spokesman Gary Donnelly has attended an anti-Shell demonstration in Mayo.¹³⁰

- **Assessment of the nature of republican involvement**

It is clear that there has been some republican involvement in the protests. Some of this has been by Sinn Féin – which is now the second largest party in government in Northern Ireland and on the Northern Ireland Policing Board. Some of it has been by splinter republican groups and some has involved dissident republicans. But it would be wrong to characterise the protesters in Mayo as republican directed. This author has seen no evidence of this.

Most republican attendance in Mayo has been at “days of action” where people from outside Mayo, including environmentalists, anti-globalisation activists, republicans and socialists, have attended demonstrations. Protesters in Mayo appear to have had little control over who attended, although it is clear that the attendance of republican groups like Éirigi has been encouraged by some.

Further, there appears to be a difference of approach between Pobal Chill Chomáin and Shell to Sea. Pobal Chill Chomáin has not organised days of protest, at which those from outside the community have been encouraged to attend.

It has not been possible in this report to investigate all allegations of wrongdoing. But it is worth noting that there have been no convictions to date against republicans in connection with the Corrib gas dispute involving the use of violence or criminal damage.

In short, allegations of republican control and direction of protests in Mayo appear inaccurate and unfounded. The protesters are not united by any political ideology, still less any paramilitary affiliation. Rather what concerns them are the health, safety and environmental implications of the project. Some, especially those in Shell to Sea, are also concerned that the terms upon which oil exploration licences are granted in this country do not protect the public interest sufficiently. Beyond this, they are a disparate group of people with varying opinions and outlooks.

At the same time, it is understandable that the Garda Síochána would be concerned by the occasional presence of some people with paramilitary backgrounds. This should, for example, be borne in mind when assessing the proportionality of policing strategies and surveillance tactics.

(g) Summary regarding qualification as human rights defenders

In summary, a few points can be made:

- It is clear that the Corrib gas dispute raises human rights issues;
- Whether or not the protesters are correct in the human rights that they are asserting is irrelevant under the UN Declaration on Human Rights Defenders. What matters is that human rights are engaged. Further, in view of the real questions raised as to the safety of the pipeline, and in view of the recent findings of an Bord Pleanála that its safety had not been demonstrated, those concerns cannot be disregarded as so irrational that human rights ought to be deemed not to be engaged;
- The fact that there are many in the community who support Shell's current plans does not mean that protesters cannot be human rights defenders;
- The key requirement of special effort appears satisfied. Protesters do not appear to be motivated merely by protection of their own economic interests;
- However, it is difficult enough to identify *individual* human rights defenders – since the situation is more one of a community of protesters without clear leadership structures. But the situation can be characterised as one where some groups are clearly seeking to defend human rights and where the rights set out in the UN Declaration on Human Rights Defenders are applicable. This issue therefore comes within the remit of organisations, like Front Line, that concern themselves with the Declaration.

- There have been acts of criminal damage against Shell property. Some protesters have been convicted of assault and abusive and threatening behaviour. There is also footage showing verbal abuse of police officers by some protesters. There have been other allegations of intimidation also. This however does not characterise the overall situation.
- Some – but not all – of what people call intimidation simply involves people no longer talking to each other. That could also be a consequence of a breakdown of relationships.
- Those proved to be involved in violent or intimidatory behaviour cannot be regarded as human rights defenders – and there is no human rights objection to proportionate sanctions being applied against them in accordance with law.
- Allegations of republican direction of protests in Mayo appear unfounded and inaccurate. However, the occasional presence on some days of protest of persons with paramilitary backgrounds is relevant to assessing how those protests are policed. It is to the issue of policing that we now turn.

VII. THE POLICING OF THE DISPUTE

This author was engaged to examine the policing of the dispute in particular in 2008 and 2009. However, it was also agreed to examine any materials submitted from 2006 and 2007.

As already stated in the introduction, it was not possible to investigate every incident. As a result, it has often not been possible to make findings of fact on disputed issues. In many cases below allegations of human rights abuses are therefore merely recorded. In some cases evidence was provided – such as statements or footage taken of events. That footage and those statements came in particular from the side of the protesters in the dispute, although, information and footage were sought from all sides to the dispute.

As a result, it has not been possible in most cases to draw specific conclusions about specific events. However, in some cases this has been possible. In other cases while specific incidents could not be fully verified some general observations could be made as to the nature and scale of the problem in the Corrib gas dispute and how some human rights concerns could be better managed.

(a) 2006/2007: Protests at Bellanaboy

Following the imprisonment of the Rosspoint 5, protesters prevented works being carried out at Bellanaboy by blocking access to the Shell site – and deciding who could and could not enter.

On 26 September 2006 the Gardai asked protesters to clear the entrance to Bellanaboy. They refused to do so. Given the numbers of protesters present, compared to the number of Garda officers, the protesters were not cleared from the entrance. However, on 3 October 2006 large numbers of Gardai cleared the entrance to the site so that workers could get access, removing – they estimated – 80 protesters, following the giving of a warning.¹³¹

Protests continued in the months that followed.

There was particular confrontation involving a Garda baton charge on 10 November 2006. This was on a day of action launched by Shell to Sea to commemorate the anniversary of the execution of Ken Saro Wiwa, the Nigerian environmental activist. Footage shows that a number of warnings were given before the baton charge was initiated.¹³²

On that day an American living in the area, Ed Collins, fell down a deep ditch to the side of a road by Bellanaboy. So did a Ban Garda. Beyond that the facts are contested. Mr Collins stated to this author and in court that the Ban Garda fell into the ditch, following which he was thrown into the ditch by another Garda. The Ban Garda stated that they had a hold of each other and that it was as a result of Mr Collins's actions that she fell down the ditch. She did not allege that he had pushed her down intentionally.¹³³

An ambulance had to be called for Mr Collins. John Monaghan, another protester also claims to have been pushed down the ditch by Gardai at the scene. Video evidence provided by protesters does not show precisely how Mr Monaghan ended up down the ditch, but Gardai were standing beside him at the time that he fell and he accuses them of having pushed him.

Mr Collins has remained on crutches since his fall. He brought a complaint to the Garda Complaints Board, which was unsuccessful. He claims that it was only subsequent to the bringing of his complaint that a summons was brought against him under s.21 of the Criminal Justice (Public Order) Act 1994. However, that prosecution was also unsuccessful, with Judge Devins finding that there were inconsistencies both in the case of the prosecution and the defence. Mr Collins is now pursuing a civil action against the Garda Síochána on the basis of their video footage of the event. He states that specialist equipment, not available to this author, is required to analyse the footage.

Turning to events more generally at Bellanaboy in the period from October 2006 through to 2007, footage supplied by protesters and a documentary maker of the

period for the greater part shows both peaceful protests and a reasonably well organised Garda operation.

But on a number of occasions there was scuffling between Gardaí and protesters. Disturbingly, on a number of occasions there is footage from protesters and a documentary maker of Gardaí throwing several protesters off the road and down into ditches. Much of this footage dates from 10 November 2006. It is assumed that the protesters 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.

Speaking of events on 3 October 2006, Superintendent Joe Gannon, who was then in charge, stated:

“There were no arrests. That was part of our strategy: we did not want to facilitate anybody down the route to martyrdom. That has been the policy ever since.”¹³⁴

Some arrests did in fact follow in these months, but the numbers remained low.¹³⁵

It is understandable in the wake of the imprisonment of the Rossport 5 that the Gardaí did not wish to see people imprisoned for fear that this would escalate the conflict. That is an entirely legitimate policing goal and does not mean that the police are following a political agenda. However, that did not require a policy of not arresting people, but rather only of refraining from prosecution where the disadvantages of prosecution would outweigh the advantages. 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.

(b) Pollathomas pier – 11 June 2007

The next major incident occurred at Pollathomas pier. Pollathomas pier is south of Rossport across Sruwaddacon bay.

The Gardaí wished to assist the transport of a HIMAC digger and a jeep towing a trailer carrying a portacabin from the main road at Pollathomas through a farm gate and down a lane roughly 50 - 100 metres long to a pier onto Sruwaddacon bay. This was to assist with a marine gas survey being conducted by Shell contractors. To the north side of the lane there was a steep incline with rough vegetation. If a person were to fall down it, he or she could sustain serious injuries.

Protesters disputed the entitlement of the Gardaí to bring the digger, jeep and cabin down the lane. Mr Paddy McGrath, the owner of McGrath's pub in Pollathomas, claims to own the lane. He had not given his consent to Shell to bring the HIMAC and the portacabin across it and sought the assistance of the protesters to prevent a trespass on his lands.¹³⁶ He made clear to the Gardaí that he was not consenting.

It appears from footage supplied by protesters and a documentary maker that there were roughly 20 Gardaí and 40 protesters present. This is, however, necessarily a rough estimate.

The Garda in charge read a letter from Mayo County Council regarding permission for Shell to erect a cabin on the pier, but this did not address the issue of the entitlement to enter across what were claimed to be private lands. He warned protesters to leave the area because of a “probability of people getting seriously hurt.” The protesters did not do so.

The solicitor for Mr McGrath attempted to speak to the Garda in charge, but was unsuccessful.¹³⁷

A report from *The Irish Times* states as follows regarding this Garda:

“The Garda at the centre of the Garda Síochána Ombudsman Commission decision had been given incorrect information before the Pollathomas protest took place, and said at the time that he was unaware that a solicitor for the landowner was trying to contact him by telephone.”¹³⁸

This author is not aware of whether the Garda in question did in fact state that he was unaware that a solicitor for the landowner was trying to contact him by telephone. But it is very difficult to see how he could not have been aware, as footage supplied by protesters shows this Garda being clearly told:

"The solicitor is to speak to you directly now. If you are acting on behalf of a private company, that's your own problem now. Well he's to speak to you. If you go down there with that machine you are liable, he said. That's what he told you."¹³⁹

The Garda was also advised to have his phone on. The Garda in question said nothing upon being told this and turned away.

Initially, the Garda operation was frustrated by the deliberate parking of a car in the way by a protester. That car was towed by Gardaí. Protesters also climbed on top of some of the machinery and Gardaí had to remove them. On some occasions the machinery continued to be driven, although at a very slow speed, by Shell contractors. That appears to have compounded the danger to Gardaí and protesters alike – although on the footage supplied the Gardaí did not direct the contractors to stop.

The main confrontation occurred when protesters congregated behind the gate to the lane. The digger advanced to the gate. Some protesters, such as Terence Conway and Willie Corduff, who were present on the day, have stated that the digger of the HIMAC was used to push the gate open. However, extensive footage seen by this author does not show this – although it does show the actual digger of the HIMAC advancing to the gate.¹⁴⁰

A number of Gardaí then attempted to push the gate open, which protesters – who had congregated behind the gate – attempted to prevent by pushing the gate back closed again. The Gardaí succeeded in pushing the gate open. However, this led to a crush situation, with protesters being pushed between the gate to the lane and the high ditch up to the main road.

Later protesters again mounted the HIMAC and portacabin, creating an unsafe situation. Nonetheless the digger continued to move forward. It is at this stage that the footage records a woman who had attempted to mount the equipment being flung by a Garda towards a ditch. This was disproportionate: there were other Gardaí present in the immediate vicinity who could have assisted with her safe removal. Scuffling subsequently broke out between protesters and Gardaí as a result of this incident.

A protester also attempted to block the transport of the portacabin. A Garda pushed him to the side of the lane. There was a risk of an accident as a result, as the protester could have fallen down off the lane and down the steep slope below.

The Irish Times reported that 2 Gardaí and 20 protesters were injured in the operation.¹⁴¹ This author has not sought to verify these figures, although it is clear from footage that some injuries were sustained.

Mr McGrath's solicitor subsequently wrote to Shell threatening legal action if the portacabin was not moved. Shell apologised for distress caused to Mr McGrath and moved the portacabin from the pier "in the interests of harmony", while also claiming that it had done nothing wrong.

A number of comments can be made about this operation.

First, one of the central issues in the dispute was whether Shell had any legal entitlement to bring the digger and cabin across what was claimed to be Mr McGrath's property. Mr McGrath had sought the assistance of protesters because he was adamant that they had no such right.

The Garda in charge warned of, in his own words, the "probability of people getting seriously hurt." That being so, it was all the more important that the Gardaí had clarity on this issue. While the Garda read out a letter from Mayo County Council about the entitlement of the portacabin to be on the pier, he did not clarify the entitlement of the Gardaí to get it there across what was claimed to be private property – and protesters were quick to point this out. If the Garda in charge knew what the answer to this was, he should have given it. But protesters claim that he did not, and in none of the footage supplied to me does he do so. If the Garda did not know, then he should have spoken to the solicitor for the Mr McGrath. Yet this was not done either.

Second, aspects of the operation appear to have been poorly conducted, leading to higher risks to safety than necessary – for example, the continued driving of vehicles while the protesters were on them and the opening of the gate almost to its full extent, leading to a crush situation behind it. Of course, by mounting moving vehicles and by congregating behind the gate that the Gardaí intended to open, some protesters

played their part in creating these dangers.

According to the Garda Síochána Ombudsman Commission, 18 complaints were subsequently made to it regarding these events. The Commission found that no offences were involved but conducted an investigation into disciplinary matters and has sent a file to the Garda Commissioner recommending that a “less serious breach of discipline be considered” under the Garda Síochána (Discipline) Regulations 2007 in relation to the senior garda at the centre of the investigation.¹⁴²

However, the Garda Síochána has responded that it found “no breach of discipline” on the part of the senior officer in relation to Garda handling of the protest at Pollathomas. The Garda Ombudsman has sought an explanation of this decision from the Garda Síochána.¹⁴³

(c) The events of 22 July 2008

By the summer of 2008, the Garda “no arrest” policy had clearly long ended. In particular, 13 people were arrested on 22 July 2008.

On that date, about 15-20 locals had attempted to prevent works being carried out by Shell contractors at Glengad in the vicinity of a sandmartins’ nesting area, close to the seashore. Shell had previously announced that it intended to carry out works in that area.

The previous day, the protesters had met with the National Parks and Wildlife Service to establish whether the relevant statutory consents had been obtained. A Parks and Wildlife official indicated that they were not the deciding body and that their role was to advise the Minister for Communications, Energy and Natural Resources. The protesters were emphatic that they were not told at that meeting of any authorisation having been granted.

They were therefore suspicious that the works being carried out on 22 July 2008 were unauthorised. Their suspicions were not unreasonable given that – as detailed above – the previous November the Minister of the Environment had ordered Shell agents to restore an adjacent nearby bog complex where it had conducted works without authorisation. Further, there have been – as set out previously – other incidents of regulatory non-compliance.

A Shell security guard asked the protesters to leave. They refused to do so. The Gardaí were therefore called. They arrived shortly afterwards, led by Superintendent John Gilligan, who had arrived in Belmullet in late 2007. The protesters raised with Superintendent Gilligan their concerns.

Superintendent Gilligan went to inquire with a Shell manager who, he said, informed him that an official from the Parks and Wildlife Service had authorised the works. The protesters disputed that this could be correct – since they had been told that he had only an advisory role.

A Garda present then stated that she had seen the consents and that they were in the public domain.

The protesters requested time to get clarification from the Department of Communications, Energy and Natural Resources. They stated that the Parks and Wildlife Service official had committed to give them a name of a person in the Department to contact, but had not done so.

Superintendent Gilligan stated that the work would not go ahead for a few hours to give the protesters time to contact the Department. The protesters stated that the nature of the issues upon which they were seeking clarification would take more than a few hours and that they wanted independent legal advice on the issue. They asked for the works to stop for the day.

Following some discussion, the Gardaí told one of the protesters, John Monaghan, that he was in breach of s.19 of the Criminal Justice (Public Order) Act 1994. At this point, Mr Monaghan stated that he was withdrawing cooperation. He was then arrested and taken away peacefully.

In a subsequent discussion with protesters, Superintendent Gilligan stated that he had seen the proof that the works were authorised. The protesters stated that they would leave the land if they were shown the consent. Two Gardaí said that they had seen it but that they did not have it. One of the protesters asked the Gardaí to get the consent – and pointed out that Shell must have it. They stated that they would wait for

the Gardaí if they went to get it. They also stated that they had been told that works carried out by Shell the previous November were authorised when, in fact, they had not been.

Further protesters were then arrested at intervals of several minutes, with protesters being given the opportunity to leave the site. In total, 13 were arrested.

A Garda gave a direction to a protester under section 5 of the Criminal Justice (Public Order) Act 1994. Later the same Garda stated that the protesters were on private property.¹⁴⁴

A few points can be made about these events.

First, a Garda present stated that she had seen the consents and that they were in the public domain. In fact, they were not in the public domain. Minister Éamon Ryan subsequently stated that due to an oversight the relevant consents had not been placed on the internet, as was standard practice.¹⁴⁵

Second, the Gardaí said that they had seen the consents – but would not produce them. Clearly, it is not the duty of the Garda Síochána to produce them. Nor do the protesters have the legal right to act effectively as enforcers of the law by obstructing Shell's works. But, if the works were authorised, it would have been a simple matter for Shell to produce the relevant documentation. If it existed as claimed, Shell must surely have had it. It would have been appropriate for the Gardaí to seek it or to ask a Shell agent to produce it, at least to help reduce conflict and avoid the need for arrests. While the first protester arrested had requested that work be stopped for the day to seek legal advice, following his arrest other protesters had given an explicit undertaking that they would leave if shown the consent. Further, showing the consent would have helped to demonstrate the impartiality of the Garda Síochána.

The issue of consents is discussed further in a later section.

Third, aside from the above point, the arrest operation itself was proportionately carried out. Protesters were given the opportunity to leave. By arresting protesters one by one, with breaks in between, each protester was specifically given a chance to go home. It was also reasonable of Superintendent Gilligan to get agreement from Shell to stop work for a few hours in order that the protesters could contact the Department.

Fourth, a Garda cited s.5 of the Criminal Justice (Public Order) Act 1994 before making one arrest. However, it is far from clear that s.5 was actually applicable. S.5 relates to disorderly conduct in a public place. A public place is defined broadly to include, for example, any outdoor area to which members of the public are permitted to have access, whether as of right or as trespassers, and which is used for public recreational purposes.¹⁴⁶ But this area was a works site and did not fit this description. It appears to be no more than private property – and indeed the relevant Garda stated that it was private property. S.5 does not seem therefore to have been an appropriate section to have invoked – other sections would have been more appropriate. This is not, however, to say that the arrest was invalid as a result.

A number of complaints have now been lodged with the Garda Síochána Ombudsman Commission regarding the events of 22 July 2008. No prosecution has been brought by the Gardaí of those arrested on that day.

One protester has claimed to have been injured falling from a police van upon his arrival at the station and has claimed that he was dragged while injured and left on the floor of the Garda station for a lengthy period before medical assistance arrived. Other protesters verified that he was dragged while claiming to be injured. The man concerned informs me that he intends to deal with the matter through civil legal proceedings and he wishes to reserve use of any medical reports for this purpose. I have therefore been unable to verify the extent, if any, of his injuries.

(d) Issues with IRMS staff

Before April 2008, local security firms worked for Shell. But in April 2008 a new security firm, Integrated Risk Management Services (IRMS), commenced work on the Corrib gas project for Shell.

(i) Complaints of surveillance by IRMS

Some residents of Glengad became concerned that security guards were filming them

from early summer 2008 on. Often, they said, the security guards would wear sunglasses and have much of their faces covered with high collared jackets, hats and hoods. Some have said that balaclavas are worn.

Colm Henry, who lives in Glengad, supplied this author with some photographs which he states were taken from his house of security guards observing his house with binoculars. He found this intrusive. He also claimed that this occurred on a constant basis in the summer of 2008.¹⁴⁷ On 9 July 2008 he gave a statement to the Garda Síochána regarding this. He supplied this author with a copy. The following is an extract:

“Since April 2008 as we move around our home and walk to the beach, and walk on the beach with our family including our grandchildren we are videoed and photographed by security people, employed in the Shell compound, and the Security personnel overlooking the beach. The videoing and photographing goes on the whole time from once we leave the house until we get back to the house again, also security personnel in the compound which is situated about seventy metres from our property use binoculars ever (sic) as my wife walks to the clothes line or around the house.”

Mr Henry has been, at most, an occasional protester and is a mild mannered man.¹⁴⁸ He believes that the surveillance is designed to deter people from using the public beach at Glengad.

In an interview with *The Irish Times*, published on 17 July 2008, Chief Superintendent Tony McNamara, who headed the Garda Síochána in Mayo at the time, stated that there was “nothing of an overt criminal nature” in the alleged activities of the security men. He went on to say that the Gardaí had told Mr Henry that his complaint was a “civil matter.”¹⁴⁹

Two comments can be made on this.

First, the statement by Superintendent McNamara that Mr Henry’s complaint was a civil matter was incorrect. Section 10 of the Non-Fatal Offences Against the Person Act, 1997 makes harassment a crime. The complaint was therefore a criminal matter also. Section 10 states:

- “(1) Any person who, without lawful authority or reasonable excuse, by any means including by use of the telephone, harasses another by *persistently* following, *watching*, pestering, besetting or communicating with him or her, shall be guilty of an offence.
- (2) For the purposes of this section a person harasses another where—
 - (a) he or she, by his or her acts intentionally or recklessly, seriously interferes with the other’s peace and privacy or causes alarm, distress or harm to the other, and
 - (b) his or her acts are *such that a reasonable person would realise that the acts would seriously interfere with the other’s peace and privacy or cause alarm, distress or harm to the other.*”
[Emphasis added]

Mr Henry was alleging that he and his family were being persistently watched. That was an allegation of harassment and a criminal matter. It did nothing for Mr Henry’s confidence that the Gardaí were treating his complaint seriously that approximately a week after giving a statement to the Gardaí, the Chief Superintendent was stating in the media that it was a civil matter.

Second, Monica Muller, a Rosspoint resident, wrote to the Chief Superintendent to query his comments in *The Irish Times* interview. Chief Superintendent McNamara responded:

“Regarding Mr Henry’s complaint he has made a detailed statement of complaint to the Garda Síochána at Belmullet which is currently under investigation. Obviously, therefore, I am unable to comment further on this particular matter.”¹⁵⁰

The pity was that he had not said the same to *The Irish Times*.

As to the substance of Mr Henry’s allegations, both Shell and IRMS deny that IRMS are involved in harassment. They also emphatically deny that footage was taken of Mr

Henry's grandchildren. The Garda investigation that ultimately took place did not result in any charges being brought.

IRMS also deny that balaclavas are ever worn. IRMS explain that the impression that balaclavas are being worn may be given by the combined effect of health and safety helmets, the fasteners worn under the chin to secure them, and hoods worn in bad weather. While good rain gear and helmets were warranted in wet weather, which was frequent in the summer of 2008, it meant that it was difficult to identify security staff who, as is explained below, also did not wear identification at that time.

Speaking on RTE, Shell spokesman John Egan stated that security guards did use video cameras but that the recording function was only turned on when criminal activity happened or when security staff believed that it was going to happen.¹⁵¹ Shell also pointed out that damage had been done to Shell property at Glengad, which is true, and video evidence would be helpful for bringing prosecutions, which is also true. Shell estimated that from January 2008 to July 2008 damage worth €30,000 was done to netting erected at Glengad.¹⁵²

However, Mr Egan's claim that the staff did not record unless they believed that there was – or was going to be – criminal activity was contradicted by a journalist, Tony Geraghty, editor of the (now defunct) *Mayo Echo*. He stated that he had witnessed security staff play back footage of a swimmer in the sea and laugh at it.¹⁵³ Mr Geraghty also confirmed on RTE radio that he had witnessed security staff wearing gear "covering the vast majority of the face bar the eyes", hard hats and, in most cases, sunglasses, although he said that these were not strictly speaking balaclavas but rather what would be worn under motorcycle helmets.¹⁵⁴

Shell state that the swimmer on that day was a protester who had been involved in direct action. However, Mr Geraghty stated that he was not near the nets, but getting into the sea and in the sea.

Regarding Mr Henry's allegation that the purpose of the alleged surveillance was to prevent people from using the beach, Shell has also denied this.¹⁵⁵

The local parish priest, Father Michael Nallen, has also stated that he believes that his car registration details have been taken when he passes the Shell compound. He has stated that he believes this to be a form of intimidation and harassment. "I saw them with small cameras, running around the security hut. As far as I could see in the mirror they took a photograph and noted my car registration... I pass that way a few times a week and they usually come out to the door [of the security huts] when every vehicle passes by, and it would appear, I'm almost certain, that along with using binoculars, they write down the registration numbers," Father Nallen told *The Irish Times*.¹⁵⁶

(ii) Identity badges

- Section 30(1)

Section 30(1) of the Private Security Services Act 2004 states:

"An individual who is a member of a prescribed category of licensees shall, when providing a security service, wear an identity badge."

This section was commenced on 1 April 2006.¹⁵⁷ This led protesters to believe that security men were obliged to wear identity badges as of that date. However, it is clear from other provisions of that section that regulations needed to be made by the Private Security Authority to prescribe the categories of private security licensees to whom this duty applied. Until those regulations were made and entered into force, IRMS security guards were not required by law to wear identity badges.

On 20 August 2009 these regulations were made by the Private Security Authority.¹⁵⁸ They include those doing static work, such as the security guards at Glengad. From 1 September 2009, when the regulations entered into force, security guards working on the Corrib gas project have had to wear identity badges.

The allegation that IRMS security staff were breaking the law in 2008 by not wearing identity badges is therefore incorrect.

However, the matter does not end entirely there.

- Delay issues

The concern that security staff were not wearing identity badges was a serious one, particularly when they were not easily identifiable in their work gear.

A few protesters claimed to this author to have been assaulted by IRMS security staff during the summer of 2008. This author has no independent corroboration of these claims and cannot substantiate them, but the fact that this was being claimed made it all the more urgent that security staff wore identification.

Also, doubtless there were many more claims of assaults made against other security staff of other companies throughout the country before 1 September 2009.

It is a matter of concern, then, that it was only on 1 September 2009 – five years after the passing of the Private Security Services Act 2004 – that the obligation to wear identity badges became mandatory. This delay can partly be explained by the fact that the Private Security Authority licensed individuals engaged in static security work, starting on 1 April 2007, and it was only following on from this that the Authority examined requirements for badges.¹⁵⁹ But there is no good reason why the requirement for badges could not have been planned for at the same time as the licensing process was being rolled out, even if implementation of the requirement to wear badges took place afterwards.

Further, in a letter of 20 August 2008 from a representative of the Minister for Justice to Ms Monica Muller, a Rosport resident, it was stated that the Authority expected regulations to become mandatory by the end of 2008. Instead, it was not until 1 September 2009 that this happened.

Finally, it is at least arguable that the Authority was in breach of a statutory duty in its failure to make the regulations for at least some of the time from the date of the commencement of section 30 on 1 April 2006 to the date of the commencement of the implementing regulations on 1 September 2009.¹⁶⁰

- Contradictory explanations

Monica Muller wrote to the Private Security Authority and the Minister expressing concern that security guards were not wearing identification. The responses from the Minister and the Private Security Authority were correct, but could have been slightly clearer in their reasoning by distinguishing unambiguously between commencement of the section by the Minister (which had already occurred) and the need for implementing regulations to give section 30 effect.

The issue of the wearing of identification also came up at the trial of Maura Harrington for an assault on an IRMS security guard. The *Mayo News* of 14 April 2009 records Superintendent Michael Larkin telling the court that “the Private Security Regulator had investigated complaints and they had made the decision that the security guards were entitled to exemptions in the circumstances.”¹⁶¹

The author was given a similar explanation by the Gardai in Belmullet in October 2008.

Following the *Mayo News* report, Monica Muller wrote to Superintendent Larkin on this issue on 22 April 2009. She pointed out that exemptions under the Act had to be published in *Iris Oifigiúil*, the Irish State gazette, and asked when a notice regarding this had been published. She received no response.

This author is not aware of any exemption granted to IRMS as regards the wearing of identity badges. Nor would such an exemption be necessary since no security guard in the country was required to wear such badges at the time. There was therefore nothing from which to exempt IRMS.

The giving of different explanations and the failure to respond to Ms Muller’s letter increased genuinely held concerns of protesters – and residents like Ms Muller – that the law was not being applied to Shell security staff. While protesters could be criticised for a misreading of the law, none of them claims to be a lawyer. While they could also be faulted for an excess of suspicion, some of the events that they have witnessed have hardly encouraged trust.

While it is understood that the Gardai are not lawyers, they do have access to them. A better explanation of the situation would have been both possible and helpful. The failure to provide it was unfortunate. Video footage shows that the issue of the wearing

of identity badges arose again and again in disputes between protesters and Shell/IRMS and the Garda Síochána. Early, complete and consistent explanations by the relevant authorities could have helped to reduce tensions around this issue, making life easier, including for IRMS staff who faced persistent and sometimes hostile questioning from protesters on this issue.

- **IRMS voluntary initiative on identification**

Finally, it should be recorded that IRMS decided in February 2009 to wear their own system for identification. While it would have been better for this to have occurred in 2008, this was nonetheless a positive development and one that was not required by law.

A voluntary system was no substitute for a proper State regulated system. That, of course, is in no way the fault of IRMS.

(iii) Michael Dwyer, the Szekler legion and a secessionist militia in Bolivia

Following the death of former IRMS employee Michael Dwyer in Santa Cruz, Bolivia, on 16 April 2009 in disputed circumstances, some protesters have alleged that Shell had engaged mercenaries at Glengad.

It is clear that Mr Dwyer was in very dangerous company in Bolivia. The head of the group, who was also shot that night, Eduardo Flores, was suspected of involvement in massacres during the Yugoslav civil wars¹⁶² and admitted that he intended to form an armed secessionist militia in Santa Cruz.¹⁶³ There had previously been unrest in the predominantly white and wealthy Santa Cruz region because of a number of steps the Bolivian government had taken including land reform, nationalisation of gas pipelines and the redistribution of gas revenues to help the mostly indigenous population of other poorer parts of the country.¹⁶⁴ The Bolivian prosecutor has released a photograph of Mr Dwyer with Mr Flores. On the table in front of them are guns and ammunition.¹⁶⁵ Mr Dwyer's lifestyle appears to have been well funded during this time.¹⁶⁶

The Minister for Foreign Affairs, Michael Martin TD, has called for an international panel to investigate the killing of Michael Dwyer.¹⁶⁷ So far, however, the Bolivian authorities have not agreed to this.

Given the seriousness of the allegations – including:

- **allegations of extrajudicial killing of Dwyer, or**
- **an apparent attempt to form a secessionist militia**

and given the lack of clarity around what exactly Michael Dwyer was involved in, it is recommended therefore that the Irish authorities press their Bolivian counterparts consistently to carry out a full independent inquiry into all the circumstances surrounding the killing of Mr Dwyer and related events. Should the Bolivian authorities not agree to this, it is recommended that the Irish authorities liaise closely with their Bolivian counterparts and monitor the progress of the Bolivian investigation.

Three other former IRMS employees travelled to Bolivia, it is claimed to do a bodyguard course which fell through. One of them has been named by the Bolivian authorities as allegedly involved in the plot. Another – A – returned to Ireland prior to the revelation of the plot and resumed employment with IRMS.

IRMS emphatically deny any prior knowledge of the plot. Michael Dwyer worked for IRMS at Glengad in the summer of 2008, as did the other three who travelled to Bolivia. The works at Glengad finished in October 2008 and IRMS informed this author that he left their employment at this time, as did all other security guards. It was not uncommon for security guards to train or seek work together after they had left employment, they stated. There is no evidence that would contradict the account given by IRMS in this regard, and this author does not do so.

IRMS state that A was placed on administrative leave when details of the plot emerged in the press following the death of Michael Dwyer. They state that he was subsequently dismissed on other grounds. These included the fact it had emerged that

he had inappropriate material regarding operations at Glengad on a website he ran – such as insignia as stating “Operation Glengad beach” with the Shell symbol altered to resemble a skull.

A also founded a far right group, the Szeckler legion. The Szeklers are a community of 800,000 Hungarians in a region ceded to Romania by the Treaty of Trianon 1920. The Szekler legion is a paramilitary group that seeks autonomy for the Szekler region and has provided military training to its members.¹⁶⁸

In 2007 a Romanian language paper on the internet had named A as a member of the Szekler legion and had also stated that some legion members were from extreme right wing Hungarian groups.¹⁶⁹ A’s website, which promoted the Szekler legion, was taken down some time after the death of Michael Dwyer.

With better systems, a professional organisation like IRMS could have detected this website in advance and the involvement of A in it. But it should in fairness be noted that the Szekler legion was *not* a terrorist organisation like ETA and appears not to have been taken particularly seriously in Romania. Further, the vetting of A would have been complicated by the fact that he had a Hungarian passport. Finally, while A had displayed insignia related to the Corrib gas dispute which were clearly inappropriate, at no stage prior to the Bolivia killings had protesters found them on the internet.

However, also on A’s website was a notice of a course which it was stated was run by IRMS, with a discount for IRMS staff and an IRMS contact email address. IRMS state that the advertisement was not in fact a genuine IRMS advertisement. They state that A was never an instructor with IRMS, only an employee. They state that no such courses are supplied by IRMS, save that they provided one close protection course in March 2009.¹⁷⁰ This is not disputed. But the fact that IRMS was mentioned on A’s website, as well as Operation Glengad, should have helped bring the website to IRMS’s attention.

At my meeting with IRMS, management took pride in their own internal vetting. However, vetting and/or subsequent monitoring could have clearly been better in this case.

Finally, it is worth saying something about the IRMS website. Shortly after the death of Michael Dwyer it was taken down. IRMS explained publicly that this was for updating. But cached material recorded that it offered “international armed and unarmed security.” It also referred to providing services in “hostile environments.”

Asked about the claim that they offered international armed and unarmed services, IRMS denied this. They had never deployed an armed person anywhere in the world. What they did do was give training to people as to what to expect in armed environments. This is not disputed. But their website did state that they provided “international armed and unarmed security.”

(iv) Unlicensed staff

At the time that Michael Dwyer was working in Glengad, he was not licensed to perform static security work, but rather only door work, although he had applied for a license for static work.

Further, in the course of a prosecution of Maura Harrington for assaulting IRMS staff in March 2009, three IRMS personnel were named in court reports. However, none of those names appeared in the Private Security Authority register of holders of individual security licences. The men have since been licensed.¹⁷¹

When this author met with IRMS, they stated that the men’s applications were pending at the time. IRMS knew this as they took control of the licensing application process, even though it was the individual employee who had to make the application, not the employer.

This author asked for copies of the applications in order to verify this and IRMS committed to forward these. When this author passed the notes of the meeting to IRMS through their public relations consultant, no issue was taken with the fact that this commitment had been given.

Despite reminders, copies of the applications were not received. Instead, IRMS ultimately responded that there had been some confusion as to the author’s understanding, that the applications were submitted by individuals and the “one thing

that IRMS does differently from most other security companies is to ensure that once the individual has completed his or her application and provided all the relevant documentation, IRMS personally hand delivers these applications to the PSA." IRMS in their response did not say whether they kept any copy of the application. However, they did say that -

"the PSA licensing process is very transparent. The date of application and issuing of licences, including individual names, is fully listed for public viewing on the PSA's website."

Two comments can be made about this.

First, the date of application is not on the PSA website – only the date of issuance is on the website.¹⁷² Therefore, it is not possible to verify from the PSA website that the applications had been submitted when IRMS stated that they had been.

Second, even if the applications were submitted, it would still be an offence to employ unlicensed staff.¹⁷³ (There is only one exception to this, which does not appear to apply.¹⁷⁴) However, because the application process can take three months, it is the practice of the PSA not to bring prosecutions in respect of persons whose applications are pending.¹⁷⁵ But this does not and cannot render their employment lawful.

IRMS stated to this author that following the controversy over the three unlicensed men, they decided only to deploy on the Corrib project individuals whose have been licensed, and not individuals who have merely applied for a licence.

- **Inadequate vetting of staff – Richard Kinsella**

On 23 June 2009, Richard Kinsella pleaded guilty to abusive and threatening behaviour in Ballina District Court.

It emerged during the proceedings that he had a number of previous convictions, including jail sentences (although these had been appealed). It also emerged that the man had been in Ballina because he was working for IRMS in Mayo.

Judge Devins asked Kinsella how, with his previous record, he had got a job with IRMS as the judge referred to an article she read that morning in *The Irish Times* which described the stringent vetting criteria which IRMS employees were meant to undergo. In that article, the Private Security Authority's chief executive stated that IRMS was the most monitored security firm in the State.¹⁷⁶

For being threatening and abusive in a public area Kinsella was convicted and fined €300 and sentenced to three months in prison. For failing to comply with the direction of a Garda the defendant was convicted and fined €300 and sentenced to two months in prison, to be served concurrently.

When this issue was raised by *Phoenix* magazine with IRMS, they stated that henceforth no person would be employed by the company, even in a probationary capacity, until a licence had been obtained from the authorities.¹⁷⁷ This was further confirmed to this author. Of course, it is only when a person has been licensed that an employee can be confident that he or she has passed vetting.

IRMS also stated that the individual had only been with them for two to three weeks at the time. *Phoenix* magazine were told by an IRMS spokesman that he had been in employment for six weeks.¹⁷⁸

- **Inappropriate internet posting**

A person with the online name of MyKaczy posted on youtube footage of a verbal altercation with protester and fisherman Pat O'Donnell. The same user has posted other materials which were clearly taken from *within* the Shell compound at Glengad.

Towards the end of the altercation, Mr O'Donnell is called "Irish pig", though probably not in earshot of Mr O'Donnell. The original soundtrack on the video was taken off MyKaczy's channel but was copied by protesters and is available on the internet.¹⁷⁹ Instead, the video remained on MyKaczy's channel, but with a song as a soundtrack, the lyrics of which included:

"Dirty assed bitch...Fuck that bitch, slap that ho, fuck that bitch, kidnap that ho, fuck that bitch, put your fingers around her throat, fuck that bitch and just choke, choke, choke."

This too has now been removed after a period of more than three months on the internet.

IRMS stated to this author in October 2009 that they were unaware of the youtube user MyKaczy. However, this author had come across his youtube channel and offensive footage with ease when reviewing other footage of protests on youtube. Mykaczy's footage had also been referred to in an article in *Phoenix* magazine published four months before the relevant meeting with IRMS.¹⁸⁰

(v) Context

IRMS point out that the Chief Executive of the Private Security Authority, Geraldine Larkin, has stated that IRMS are the “most monitored” security company in the State. The PSA has also clarified that no formal action has been taken against IRMS.¹⁸¹

IRMS also state that no criminal complaint against IRMS staff has ever been made regarding the Corrib operation, save in one case. This claim is discussed further in the context of the events of 22/23 April 2009.

(e) Events of 21 August 2008

On 21 August 2008 Shell contractors were carrying out works a few metres out to sea at Glengad. A digger was in operation on a platform at sea. Three divers, who were part of Rosspoint Solidarity Camp, were attempting to disrupt the works by approaching the digger.

One of the divers, Eoin Lawless, was particularly close to the location of the digger. He claims that the digger dropped rocks a metre and a half at a maximum from him. This author has seen footage of this event and the digger certainly did drop a large volume of material in dangerous proximity to Mr Lawless.¹⁸² Mr Lawless also believes that the operator of the digger must have seen him. Mr Lawless indicated to this author that he had been making a rude gesture to the operator at the time.

Mr Lawless was subsequently arrested. The operator of the digger was not arrested. Upon being taken to Belmullet Garda station, Mr Lawless made a complaint. He was concerned that the Garda was not taking details of his complaint accurately.

Mr Lawless brought a complaint to the Garda Síochána Ombudsman Commission in February 2009 that the Garda Síochána had been inactive in the investigation of his complaint as he had heard nothing further about it. He claims that a number of days later he received a letter from the Garda Síochána indicating that the DPP had decided not to prosecute.

(f) Incidents involving Pat O'Donnell in 2008 and 2009

(i) Introduction and legal issues

Pat O'Donnell is a fisherman. He also owns a small seafood business. He has crab pots across Broadhaven Bay.

He was one of about six or seven fishermen who did not reach an understanding with Shell regarding their fishing rights in Broadhaven Bay. The rest, approximately 40, did. He claims that Shell offered him twenty thousand euros per fishing licence in August 2008 but he would not accept this.

At the heart of the dispute between Mr O'Donnell and Shell is a conflict between Mr O'Donnell's right to lay his pots on the bed of Broadhaven Bay and Shell's plans to lay a pipeline along the same route. Mr O'Donnell has accepted that he laid pots along the route of the proposed pipeline at sea. He believes that he was fully entitled to lay them where he wished.

Shell hired the *Solitaire*, a pipe laying vessel, in 2008 to lay the pipeline in Broadhaven Bay.¹⁸³ The *Solitaire* was not successful in laying the pipeline in 2008 and returned again in 2009. Shell also had other ships contracted to assist with the pipeline such as the *Highland Navigator*.

Before the arrival of the *Solitaire* in 2008, the Department of Transport issued a marine notice.¹⁸⁴ It advised fishermen of the arrival of the *Solitaire* and the intended route of the pipeline. All vessels were “requested” to keep one mile from the intended route.

A marine notice is just that: a notice. It has no legal effect in and of itself. And the

request to keep one mile from the intended route was also just that: a request. A similar notice was issued before the *Solitaire* returned in 2009.¹⁸⁵

The marine notices referred to another notice which reminded skippers of their obligations under the International Collision Regulations so far as possible, to keep out of the way of a vessel restricted in her ability to manoeuvre. The International Collision Regulations have been implemented in Ireland and are binding in Irish law.¹⁸⁶ The *Solitaire* and the *Highland Navigator* were vessels restricted in their ability to manoeuvre.¹⁸⁷ Mr O'Donnell was therefore under a legal obligation at sea to avoid the *Highland Navigator* and the *Solitaire* "so far as possible". While this placed an obligation on Mr O'Donnell, it did not deprive him of his property rights in the crab pots. It also arguable that he was not in breach of the regulations because he was entitled to be there to protect his pots from being damaged by the pipe laying. That argument is weaker, however, in circumstances where his pots had been laid along the pipeline route.

If somebody owns property on land, there are statutory procedures for compulsorily acquiring that land for a gas pipeline¹⁸⁸ or for doing anything "reasonably necessary for or ancillary or incidental" to the construction of a gas pipeline¹⁸⁹ and for the provision of compensation¹⁹⁰ arising from that. Those powers do not, however, extend below the low water mark.¹⁹¹ Therefore, they did not apply to authorise the moving or damaging of Mr O'Donnell's crab pots.

Of course, if fishermen are simply fishing, then there is unlikely to be a problem: fish in the sea do not belong to the fishermen – and in any event, the fish can be expected to move out of the way. But Mr O'Donnell's pots were along the route. They were his property. And unlike fish, they do not move – they can only be moved. While a compulsory purchase order would not it appears be necessary, something like the power to do anything "reasonably necessary for or ancillary or incidental to the laying of the pipeline" was required to move the crab pots, with more still required to destroy them.

Did such a power exist?

Under the 1992 Licence Terms Shell are obliged not to carry out any operations in such manner as to interfere unreasonably with navigation or fishing.¹⁹²

It is arguable that Shell had not breached their licence terms in circumstances where Mr O'Donnell had positioned his crab pots along the route of the intended pipeline and had been asked to move them. But those Licence Terms only regulated Shell's behaviour. Nothing in them could deprive Mr O'Donnell of his property rights in connection with his crab pots.¹⁹³

Ronan Long in his book, *Marine Resource Law*, argues that there is no "code of practice" for resolving such conflicts

"Although the fishing industry representative organisations are consulted on a case by case basis regarding licensing of hydrocarbon activities, at the time of writing, there is no code of practice to resolve conflicts between the fishing, shipping and offshore hydrocarbon industries. In particular, there is no formal arrangement in place to adjudicate on compensation for fishermen for loss or damage to gear caused by hydrocarbon industry infrastructure outside normal avenues of legal redress." ¹⁹⁴

Of course, what is needed is not merely a code of practice but also a statutory provision to deprive Mr O'Donnell of his property rights. It appears that such a power exists within the land specified in the petroleum lease, but not outside that land.¹⁹⁵

The Minister also has the power to acquire land and ancillary rights, such as those necessary for the laying of the pipeline, by means of a "working facilities order". But this does not appear to have been used, and was difficult to use since it involved purchase of the right by the Minister, rather than Shell.¹⁹⁶

Finally, an argument could be put that it was implicit in s.3 of the Foreshore Act 1933 that Shell was authorised to move or, if necessary, damage Mr O'Donnell's crab pots. However, that is not explicit, unlike the equivalent power on land by virtue of s.31 of the Gas Act 1976 and the courts are generally reluctant to imply powers that interfere with property rights.

It follows that:

- outside of the area of the petroleum lease and
- in the absence of a working facilities order

there is at least real doubt as to the entitlement of Shell to move or damage Mr O'Donnell's crab pots.

But a very different question is whether the moving of Mr O'Donnell's crab pots was an act of criminal damage.

S.2 of the Criminal Damage Act 1991 states that a person "who without lawful excuse damages any property belonging to another intending to damage such property or being reckless as to whether such property would be damaged" is guilty of an offence.

However, by s.6 a person has a lawful excuse if at the time of the act he believed that the persons whom he believed entitled to consent had consented or would have consented. Further, it does not matter whether that belief was justified.¹⁹⁷

Both Shell and the Gardaí have stated that they separately received legal advice and believed that the act of moving/damaging Mr O'Donnell's crab pots was lawful. In the case of the Garda, this advice ultimately came from the Office of the Attorney General. Both believed therefore that the dispute between Shell and Mr O'Donnell was a civil matter.

If the legal advice had by Shell was as asserted, then Shell could not have been committing criminal damage (unless they were warned by the Gardaí that they were committing criminal damage, which was not the case).

If the legal advice had by the Gardaí from the Attorney General was as asserted, then it would be difficult to fault the Gardaí for treating the matter as a civil matter and not warning Shell that moving the pots was criminal damage.

It is in this light that the sequence of events at (ii) and (iv) below should be judged.

(ii) Events of August/September 2008

As already mentioned, Mr O'Donnell was concerned that the *Highland Navigator* and/or the *Solitaire* would damage his crab pots.

Mr O'Donnell supplied footage from 21 and 22 August 2008. In it, he is shown repeatedly at sea seeking the assistance of the Gardaí because he feared that the *Highland Navigator* would damage his pots. In one clip, the Gardaí are heard recommending that he contact Belmullet Garda Station. He also speaks to the Garda Water Unit on 21 August 2008, who state that they are not able to come to Mr O'Donnell's position and ask him to come instead to their position.¹⁹⁸ That would have, of course, taken Mr O'Donnell away from the path of the *Highland Navigator* and away from his crab pots.

Again, on 22 August 2009 he requests the assistance of the Garda Water Unit. Again, they ask him to come to their position. They also state that they would be willing to talk to him at any Garda station.¹⁹⁹

When the *Solitaire* arrived on Tuesday 9 September 2008, it was accompanied by three Irish Navy ships – two in Broadhaven Bay and one in Blacksod Bay. Mr O'Donnell believed that this was to frighten fishermen, such as himself.

Mr O'Donnell was arrested at sea that day along with his son, and another fisherman who was on a separate boat. They were held for five to six hours and then released without charge. The next day they went out at sea again and were arrested again at around 8 am. They stated that both times they were told they were being arrested under section 8 of the Criminal Justice (Public Order) Act 1994 for failure to comply with the direction of a Garda Síochána. Mr O'Donnell refused to obey the direction because it would have meant not being in a position to guard his crab pots.

On Wednesday 10 September Mr O'Donnell was arrested at sea again. His solicitor went to court seeking to bring a habeas corpus application, which would involve the court in inquiring into the legality of Mr O'Donnell's detention. The Judge indicated that he would hear the matter after lunch.

Mr O'Donnell was released at 14.03. The judge sat at 14.05. Because Mr O'Donnell had been released, the application to inquire into the legality of Mr O'Donnell's detention did not proceed.²⁰⁰

(iii) 11 June 2009

The *Solitaire* did not complete its work in September 2008. The reason given was that it had been accidentally damaged at sea.²⁰¹ It was therefore expected to return in the summer of 2009.

On 10 June 2009 Mr O'Donnell claims to have got word that his crab pots were going to be towed out of the way of the pipeline route. He therefore went to sea in one of his boats, the *Iona Isle*, to keep an eye on his gear. He was accompanied by a crewman.

What follows is Mr O'Donnell's account of what happened thereafter.

Around 0130 (he is uncertain of the time) on 11 June 2009 Mr O'Donnell claims to have heard a noise behind him in the wheel house of the *Iona Isle*. He says that four men in wet suits rushed into the wheel house. Only their eyes and mouths could be seen. Two were carrying hand guns, he stated, and they stayed in the wheel house with Mr O'Donnell. The other two went down below to the engine room and were down there for 20 to 30 minutes. They then stayed with Mr O'Donnell for an hour or an hour and a half. It was only about 10 to 15 minutes after the engine had cut out due to rising water that they left. He is most uncertain of times because he could not see his GPS and had no watch. He believes that they stayed on the boat until then to prevent Mr O'Donnell getting to shore before the boat sank.

Mr O'Donnell claims that those who spoke had broken English and eastern European accents. They had arrived on a rib which had pulled up from behind and they left on this also. The rib was dark in colour and Mr O'Donnell could not describe it.

Mr O'Donnell went into the engine room. There was water coming into the boat. He told his crewman to go up and grab his lifejacket. Mr O'Donnell meanwhile went up to the roof of the wheelhouse and opened up an emergency liferaft on the deck. He stated that he had difficulty inflating it. Eventually he succeeded, threw the lifeboat over the side, grabbed his own lifejacket and a handheld VHF and left with his crewman on the lifeboat, he said.

He stated that he was worried that the lifeboat would be dragged down with the sinking boat. He started paddling to get 20/30 yards away from the boat and put out a mayday on VHF. This was the first time that he put out a mayday call that night. He says that the media report that he had been allowed to put out a mayday call by the attackers was incorrect. Mallin Head responded and told him to stay on the channel.

Mr O'Donnell stated that he then rang 11850 on his mobile to get the number for Belmullet Garda station and told a Ban Garda that he had been attacked by four masked men in a rib which had headed north. He produced phone records which verified that such a call was made.

At the same time, according to Gardaí and IRMS, 15 kayaks were being used to try to board a Shell dredger near Glengad, and a number of arrests were made. Two Garda boats that were dealing with this incident diverted to go to Mr O'Donnell's assistance.²⁰²

Before the Gardaí arrived, Mr O'Donnell was rescued by the *Rachel Mary*, another boat which Mr O'Donnell owned which, he stated, had been steaming to its fishing grounds. A Garda rib then arrived but by then Mr O'Donnell and his crewman were safe. Nonetheless they accompanied the *Rachel Mary* half way back to Ballyglass, which took 15/20 minutes.

Mr O'Donnell was angry that the Gardaí did not chase his attackers who had headed north. He asked angrily where they were an hour ago but did not tell them to go north. But he stated that he had told the Ban Garda on the telephone that that was where they were headed.

He was treated for shock and his crewman for hypothermia. A week later he gave a statement in the presence of his lawyer to the Gardaí, as did his crewman. He had not done so immediately, he stated, as he did not wish to give a statement to Gardaí without his lawyer present.

Shell has denied any involvement in the alleged attack on Mr O'Donnell's boat.²⁰³

The Navy was tasked with finding the *Iona Isle*.²⁰⁴

It was ultimately located, but was not raised due to the depth of the water and the costs involved.²⁰⁵

Mr O'Donnell has not made a complaint to the Garda Síochána Ombudsman Commission as he says that he has no faith in it. He has also stated to this author that he has not received any insurance payment with regard to the sinking of his boat because it was deemed to be an act of terrorism by his insurers.

The sinking of the *Iona Isle* occurred at sea. It has not been possible, as a result, to verify independently the events of that night that have been recounted to this author. I therefore make no findings regarding them.

(iv) 25 June 2009

Following the alleged attack on his boat, Mr O'Donnell wrote a letter to Superintendent Larkin requesting protection.

The Gardaí agreed to this. Two officers visited Mr O'Donnell in this regard. The Gardaí have stated that Mr O'Donnell could not identify specific threats to his gear. They asked that notice be given when protection was wanted.

Shell also wrote to fishermen asking them to move their pots and offering "fair and equitable" compensation. Mr O'Donnell, however, queried their lawful authority to interfere with his pots and did not move them.²⁰⁶

On the evening of 24 June 2009 Mr O'Donnell asked for a Garda rib for protection to accompany him in Broadhaven Bay. The *Solitaire* was expected the next day. Mr O'Donnell says that it was agreed that he would get protection, but none arrived.

Mr O'Donnell went out on his boat, the *John Michelle*, because he wanted to watch his gear which he feared would be damaged by the *Solitaire*.

At 0730 on 25 June a Garda rib arrived and a number of Gardaí boarded his boat. While coming in over the boat Mr O'Donnell claims that one of the Garda pushed him back and as a result his back was injured. Mr O'Donnell shared a video of the arrest. It shows that Mr O'Donnell fell when the Gardaí boarded. But it does not show whether or not he was pushed by a Garda. It is therefore not possible to make a finding in this regard.

Mr O'Donnell was given a direction under s.8 of the Criminal Justice (Public Order) Act 1994. He was then arrested for failure to comply with the direction. He was a mile out to sea at the time, and along the intended pipe route which was also where he had pots and fishing gear.

Mr O'Donnell was asked by the Gardaí to take in his fishing gear. He refused to do so. The line to the fishing gear was then cut by Gardaí. As a result Mr O'Donnell lost about €2,000 worth of gear.

At this point a lifeboat came and the Gardaí impounded his boat and took control of it.

Mr O'Donnell was taken to Castlebar hospital. Meanwhile his son Jonathan was arrested for breach of s.8 of the Criminal Justice (Public Order) Act 1994. The prosecution of Jonathan has since been dropped. Mr O'Donnell, for his part, has not been charged with any offence in respect of these events.

At the hospital, Mr O'Donnell says that the Gardaí told him that the Minister had authorised Superintendent Larkin to act as an authorised person under the Maritime Safety Act 2005. Mr O'Donnell asked to see the authorisation in this regard, but was not shown it, he says. It was, however, faxed to his house the next day. The Gardaí have confirmed to this author the appointment of Superintendent Larkin as an authorised person and have shown the letter of appointment. It was dated 23 June 2009.

The pipe laying boat, the *Solitaire*, had left Scotland at this time, but did not arrive at Broadhaven Bay until that night.

On 26 June 2009 Jonathan was granted bail on condition that he stayed out of Broadhaven Bay. Jonathan therefore could not go to see if his gear could be retrieved.

Separately, correspondence obtained by Mr O'Donnell under the Freedom of Information Act indicates that Superintendent Larkin asked the Naval Service to carry out a visual inspection of the *John Michelle*. The Naval Service did so and raised a number of concerns. The Naval Service then wrote to the Department of Transport asking it to carry out a survey.²⁰⁷

The Department of Transport in Dublin asked its regional office in Ballyshannon to

carry out an inspection. The relevant official in the Department in Dublin wrote:

“Suggest whoever attends gives the Supt [i.e. Superintendent Larkin] a call first and requests that owner attends whiles we are on board.”²⁰⁸

A marine surveyor undertook an inspection on 1 July 2009.

Mr O'Donnell states that he was not allowed by the Gardaí to attend the inspection. I asked Superintendent Larkin about whether Mr O'Donnell was allowed to attend. He responded that he did not know, but that he knew that Mr O'Donnell was allowed to speak with the inspector afterwards. Mr O'Donnell has always been clear that he was allowed to speak after the inspection had occurred – but what mattered to him was being able to speak to the Inspector and provide explanations while the inspection was occurring. That way, for example, he stated that he would be able to show where certain equipment was kept.

In the absence of any denial from the Gardaí, I accept that Mr O'Donnell was not allowed on the boat while the inspection was occurring. Indeed, were he allowed to do so, he would not have had to meet the Inspector in Belmullet town afterwards.

When Mr O'Donnell met the Inspector afterwards, he was informed that the *John Michelle* had been found to be unseaworthy. Nineteen separate deficiencies were cited and Mr O'Donnell was given a notice of detention.²⁰⁹

Mr O'Donnell complains that there were a number of deficiencies that he could have explained. For example, he stated that the flares were in bunks and could have been produced had he been given an opportunity to do so. There was also a hatch that could not open, but Mr O'Donnell states that there was a tool in the wheelhouse that could open it. There were many other matters that he could have explained also, he stated.

No other boat was surveyed by the Department of Transport in Broadhaven bay that day. In fact only one other boat was surveyed that summer in Broadhaven Bay.²¹⁰

Finally, Mr O'Donnell states that the gear that he had was worth about €30,000 to €40,000, the same was true of his son's gear.

(v) Conclusions

As already stated, it has not been possible to draw any conclusions regarding the events of 11 June 2009.

Regarding the events under headings (i), (ii) and (iv) above, a few points can be made in summary:

- It does not appear that any issue of criminal damage to Mr O'Donnell's crab pots arose. The matter therefore was a civil matter.
- Mr O'Donnell was blocking the intended route of the pipeline, along which his pots were laid. The Gardaí were therefore faced with a conflict between Mr O'Donnell's property rights in his gear and the right to lay the pipeline;
- The relevant statutory framework was not clear as regards how this conflict of rights was to be resolved.
- Mr O'Donnell was arrested under s.8 of the Criminal Justice (Public Order) Act 1994. It allows the Gardaí to issue a direction to a person who:
 - “without lawful authority or reasonable excuse, is acting in a manner which consists of loitering in a public place in circumstances, which may include the company of other persons, that give rise to a reasonable apprehension for the safety of persons or the safety of property or for the maintenance of the public peace”

Breach of the direction is an offence. The Gardaí clearly had a reasonable apprehension for the safety of persons, since Mr O'Donnell was in the intended route of the Solitaire. Mr O'Donnell argues, however, that he had a lawful authority/reasonable excuse, being the presence of his pots in the area, which he wanted to protect. In view of the fact that Mr O'Donnell had placed his pots along the route, a court may have concluded that his arrest was lawful. No prosecution has ever been brought with regard to these events, however.

- It should not have been left to public order legislation to resolve this matter. Mr O'Donnell had the right to refuse compensation from Shell. If his property rights were to be limited, that should clearly have been done in legislation –

and Mr O'Donnell should have been entitled to make submissions before it was done. None of this happened.

- Further, this problem arose not once, but twice. Between September 2008 and June 2009 there was an opportunity to clarify the law in this area. It was not taken.
- Regarding the detention of Mr O'Donnell's boat, basic fair procedures mean that he should have been entitled to accompany the inspector so that he could answer any concerns that the inspector may have had. He was not permitted to do this. As a result, the detention of his boat appears unlawful.
- The fact that:
 - the inspection of Mr O'Donnell's boat was requested by the Garda Síochána,
 - Mr O'Donnell was denied an opportunity to accompany the boat inspector,
 - Mr O'Donnell's boat was the only boat inspected that day and one of only two inspected in Broadhaven Bay that summer and
 - the fact that the local Superintendent was only empowered to act under marine safety legislation two days before the arrival of the *Solitaire*,together indicate an improper motive in the detention of Mr O'Donnell's boat – that is to say to ensure that it was not used to obstruct the pipe laying. This too strengthens the view that the detention of his boat was unlawful.

(g) The events of 22-23 April 2009

(i) Background

During the summer of 2008, a compound was erected at Glengad to enable Shell and its contractors to carry out works at the foreshore. The compound was dismantled that autumn and the lands returned to their original state. However, the compound needed to be erected again for works to resume in spring 2009.

(ii) A dispute about authorisation

Shortly before 0700 on 22 April 2009, protesters learnt that heavy machinery had arrived at Glengad to erect the compound again, including fencing around its perimeter. As already noted, protesters believed that this required planning permission. Protesters contacted each other and gathered at Glengad.

That morning, Maura Harrington had parked her car, blocking the entrance to the site along the main road through Glengad. On a documentary by Paul Williams for TV3, an altercation between Maura Harrington and the Garda in command at the time was filmed.²¹¹ Maura Harrington, who was accompanied by some protesters, demands to see the relevant consents for the works. The Garda in command, who was accompanied by a number of other Gardaí, says that he has not understood her and asks her to start again.

Later when she speaks – accusing the Gardaí of being complicit with Shell – he looks away, takes off his cap and looks into it, and then walks away. When she asks if he is listening, he says he has lost her and asks her to start again.

He then asks her to move her car, at which point Ms Harrington laughs.

It is clear that neither is listening to the other, and that each is playing to his or her own side. Maura Harrington may be a difficult protester to deal with, but pretending not to understand her was unprofessional.

(iii) Willie Corduff gets under a truck

Separately, some protesters had gathered that morning in a field at the side of the Shell site, a few hundred metres from the entrance. Only a low sheepwire fence separated them from the Shell site. Beside the sheepwire fence, inside the Shell site, was a parked delivery truck. Between 0900 and 1100 Willie Corduff and another protester, Gerry Bourke, crossed the sheepwire fence and ran under the delivery truck.

Some time later the Gardaí arrived. They were able to pull Gerry Bourke out from under the truck, but were unable to do so with Willie Corduff despite a vigorous

struggle. Gardaí stated that one of their members was injured in the struggle with Mr Corduff. No prosecution has been brought regarding this.

In footage on a TV3 documentary, Gardaí are shown making efforts to remove Mr Corduff from under the truck, while Mr Corduff shouts abuse at them. A Garda asks if somebody could “tickle” Mr Corduff.²¹² Mr Corduff has not stated that he was tickled. However, he has alleged that he was assaulted by Gardaí. In particular, he alleges that a Garda scraped the point of a large stone into his left ankle repeatedly, cutting him badly and causing him pain. Over two months later he showed this author a cut to his ankle, which still had not healed fully.

Jim Farrell of IRMS stated that Mr Corduff complained of chest pains. This resulted, he stated, in an ambulance being called between 1830 and 1845. This author has obtained the ambulance records and the call was in fact made earlier – at 15.45.

Mr Corduff has denied to this author that he had ever had chest pains, which – of course – could suggest a heart attack. This author asked if IRMS had any footage of complaints of chest pains and was directed to footage of Mr Corduff under the truck posted on youtube.

That footage was placed on youtube by a person using the name GokocolRE. That person had posted a number of other clips also. Some showed protesters shouting abuse at Gardaí and Shell security. Others showed Mr Corduff under the lorry being offered food by security staff and was shot at close quarters on Shell property. It is clear, therefore, that GokocolRE was not a protester.²¹³

This author viewed the footage several times. At no stage did Mr Corduff complain of chest pains. The most that he stated was that he was sore all over. This author invited IRMS, through their PR consultants, on three occasions to supply any other footage that they might have, and offered to seek Mr Corduff’s approval should there be any data protection issues associated with its release. No response was received on this issue. All footage by GokocolRE has since been removed from youtube.

(iv) Damage is done to Shell property around midnight

Later that evening, at some time between 2200 and midnight, damage was done to the Shell compound at Glengad. This included fencing being knocked down by the use of a digger.

IRMS maintain that this damage was entirely caused by protesters – and this is the view of the Garda Síochána also. Some protesters stated that they did not believe that there had been any involvement by protesters. But none of these stated that they had witnessed the events.

The only protester who stated to this author that he witnessed the events was Terence Conway. He stated that he had been down with Willie Corduff but had decided to head back up to the main road. He decided to walk up the roadway built through the Shell site. He stated that he had seen locals taking down the gates at the entrance to the compound. He did not give their identities. None wore a balaclava he said.

He added that he then saw a number of men coming from the direction of Sweeney’s farm, to the west of the Shell site, wearing balaclavas. It was they, he said, who had mounted a forklift and caused the major damage.

By contrast, when interviewed on TV3, prominent protester Niall Hartnett denied that protesters carried iron bars or chains or weapons. But he stated that “local residents removed the fence, the illegal fence, and that was the correct thing to do.” He refused to comment on whether they were wearing balaclavas, and denied that he was there.²¹⁴ Separately, Pobal Chill Chomáin spokesman John Monaghan stated that a “handful” of local people were gathered outside the Glengad compound gate and had “unravell’d” some fencing but that none of these people was armed.²¹⁵

IRMS maintain that all damage was done by protesters, but that they would not have been from Rosspoint or Glengad, but rather from North Mayo more widely. One of their guards was injured during the attack by protesters.

It is difficult to reconcile these conflicting accounts. What is beyond doubt, however, is that some protesters were involved in criminal damage to Shell fencing. Even if the protesters are correct about the fencing requiring planning permission, which Shell disputes, this cannot justify or excuse such action. As for the allegation that anybody

other than protesters was involved in damaging fencing, this author has not been able to substantiate this claim and makes no such finding.

(v) Incident involving Willie Corduff at c.03.30 on 23 April 2009

Meanwhile, Willie Corduff remained at the truck. A number of protesters stayed down with him. But because the weather was cold, wet and windy some protesters went home, either for the night or for a few hours to eat and warm up. Some other protesters went looking for one of their number who had gone missing.

At this point, the version of events told by protesters and IRMS differs radically.

- The version of IRMS

Jim Farrell, a Director of IRMS, stated that he was concerned that Mr Corduff's continued presence under the truck could be a focal point for protest the following day. The weather was also very poor, which led to concerns for Mr Corduff's wellbeing. IRMS therefore decided to remove Mr Corduff from under the truck between 0100-0200 on 23 April 2009. Two teams were assembled and Mr Corduff was monitored using nightvision glasses. Mr Farrell was present throughout this. He stated that his job was to ensure that the operation was carried out safely.

The teams came upon Mr Corduff outside the truck. Mr Farrell stated that he was on his own. He was surprised and taken aback. He gave up and simply sat on the ground. There was no roaring or shouting by him. There was no kicking or assault by security staff. Two security officers sat with him. The rest gathered around the truck to stop anybody else from getting under it.

According to Mr Farrell, Mr Corduff then stated that he was feeling unwell. He complained of pain to his head – but he made no complaint of having been assaulted. Mr Farrell added that he was conscious and was talking. IRMS brought a paramedic to him who carried out checks. An ambulance came and Gardaí were called. Mr Corduff, they said, had also complained of a pain to his lower leg but this related to attempts by Gardaí to remove him on 22 April 2009.

Terry Downes, the Chief Executive Officer of IRMS, confirmed that he was present too. Both Mr Farrell and Mr Downes were emphatic that not a finger was placed on Mr Corduff.

They had no footage of these events as the scene was not illuminated.

Mr Farrell stated that no protesters witnessed the scene when Mr Corduff was come upon. The protesters had been on patrol and only returned having completed their patrol sequence.

- The version of protesters

The version of protesters is very different.

Willie Corduff said that he was out from under the truck talking to his brother in law Pete Lavelle when they were set upon by a group of eight people. He stated that he was struck on the head over the left ear by a blunt object and got a glimpse of something that looked like a leather covered baton. He said that a number of the attackers put him to the ground and knelt upon him, while his hands were pulled up behind his back and around his head. The right side of his head was pushed to the stony ground, while a man had a knee on his left ear, causing Mr Corduff pain. The air was forced out of his lungs by the weight of the people on top of him. He stated that they bounced on him. This caused further pain and prevented him from breathing. He decided to play dead. At this point he claims to have heard a man say "leave him now, he's nearly gone." He thinks that he passed out at this stage because the next thing he remembered was being attended by a medic. He heard his son Liam try to get to him. Eventually an ambulance arrived and a neck brace was put on him, he stated, and he was taken to hospital. He believes that the men wanted to kill him.

This author met **Pete Lavelle** separately. His account was consistent with Mr Corduff's. He said that the men who came upon Mr Corduff were wearing balaclavas. There were no Gardaí present at the time. He said that Mr Corduff was hit with a long object. He saw one security man going up and down on Mr Corduff, who was hit "a good while." The men made a lunge at Mr Lavelle. He curled up in response on the

ground. He said that the men were kicking him in the kidney area, but he did not know how many blows he received. Mr Lavelle lay motionless. He then crawled back further into the adjoining field and started shouting for help. AJ Corduff and Paddy Maguire arrived – he thinks two to three minutes after he had shouted out, then John Dixon and Kevin Moran, then Bridie Moran with her boyfriend Seamus.

This author also met **John Dixon** separately, who provided an account of the events of that night. He had gone down with Kevin Moran to Willie Corduff who was out from under the truck talking to Pete Lavelle. He then left with Kevin Moran to look for a protester who had gone missing. They were on their way back to the truck when they heard somebody shouting for help. He stated that as they came towards the lorry they were approached by 8 or 9 people dressed in black with faces covered who told them to stay back and shone torches at them. Despite this, he said that he could see four to six people sitting on Mr Corduff. He went up to the gates to get the Gardaí. There were two or three Gardaí there. One of them stated that Mr Corduff would have to make a complaint. Mr Dixon responded that something would have to be done and that Mr Corduff could be dead. Mr Dixon returned to the truck. He estimated that the Gardaí arrived 20 minutes later. Mr Dixon stated that they walked when they should have driven down the slip road through the Shell site. 15-20 minutes later an ambulance arrived and Mr Corduff was put on a stretcher.

This author also met with **Bridie Moran, PJ Moran** and **Liam Corduff** (son of Willie Corduff) together.

Ms Moran stated that she was on her way down to the truck at about 0200 when she heard somebody shout for help. She continued down towards the truck and met Pete Lavelle coming up. He was very upset. Though very frightened she continued down and saw Willie Corduff on the ground. She stated that she saw men with balaclavas sitting on him. At this point in the interview Ms Moran became visibly upset.

Liam Corduff stated that he arrived with **PJ Moran**. All three saw a line of security guards shining torches at protesters. Liam Corduff asked to be allowed see his father, but Jim Farrell refused. Another security guard laughed at him when he stated that it was his father on the ground. He said that the Gardaí had also asked if Liam could come onto Shell property, but their request was refused also. It was only after thirty minutes that Liam was allowed to go to his father, he said. Liam stated that his father was moaning and would not open his eyes. There were stone chips stuck to his face. Liam accompanied his father in the ambulance. Even then, he said, his father could not open his eyes.

In a follow up telephone call, Liam Corduff confirmed that no Gardaí accompanied Mr Corduff and Liam in the ambulance.

- **The Garda account of events of that night**

The Garda press office put out a statement at 09.23 on 23 April 2009. It is provided at **Annex A**.

It stated that up to 15 men wearing balaclavas and armed with iron bars and chains entered the compound at Glengad and threatened security staff. It added that the intruders had started a digger which was used to cause damage and that one member of staff received an injury to his arm.

On the incident involving Willie Corduff it stated simply that a protester – *“was removed from the compound by security staff. He was taken to hospital by ambulance as a precaution.”* [Emphasis added]

Superintendent Michael Larkin of Belmullet Garda station was also interviewed on Mid West radio on 23 April 2009. A transcript of his interview is provided at **Annex B**.

He spoke at some length about the attack on the compound, condemning the “severe intimidation” and “mob rule in the extreme.”

When asked about the incident involving Mr Corduff, he was noticeably more reticent. He now stated that he “did not want to talk about any individual case or any individual complaint.”

Having again stated that he did not want to comment, he said that a well known protester:

“decided at some stage to come out to take a break or whatever but he was

escorted from the site and spoke to Gardaí and it was decided in the best interests that he be transferred to a hospital that he complained of feeling unwell.” [Emphasis added]

When this author met with the Garda Síochána, they stated that they were investigating three matters. First, damage done to the truck. Second, the attack on Mr Corduff. Third, the damage done to the Shell compound.

- **Conclusions on the incident involving Mr Corduff**

IRMS stated to this author that Mr Corduff was conscious that night upon being come upon. This author concludes that this was not accurate. He was semi conscious.

This emerges from the accounts from protesters and what an IRMS security staff member told ambulance control that night.

This author asked to see the medical and ambulance reports for Mr Corduff and subsequently asked the Corduffs to seek by freedom of information request all documents held by the ambulance service regarding the night's incidents.²¹⁶

The caller, whom IRMS accepts was an employee, asked the ambulance to come to the Glengad site. The transcript of the conversation continues:

“Control: And what’s happened?”

Caller: We’ve an elderly man who’s feeling faint.

Control: Elderly man.

Caller: Yeah and he’s I suppose in a *semi-conscious state* we have a medic here.” [Emphasis added]

The caller then told ambulance control that the ambulance should come to the main gate where they would be let in.

From the statements of protesters and the information provided to ambulance control it is clear that Mr Corduff was semi conscious.

IRMS stated to this author that Mr Corduff was not assaulted and that he simply sat down and that “not a finger was laid upon him”. This author concludes that this is untrue and that he was assaulted.

There are a number of reasons for reaching this conclusion.

First, Mr Corduff was semi-conscious. That is consistent with having been assaulted.

Second, IRMS were not accurate when they stated that Mr Corduff was conscious, raising questions about the accuracy of their account more generally.

Third, the account that Mr Corduff simply sat down and that “not a finger was laid on him” is contradicted by what Shell sources were reported to have briefed themselves. Peter Murtagh, deputy editor of *The Irish Times*, in an article otherwise critical of protesters, stated that he had it “from Shell sources” that Mr Corduff was “grabbed by security men, restrained and taken to hospital by an ambulance they called.”²¹⁷ While this does not mean that he was assaulted, it contradicts the account given by IRMS.

Fourth, the letter to Mr Corduff’s GP from the Registrar to the consultant surgeon responsible for Mr Corduff states under “diagnosis”:

- “1. Alleged assault with ? LOC
2. Bruising on body from kicks.
3. Headaches.
4. Nausea and vomiting.”

? LOC means possible loss of consciousness. The letter goes on:

“This patient was admitted following an alleged assault by security guards. He had been kicked all over the body and had ? LOC. He had headaches, nausea and vomiting. During his stay, he had a CT brain which is normal. He had a series of X-Rays, spine, chest and ankle. X-Rays are all normal. He had an uneventful recovery with no sign of increased intra-cranial pressure. He has been discharged back to your care.”

The patient care report of the ambulance also reports that Mr Corduff was “confused.”

This author asked Dr John Good to review the medical and ambulance reports of Mr Corduff. By way of background, a DVD was also forwarded to Dr Good which had been supplied by Mr Corduff showing his claimed injuries, along with statements provided by Mr Corduff and notes of meetings held with him by this author and a final

draft of this report.

Dr John Good has served as a medical coordinator and medical delegate assigned to protection teams of the International Committee of the Red Cross in Africa, Asia, the Caucasus and the Middle East. He regularly assesses asylum seekers who have made claims of assault or torture.

Dr Good's report states that:

- hospital reports may be reasonably regarded as factual findings, and
- the observations in the reports and clinical notes are "totally consistent with a history of assault."

Dr Good's report is provided at **Annex C**.

Relevant extracts from Mr Corduff's medical and ambulance reports are provided at **Annex D**. Mr Corduff has provided the author with written consent for the release of these.

Superintendent Michael Larkin of Belmullet Garda station stated that Mr Corduff *"was escorted from the site and spoke to Gardaí and it was decided in the best interests that he be transferred to a hospital that he complained of feeling unwell."* This was clearly misleading. In fact, he was taken away by ambulance on a spinal board with a cervical collar. The Garda Síochána did not travel with him in the ambulance.

The clear and obvious impression created by the claim that Mr Corduff "was escorted from the site and spoke to Gardaí and it was decided in the best interests that he be transferred to a hospital that he complained of feeling unwell" was that he was up, walking and indeed walked off the site. Had that been the case, a spinal board and cervical collar would not have been used. But they were used.

When asked, IRMS also confirmed that Mr Corduff was taken away on a stretcher.

Further, this author spoke briefly to one of the medics present on the night. He confirmed that Mr Corduff was "definitely not walking or up at the gate [of the site]." The man in question stated that he could not say more without authorisation from HSE management.²¹⁸ This author wrote to the Western Regional Ambulance Service of the HSE explaining the purpose of my investigation and seeking to interview the ambulance drivers. Mr Corduff also indicated in writing his consent to the ambulance drivers being interviewed. Western Regional Ambulance Service did not, however, facilitate the request citing "limited resources and the demands on [their] service."²¹⁹

This author met with Superintendent Larkin and (now retired) Chief Superintendent Tony McNamara on 2 November 2009. I asked Superintendent Larkin whether he believed the statement he made on the radio on 23 April 2009 that Mr Corduff was "escorted from the site" was accurate. He said that it was. I asked if Mr Corduff was taken away on a stretcher. He said that it was possible but that he did not know. He confirmed that the Gardaí were present when the ambulance took Mr Corduff away. But he did not know whether this was at the road or at the lorry.

The events of 22/23 April 2009 at Glengad was the first proposed item on the agenda sent to Superintendent Larkin six weeks before my meeting with him took place.²²⁰ At that meeting, while Superintendent Larkin stated that he had not received Mr Corduff's medical reports, he stated that the investigation of Mr Corduff's complaint was "at an advanced stage." He was also clear that two Gardaí had been present when Mr Corduff was taken away in the ambulance. It was surprising therefore that Superintendent Larkin stated that he did not know whether Mr Corduff was taken away on a stretcher when I met him.

In view of the fact that:

- Mr Corduff was not escorted from the site; and
- Superintendent Larkin when I met him stated that he did not know how Mr Corduff left the site

he should not have claimed that Mr Corduff was escorted from the site when interviewed on the radio and should not have stood over this assertion when I met him. Rather, he should have established the true facts – and publicly corrected the error made. He has not done so.

Finally, Willie Corduff stated to this author that he believed that the security guards intended to murder him. Mr Corduff may well have genuinely feared this – and what happened on 23 April 2009 must have been genuinely frightening. But Mr Corduff did

not have any life threatening injuries. In fact, his injuries were relatively minor. It is clear that those who assaulted him had no intention of killing him.

(vi) The investigation of the complaint of Willie Corduff

On 31 August 2009, Mr Corduff made a complaint to the Garda Síochána regarding the events of 22/23 April. He did so by written statement to a retired Garda, Benny McCabe, which was then given to the Garda Síochána in Belmullet.

Mr Corduff has explained he made his complaint in this way because of a lack of confidence in the Garda Síochána. This was also his reason for his delay in bringing the complaint.

As already stated, when this author met with Superintendent Michael Larkin of Belmullet Garda station, he stated that the investigation was at an advanced stage, although medical reports had not yet been received. Yet he claimed to be unaware of how Mr Corduff left the Shell site or where he was picked up by ambulance.

He also stated that Mr Corduff had not complained about the actions of the Garda Síochána. Yet Mr Corduff's statement says the following:

"After what felt a number of hours, in the afternoon, a number of Gardaí in uniform arrived down. They told us to get out from under the truck. Some of them began to kick stones in towards us. Then about 3 of them knelt down under the truck. We told them that we were preventing illegal works from being done and that it was them who should be taking action. They caught my legs and those of Gerry. I requested that they summon the Supt. After a while they managed to pull Gerry out but I managed to hold on despite one of the Gardaí pulling my ear. One of them who I knew ... got very agitated and said "Willie, we will get you out of there, we will cut the leg of (*sic*) you if we have to" My boots and socks were then pulled off, a Garda ... then picked up a stone with a sharp edge and rubbed it up and down my left ankle. This tore the skin of my ankle which was very painful and I was roaring. I had by then managed to wedge myself in so that when a Garda ... pinched, pulled and hit my fingers against the steel of the truck he was unsuccessful. Another Garda ... was there with his video camera. Finally they gave up and after a while disappeared."

There are other concerns about how the Garda investigation is being carried out. A few days after Mr Corduff made his complaint, a Garda arrived at Pete Lavelle's house. According to Mr Lavelle, he asked about the assault, before moving to ask about damage to the truck. Mr Lavelle then stated that he would not speak without a solicitor. The Garda said that he would call in the evening to see if Mr Lavelle would make a statement. A Garda then served him with a summons for allegedly spitting at a Garda previously. Later that evening, Mr Lavelle indicated that he would make a statement in connection with the attack on Mr Corduff. This sequence of events was not disputed by the Garda Síochána in Belmullet when this author met with them.

There was no good reason why Mr Lavelle had to be served with a summons at the same time as he was being asked whether he was willing to make a statement regarding the assault on Mr Corduff. By so doing, the Garda Síochána left themselves open to the accusation that this was done to deter Mr Lavelle from making a statement regarding the assault.

Finally, when this author met IRMS on 22 October 2009, Mr Farrell and Mr Downes stated that Mr Corduff had made no complaint to the Gardaí and that the Gardaí had never investigated them in connection with any complaint. On 8 December 2009 IRMS reiterated in writing that "not one single formal complaint or charge has been lodged against IRMS with the relevant authorities." Yet when this author met with Superintendent Larkin on 2 November 2009, he stated that the investigation into Mr Corduff's complaint was at an advanced stage and that IRMS had provided statements.

The Corduffs have written to the Garda Síochána expressing no confidence in the investigation. In view of the above, it is understandable that this should be the case. **In order to ensure confidence in the Garda Síochána, it is recommended that Mr Corduff's complaint be reinvestigated by personnel outside Mayo.**

(h) Monica Muller's court order

On 14 November 2007, Rosssport resident Monica Muller obtained a court order prohibiting Shell and its agents from entering on the commonage at Rosssport and carrying out site investigations.

In early 2008, Ms Muller and others put up several signs on the commonage bearing the court order. Despite this, Shell agents entered the lands on two occasions. Ms Muller contacted the Gardaí regarding this. She supplied them with a copy of the court order. She was told in response that a court order "was debatable."

She subsequently brought contempt proceedings against Shell. In September 2009, Judge Mary Devins found Shell to be in contempt of court. She subsequently agreed to state a case to the High Court on the matter.²²¹

Shell's view is that they did not require the lifting of the court order since they subsequently acquired a share of the commonage. Whether or not this is the case is currently being litigated. It would, however, be standard procedure and a courtesy to the court to seek the lifting of the order and it is – at the very least – deeply unfortunate that Shell did not do so.

This author also raised the matter with the Garda Síochána. They accepted that the court order had been breached, and that Shell should have applied to have the order lifted.

Superintendent Larkin and Chief Superintendent McNamara stated that they had not been aware of the order. However, the order was clearly displayed on commonage – an area that has been regularly policed since the dispute first arose.

Further, by letter dated 29 July 2008 Monica Muller raised her concern that the order was being breached with the Garda Síochána at Belmullet. While this letter was not sent to Superintendent Larkin, it was sent to a senior Garda. This author concludes that at least some Garda Síochána in Belmullet were aware of the order. If Superintendent Larkin was not personally aware, he should have been.

The order was a civil matter. But so too, for example, are many matters – like the right of Shell workers to get to their place of work at Bellanaboy. For the Gardaí to uphold one order, but claim ignorance of another which had been brought to the attention of Belmullet Garda station, was damaging to the perception of their impartiality.

(i) Bernard McCabe (Retired Garda Sergeant)

Bernard McCabe is a retired Garda sergeant. He has done policing work for the EU in the Balkans and South Africa.

He observed some disputes during the summer of 2009 for Afri as a human rights monitor. He wore a jacket clearly marked "observer."

On 28 June 2009, Mr McCabe attended a lockdown by five protesters who had gathered in a circle and linked arms at Glengad. The Garda Síochána gathered and erected screens to prevent other protesters seeing them. A Garda, who appeared to be in charge, allowed Mr McCabe past the screens so that he could observe. However, another Gardaí objected and Mr McCabe states that he was suddenly grabbed by one of these men who was in plain clothes and pushed and dragged towards the cordon where he was manhandled by the Gardaí there.

Mr McCabe stated that 14 separate police officers doing public order work were not wearing identification that evening.

When this author met with the Garda Síochána in Belmullet, they did not dispute that Gardaí performing public order work had failed to wear identification. This was stated to be because of a difficulty attaching identification to the protective clothing they wore. It is totally unacceptable that police gear could be designed to which numbers could not be attached.

(j) Surveillance and monitoring

Many protesters believe that their telephones are tapped and complain of regular surveillance.

For example, Betty Schult, a protester, is a German national living in Glengad where she runs a holiday hostel. She believes that she was being watched by the Gardaí during 2008. She had seen a patrol car in the car park of the hostel. She complained

to the GSOC but was told that this was not a criminal or disciplinary matter. She also alleges that almost daily that Gardaí filmed number plates of those parked in her car park (without entering the car park).

She had also noticed footprints by the windows of her hostel. She thinks that the Gardaí may have been suspicious of divers staying at her hostel. But those divers were not involved in the Shell protest, she stated.

On another occasion in June 2008 she alleges that cars and the insides of cars were filmed by security staff. On a further occasion, she states that some of her guests were asked why they were staying in her hostel by Gardaí and who they were meeting and whether they were supporters of the Shell to Sea campaign. There have been other approaches to students of conflict resolution staying at the hostel also. A hostile attitude was also displayed towards other students staying at the hostel.

Because of these incidents, she sought an appointment with Superintendent Gilligan. She indicated that if he wanted to know who was staying in the hostel, he could inspect the guestbook. But she asked that the harassment of her guests stop. Since then she has not had the same problems, but the police have not come to see her guestbook either. That said, observation of her hostel continues to this day, she alleges.

She also believes that telephones are tapped. She gave a recent example. She was on a delegation to see Minister Éamon Ryan. She arranged on the telephone to pick up Terence Conway, a fellow protester, at 05.00 that morning. That was all she said on the telephone, as she had already met him in person to discuss issues about the meeting. At 04.45 the Gardaí were outside her car park, she says. They left when she approached her car.

It has not been possible to verify Ms Schult's allegations. However, other protesters also complained to this author that they were under surveillance. Others complained of details of their private lives being raised with them by Garda in front of other protesters.

There have also been allegations of surveillance of meetings. In April 2008, Pobal Chill Chomáin held their second meeting. Video footage supplied to the author shows the Gardaí driving slowly past the meeting hall.

Given that some people with paramilitary backgrounds have attended the days of action, it is understandable that the Gardaí may be anxious to know who is involved in the different organisations. However, Pobal Chill Chomáin have not organised any such days of action.

There is a real danger that surveillance and monitoring will be perceived as harassment, and will be counterproductive or disproportionate.

For this reason, it is recommended that the Garda Síochána review any surveillance or monitoring to ensure that it is proportionate. It is further recommended that any interception of communications be considered as part of the review procedure provided for by s.8 of the Interception of Communications Act 1993.

(k) Some general conclusions and recommendations

The concern that some works by Shell have not been properly authorised fuelled many protests. In some cases, the protesters have been wrong. But in other cases, they have been right. **It is therefore recommended that Shell intensify its existing efforts to ensure regulatory compliance.**

Shell and its agents working on the Corrib project at present employ a former Mayo County Secretary, a former Chief Superintendent of the Garda Síochána in Mayo and a former editor of a Mayo paper. Although the announced role of the former Chief Superintendent is to liaise with the community, Pobal Chill Chomáin have stated that he has never contacted them.

It is normal to engage former journalists to do communications work. It is also normal to engage consultants in other capacities.

But both the County Council and the Garda Síochána have the job of ensuring that the law is applied. While the integrity of the persons concerned is in no way called into question, the engagement of the former County Secretary and the former Chief

Superintendent gives rise to the appearance that Shell is seeking to influence those who regulate them, rather than to comply with those who regulate them. **It is recommended that Shell and its agents review these arrangements.**

It is accepted that it is not the job of the Garda Síochána in the first instance to satisfy the public that all necessary authorisations have been obtained. But it is their duty to be impartial. When deciding on the exercise of their public order powers, it is important that Gardaí are well advised on legal issues, including whether works are lawful. **It is recommended that the necessary resources be made available to ensure that the Garda Síochána can properly assess the legality of works undertaken by Shell and its agents.**

It is also important that the public can be reassured that all necessary authorisations have been obtained. That way, they can have greater confidence that the project is well regulated, and that their safety is assured. The Department of Communications, Energy and Natural Resources have taken steps in this regard by putting authorisations on their website. But they have not always been consistent in doing this. And they are not the only body responsible for regulating the project. Others, like the Private Security Authority, the Environmental Protection Agency and Mayo County Council have important roles too.

Large amounts of public money have been spent on the policing operation in Mayo. This author believes that it may help to reduce conflict, and save on the policing budget, if greater efforts are made to explain the legal situation to protesters and all other interested parties. This should not be made conditional on participation in any forum, such as the North West Forum, or any acceptance of Shell's project. **It is therefore recommended that the Department of the Communications, Energy and Natural Resources work with Mayo County Council and other interested bodies to ensure that in Belmullet there is an official available at relevant times who can explain the regulatory status of any works clearly and transparently.** The amount of money that this would cost would pale into insignificance compared to the €14 million spent since August 2005 on the policing operation.²²²

Protesters are often unaware of their rights, are haphazard in gathering documentation and sometimes fail to pursue avenues of redress open to them. At the same time, serious issues have been raised by this report regarding the policing of the project, as well as regarding the project more generally. Should the pipeline proceed along a contested route, there is a real potential for confrontation. **It is therefore recommended that human rights non-governmental organisations agree to appoint a human rights observer in the event that planning permission for the pipeline is given along a contested route.** That observer should establish a human rights monitoring system and advise on and pursue any human rights issues.

It is further recommended that the Garda Síochána cooperate with any such observer – and ensure respect for the role of human rights observers generally.

The Corrib gas dispute has been the single greatest cause of complaints to the Garda Síochána Ombudsman Commission (GSOC) since its foundation. In 2007 the GSOC sought to do a “policies and practices” investigation into public order aspects of the dispute. Consistent with the UN Paris Principles, in Northern Ireland the Police Ombudsman can do this of his own volition.²²³ Even though the Garda Síochána Act 2005 was introduced to emulate many of the reforms recommended by the Patten report in Northern Ireland, that Act requires the consent of the Minister for Justice for any such investigation. The then Minister for Justice, Brian Lenihan TD, denied his consent to this investigation.²²⁴ No reasons were given. This has created the impression that the State does not want the Garda Síochána held properly to account over the policing of the Corrib dispute.

It is recommended that the requirement that the consent of the Minister for Justice be obtained in order for the GSOC to conduct a policies and practices investigation be repealed.

In view of the findings of this report, **it is also recommended that the GSOC seek again to conduct a policies and practices investigation into the policing of the Corrib gas dispute. Specific issues for investigation would include:**

- how human rights issues are mainstreamed in practice;

- how the duty to act impartially is given effect;
- how legal advice is sought and acted on;
- public order training;
- performance in public order situations, including the use of force;
- the use of public order powers in civil law disputes;
- the wearing of identification;
- timing and practice in connection with the service of summonses and the bringing of prosecutions, particularly in matters where complaints have been brought to the GSOC; and
- the keeping of records.

Pending any repeal of the requirement for the consent of the Minister for Justice to such an investigation, it is recommended that the Minister give that consent.

The belief of many protesters is that the Garda Síochána are on the side of Shell and have not behaved impartially. This report has certainly highlighted real concerns in this regard. It has also highlighted cases where legal issues in operations appear not to have been fully thought through. This is not easy work – and it is important that Gardaí on the ground are well advised.

In Northern Ireland, the Policing Board has a human rights adviser. The first such adviser, Keir Starmer QC – now Director of Public Prosecutions for England and Wales – did much to improve policing practice, to the benefit of the police and the public alike. Unfortunately, there is no equivalent of the Policing Board in the Republic. But that does not mean that the Garda Síochána could not – and should not – do more to human rights proof their proposed actions.

It is recommended that the Garda Síochána appoint a trained lawyer with relevant experience as human rights adviser. It is also recommended that that adviser not only review police policies and practice generally, but also provide input into the planning of operations. Specifically in the context of the Corrib dispute, it would be helpful to provide guidance to the Garda Síochána on how they can best discharge their functions in an impartial way. The Garda Síochána have already entered into discussions with the Irish Council for Civil Liberties regarding mainstreaming of human rights. This would be the next step in that important work.²²⁵

The number of cases where the GSOC has sent files to the DPP has been low – at only seven cases by November 2009. That is not surprising – in many cases there will be a lack of evidence to justify charges. Nor is it surprising that the Director of Public Prosecutions has not brought charges. Indeed, it may well be that in some cases the GSOC referred files to the DPP as a precaution, rather than because it was believed that a prosecution should be brought. However, there has been a suggestion that the fact that a complaint is brought close to the six month time limit has been a factor in declining to prosecute. In fact, complaints are sometimes brought late by protesters out of a fear of retaliatory prosecution by the Garda Síochána. **It is recommended that the lateness of the bringing of complaints be viewed in its proper context when decisions are arrived at on whether to prosecute.**

Often with police complaints, it is clear that there was a wrong but it is not clear what police officer was responsible. Often also establishing the truth matters as much to complainants, if not more, than getting a successful prosecution. In Northern Ireland published reports by the Police Ombudsman which have established what wrong was done – but not who did it – have been enormously significant. An example is the Police Ombudsman's report on the Omagh bomb investigation. Under s.103 of the Garda Síochána Act 2005 the GSOC has the power to provide information on the results of an investigation to any person that the Commission considers to have sufficient interest in the matter. **It is recommended that the power in s.103 be used to publish reports on the outcomes of investigations in appropriate instances.**

Some Gardaí have been working on the Corrib gas dispute for ten years. That is stressful for them, and also impairs their ability to do other community policing work if it involves protesters. That is because many protesters distrust the police. Some have suggested that they would not now report any ordinary concerns that they might have,

such as a burglary. **It is recommended that Gardaí who have been involved for long periods in policing work on the Corrib gas dispute be deployed to other duties, such as community policing.**

During this author's meeting with the Gardaí, it was admitted that Gardaí performing certain public order functions do not wear identification. This was blamed on the design of the uniforms that they wore. It is totally unacceptable for Gardaí in public order work not to wear identification and it is recommended that this be addressed as a matter of urgency.

Regarding other Gardaí, they get their public order training before qualification at Garda College. Of course, those doing dedicated public order work get further training. But most ordinary Gardaí working on the dispute discharge public order functions at some stage. **It is recommended that they get refresher training to assist them in carrying out this difficult work.**

FOOTNOTES

1. See s.106 of the Garda Síochána Act 2005.
2. See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, as adopted by UN General Assembly Resolution A/RES/53/144 on 8 March 1999.
3. See Human Rights, Human Rights Defenders: Protecting the Right to Defend Human Rights, Factsheet No 29, accessed at <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf> on 22 September 2009.
4. See Factsheet No 29 at page 6.
5. See Factsheet No 29 at page 8.
6. See Factsheet No 29 at page 9.
7. See Factsheet No 29 at page 12.
8. See Factsheet No 29 at page 12.
9. See <http://www.npws.ie/en/ConservationSites/SpecialAreasofConservationSACs/Mayo/>, accessed on 22 October 2009.
10. See <http://www.npws.ie/en/ConservationSites/SpecialProtectionAreasSPAs/Mayo/>, accessed on 2 November 2009.
11. Other companies also had an involvement, then being Statoil and Saga Oil.
12. See e.g. the remarks of Minister Eamon Ryan at www.dcenr.gov.ie/Press+Releases/2008/Government+proposes+way+forward+on+Corrib+Gas+Project.htm, accessed on 5 October 2009.
13. See Company defends security operations at Corrib gas sites, Aine Ryan, *The Irish Times*, 26 June 2009. www.irishtimes.com/newspaper/ireland/2009/0626/1224249574365.html, accessed on 3 October 2009.
14. Figures supplied by Shell. See the leaflet "Corrib Natural Gas, Autumn 2009."
15. "Enterprise Oil Pipeline – Rosspoint Community Concerns", Memorandum provided by Monica Muller of 24 November 2000.
16. Response to Written Question 6375/05, see Dail Eireann, Vol 598, 24 February 2005 at col. 970, available at <http://historical-debates.oireachtas.ie/D/0598/D.0598.200502240104.html>, accessed on 25 September 2009.
17. Independent Safety Review of the Proposed Onshore Section of the Proposed Corrib gas Pipeline ("the Advantica report") at page ii. See <http://www.dcenr.gov.ie/NR/rdonlyres/2C9E7E78-C18E-481C-AB76-B58EEA47A071/0/CorribPipelineSafetyReviewR8391FINALHighRes.pdf>, accessed on 2 October 2009.
18. See European Communities (Internal Market in Natural Gas) (Compulsory Acquisition) Regulations, 2001, SI 571 of 2001. These powers were subsequently provided for in primary legislation, being s.23(1)(g) of the Gas (Interim) (Regulation) Act 2002.
19. Authors' interview with Shell representative.
20. See the Inspector's first report of May 2002 at www.Pleanála.ie/casenum/126073.htm, accessed on 22 September 2009, at p.167.
21. See the Inspector's addendum report of April 2003 at www.Pleanála.ie/casenum/126073.htm, accessed on 22 September 2009, at p.354.
22. See the Board Direction at <http://www.Pleanála.ie/casenum/126073.htm>, accessed on 22 September 2009.
23. See *O'Keeffe v An Bord Pleanála* [1993] 1 IR 39.
24. See <http://www.shellnews.net/2007/royal-dutch-shell-reserves-litigation-may-2007.html>, accessed on 22 September 2009, which includes files discovered in the context of this litigation. The note inaccurately states the planning permission to have been refused – in fact, further information was sought.
25. See Dáil Éireann, Volume 574, Questions – Ceisteanna, 19 November 2003 at 1357-1359.
26. See "The Great Corrib gas Giveaway", Centre for Public Inquiry, November 2005 at p. 41.
27. See <http://www.Pleanála.ie/casenum/207212.htm>, accessed on 22 September 2009.
28. See <http://www.Pleanála.ie/casenum/207212.htm>, accessed on 22 September 2009.
29. See *Harrington v An Bord Pleanála* [2006] 1 IR 388.
30. See *Sweetman v Shell E&P Ireland Ltd* [2007] 3 IR 13.
31. See <http://historical-debates.oireachtas.ie/D/0610/D.0610.200511240027.html>, accessed on 22 September 2009.
32. *Shell E&P Ireland Ltd v McGrath* [2007] 1 IR 671.
33. Shell responds to Independent Safety Review, Shell press statement of 4 May 2006. See http://www.shell.ie/home/content/irl/aboutshell/media_centre/news_and_media_releases/archive/2006/sepi_l_20060504.html, accessed on 25 October 2009.
34. See <http://www.dcenr.gov.ie/NR/rdonlyres/9053B361-C5BE-476D-A120->

- CFCBC0777DE7/32178/JohnstonReport.pdf, accessed on 23 September 2009.
35. See the Dail Debates of 2 March 2006 Vol 598 at Col 1479.
36. See press release of the Department of Communications, Marine and Natural Resources of 24 May 2005, attaching the Quantified Risk Assessment and British Pipeline Agency report at <http://www.dcenr.gov.ie/Press+Releases/2005/Corrib+Gas+Development.htm>, accessed on 23 September 2009.
37. See Page 2 of the report.
38. Statement of Minister Noel Dempsey of 27 May 2005, accessed at <http://www.dcenr.gov.ie/Press+Releases/2005/Department+To+Initiate+Further+Review+Of+Quantified+Risk+Assessment+%28QRA%29+Version+F+Of+Corrib+Onshor.htm> on 23 September 2009.
39. Shell link to 'independent' consultants for gas pipeline, Lorna Siggins, *The Irish Times*, 28 May 2005.
40. See Department to Initiate Further Review of Quantified Risk Assessment, DCENR press release of 27 May 2005, available at <http://www.dcenr.gov.ie/Press+Releases/2005/Department+To+Initiate+Further+Review+Of+Quantified+Risk+Assessment+%28QRA%29+Version+F+Of+Corrib+Onshor.htm>, retrieved on 18 February 2010.
41. See the report of the Inspector of 19 July 2005 at <http://www.dcenr.gov.ie/NR/rdonlyres/D972AFB1-DEC4-4E12-8624-665CAF5946FB/31086/ReportbyMichaelDaly20July2006.pdf>, accessed on 2 October 2009.
42. See letter of Minister Dempsey to Andy Pyle at <http://www.dcenr.gov.ie/NR/rdonlyres/D972AFB1-DEC4-4E12-8624-665CAF5946FB/31066/LettertoAndyPyle31July2006.pdf>, accessed on 24 September 2009.
43. In earlier correspondence, it was accepted that the necessary consent had not been obtained by Shell. See letter from Andy Pyle to Michael Guilfoyle of 28 July 2005 at <http://www.dcenr.gov.ie/NR/rdonlyres/D972AFB1-DEC4-4E12-8624-665CAF5946FB/31068/LettertoMichaelGuilfoyle28July2006.pdf>, accessed on 2 October 2009.
44. See letter from Andy Pyle of 5 August 2005 to Minister Dempsey at <http://www.dcenr.gov.ie/NR/rdonlyres/D972AFB1-DEC4-4E12-8624-665CAF5946FB/31063/LettertoMinisterDempsey5August2005fromAPyle1.pdf>, accessed on 2 October 2009.
45. See letter of Andy Pyle to Michael Guilfoyle of 28 July 2005 at <http://www.dcenr.gov.ie/NR/rdonlyres/D972AFB1-DEC4-4E12-8624-665CAF5946FB/31068/LettertoMichaelGuilfoyle28July2006.pdf>, accessed on 24 October 2009.
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58. See Article 9(1)(a)(ii) of the Planning and Development Regulations, which applied as the access road gave on

to a local road of more than 4 metres width.

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173. See s.38 of the Private Security Act 2004, which makes it an offence to employ a person who is required to – but does not – have an individual licence. The requirement to have an individual licence is set out in s.37 of the 2004 Act. S.37 came into effect as regards the category “security guard (static)” on 1 April 2006 although, bizarrely, a later statutory instrument purported to commence it for this category on 1 April 2007. See Private Security Services Act 2004 (Commencement) (Sections 29 to 33, 35 and 37 (Part)) Order 2006 (SI 151/2006) and Private Security Services Act 2004 (Commencement) (Section 37) (Part) Order 2006 (SI 306 of 2007). It was an offence, as of 1 April 2006, to employ a person who was unlicensed.
174. There is only one exception. Section 52 of the 2004 Act allows persons who were working as security guards (static) before 1 April 2006 who have made applications by that date which have not been determined to continue working pending the determination. See s.52 and, as regards the “critical date” referred to therein, see the Private Security Services Act 2004 (Commencement) (Sections 29 to 33, 35 and 37 (Part)) Order 2006 (SI 151/2006). However, the men in question were not licensed in June 2008, over two years later. It should be noted that a later SI purported to set the “critical date” for security guards (static) at 1 April 2007. But the date had already been set at 1 April 2006 for such security guards. Even taking the later date, the events at Glengad would have occurred over one year later. See Private Security Services Act 2004 (Commencement) (Section 37) (Part) Order 2006 (SI 306 of 2007).
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189. S.31 of the Gas Act 1976, as amended.
190. S.33 of the Gas Act 1976, as amended.
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206. Shell asks fishermen to move pots from bay, Lorna Siggins, *The Irish Times*, 25 June 2009, available at <http://www.irishtimes.com/newspaper/ireland/2009/0625/1224249509284.html>, accessed on 19 October 2009.
207. Letter of 27 June 2009 from Lt Cdr Aedh McGinn to Mr James Snelgrove.
208. Email of James Snelgrove of 9.32 am 28 June 2009 to Robert O'Brien.
209. Report of Survey/Inspection, 1 July 2009.
210. Information supplied by Lorna Siggins of *The Irish Times* further to a request for information made by her to the Department of Communications, Energy and Natural Resources for the purposes of the following news report: Board may reopen Corrib Gas Hearing, Lorna Siggins, *The Irish Times*, 5 November 2009, available at <http://www.irishtimes.com/newspaper/ireland/2009/1105/1224258099100.html>, accessed on 2 March 2010.
211. See Paul Williams Investigates: the Battle for the Gas Field, Broadcast on 2 June 2009 on TV3. The relevant clip is available at <http://www.youtube.com/user/wmercerie#p/u/4/Mhm4MDf1Ugo>, accessed on 10 January 2009.
212. See Paul Williams Investigates: the Battle for the Gas Field, Broadcast on 2 June 2009 on TV3. The relevant clip is available at <http://www.youtube.com/user/wmercerie#p/u/4/Mhm4MDf1Ugo>, accessed on 10 January 2009.
213. This was the only footage of Mr Corduff under the truck on youtube, other than that in the TV3 documentary above.
214. See Paul Williams Investigates: the Battle for the Gas Field, Broadcast on 2 June 2009 on TV3. The relevant clip is available at <http://www.youtube.com/user/wmercerie#p/u/4/Mhm4MDf1Ugo>, accessed on 10 January 2009. See also the comments of John Monaghan to the *The Irish Times* in Corrib protesters urged to step back, Lorna Siggins, *The Irish Times*, 24 April 2009.
215. See the comments of John Monaghan to *The Irish Times* in Corrib protesters urged to step back, Lorna Siggins, *Irish Times*, 24 April 2009.
216. These documents were clearly personal information within the meaning of s.28 of the Freedom of Information Act, 1997, as amended.
217. Scrutinising claims of a 'vicious' attack on Shell protester, Peter Murtagh, *The Irish Times*, 18 May 2009.
218. This author therefore wrote to the relevant management explaining the nature of the investigation undertaken for Front Line. The HSE declined to allow ambulance staff from the night to be interviewed, citing cutbacks as the reason. The HSE was the only body that refused to meet in the course of this investigation.
219. Letter from P O'Riordan, A/Chief Ambulance Officer, Western Regional Ambulance Service to this author of 14 August 2009. The HSE was the only body that was unwilling to cooperate with this investigation.
220. The proposed agenda was sent to Superintendent Larkin by letter of 18 September 2009.
221. Shell 'unhappy' with contempt ruling, Aine Ryan, *The Irish Times*, 18 September 2009.
222. Ryan seeks transfer of safety function to energy regulator, Lorna Siggins, *The Irish Times*, 29 January, 2010, see <http://www.irishtimes.com/newspaper/ireland/2010/0129/1224263356959.html>, accessed on 26 February 2010.
223. See s.61A of the Police (Northern Ireland) Act 1998, as amended.
224. See s.106 of the Garda Síochána Act 2005.
225. See also in this regard the recommendation at para. 4.11 of the Report of the Independent Commission on Policing for Northern Ireland (The Patten Report), HMSO (1999)

ANNEX A

STATEMENT BY GARDA SÍOCHÁNA, 23 APRIL 2009

Incident at Shell compound at Glengad, Belmullet, Mayo on the 22/4/09.

Gardaí in Belmullet are investigating an incident which occurred at the Shell compound at Glengad, Belmullet.

Gardaí in Belmullet, Co. Mayo are investigating an incident which occurred at the Shell compound at Glengad, Belmullet at approximately 11.30pm, last night, the 22/4/09.

Up to 15 men wearing balaclavas and armed with iron bars and chains entered the compound and threatened the security staff.

A digger which was secured on the site was started by the intruders and used to cause damage.

One member of the security staff received an injury to his arm and received medical attention.

A protester who was present on the site since yesterday was this morning removed from the compound by security staff. He was taken to hospital by ambulance as a precaution.

Garda Press Office
23rd April 2009 9.23am

ANNEX B

SUPERINTENDENT MICHAEL LARKIN OF BELMULLET GARDA STATION INTERVIEWED ON MID WEST RADIO 23 APRIL 2009

Superintendent Larkin: "At 11.30 pm last night about, between 12 and 15 men wearing balaclavas, carrying iron bars and chains and other assorted weaponry forcibly entered the compound at Glengad Co in Mayo. This is the compound owned by Shell. Two security staff were threatened and intimidated and one was struck and, well, received injuries during the course of the altercation. That indeed is being investigated by Gardai at the moment. The security staff were subjected to severe intimidation and thuggery and a considerable amount of criminal damage was caused in the ensuing minutes to private property. There was total disregard shown for law and order in this case and it was an evidence of mob rule in the extreme in this particular incident and it was really an attack on private business. And I would like to just appeal to people and protesters, this is a long and ongoing protest it has been going on for a number of years. And I, the Superintendent in charge in Belmullet here in charge of policing in the Corrib gas project, want to assure people that I fully recognise the right to peaceful protest and that the Garda Síochána will always facilitate peaceful protest. But unfortunately last night this was well outside the parameters of peaceful protest. And I would ask...

Interviewer: Was anybody arrested?

Superintendent Larkin: There was nobody arrested at the scene because circumstances did not permit. But I just would ask that people would exercise common sense, the local people of Erris. Take a step back and realise what they are doing. If they have issues relating to permissions and legalities and that, the North West Mayo Forum was set up for this very reason. And they have absolutely every right to address the North West Mayo Forum under chairmanship of Mr Joe Brosnan. So I would just ask people to think about what they are doing and possibly just take a step back. And to assure them that we and I as the Superintendent in charge here in Belmullet will always facilitate this peaceful protest and I mean it is a right that I fully recognise and it is a right that I encourage.

Interviewer: Do you suspect that those who attacked wearing balaclavas last night were from the locality or from outside?

Superintendent Larkin: Well, it is too early to say at this stage but suffice to say that there was considerable local knowledge involved in the planning and preparation of this attack last night.

Interviewer: At what point in the night then did Willie Corduff, one of the Rossport Five, was he allegedly attacked?

Superintendent Larkin: At this point I don't want to talk about any individual case or any individual complaint. But I can assure you that any complaint that is made to us of any attack will be fully investigated and has been the case down through the years in relation to this dispute.

Interviewer: Yet the Garda Press office is saying that he was removed from the compound by security staff last night or in the early hours of this morning.

Superintendent Larkin: That may very well be the case and I appreciate that.

I would prefer not to comment on this particular case. There was a case of a well known protester in position in Glengad and perhaps at some stage he decided to come out to take a break or whatever but he was escorted from the site and spoke to Gardaí and it was decided in the best interests of everybody that he be transferred to a hospital that he complained of feeling unwell. I don't want to talk any more about that particular case.

Interviewer: When was the compound sealed off as a crime scene?

Superintendent Larkin: After the initial attack. Sorry it wasn't actually sealed off then. It was sealed off pretty much this morning once Gardaí took control over it.

Interviewer: And will it remain sealed off?

Superintendent Larkin: Not for terribly long. It is currently being examined by scene of crime officers and once that is completed it will be open for work again.

ANNEX C

PROFESSIONAL OPINION OF DR JOHN GOOD

Dr. John Good is a primary care physician on the Specialist Register of the Medical Council of Ireland.

Having trained as a postgraduate in orthopaedics, accident and emergency, obstetrics and gynaecology, he entered general practice in 1970. Voluntary teaching and instruction for the Irish Red Cross and studies in tropical medicine at the Royal College of Surgeons in Ireland, eventually led to an appointment with the International Committee of the Red Cross, which is based in Geneva.

During the period 1994 to 2002 he has worked extensively in the area of humanitarian relief as a medical coordinator and medical delegate, assigned to protection teams of the International Committee of the Red Cross in Africa, Asia, the Caucasus and the Middle East. In that capacity, and acting under the auspices of the Geneva Conventions, he made many individual and collective visits to political prisoners held by various detaining States. Having completed the Harvard University (Program in Refugee Trauma) certified course in Global Mental Health studies, he was accepted as an affiliate to the Faculty of Forensic and Legal Medicine of the Royal College of Physicians, in London, in 2009.

Dr. John Good, MB DRCOG MICGP MFFLM
One, Rathmiles Grove, Killenard, Portlinton, Co Laois

24 February 2010

Professional Opinion regarding Willie Corduff

To Whom it Concerns:

I have been approached by the Barrister at law, Brian Barrington, acting on behalf of Frontline, to study printed and DVD material relating to injuries which Mr. Corduff allegedly received in April 2009, when protesting against the activities of Shell in connection with the laying of the Corrib Pipeline project.

*Brief biographical detail: Dr. John Good
This is appended at the end of the Opinion.*

From the various Reports put before me it is apparent that Mr. Corduff and other interested parties wished to prevent the continuing development of the Shell Project. Protestors were reportedly conducting this campaign for a significant number of years and it would appear there was significant resistance within the local community, both towards Shell, and those who were protesting against the project. Shell had employed a private security firm, known as Integrated Risk Management Services I-RMS, and local members of An Garda Síochána were also involved, according to the records. It is apparent from reports that a degree of tension had developed within the Rosport area community between protestors, anti-protestors and the security personnel. Damage to property belonging to Shell, verbal abuse and general bad feeling had all been developing over a period of time.

From a psychological viewpoint it would be reasonable to anticipate that anger (at perceived rights abuses) was mixed with resentment and even elements of fear of personal bodily harm, when confrontation occurred between these various groups. In this climate of tension and ill-feeling, one would need to be aware that 'heat of the moment' events may have many varied accounts, naturally influenced by individual points of view.

There are allegations by Mr. Corduff, that a stone was repeatedly rubbed against his bare lower left leg and this occasioned him a wound above the left medial malleolus or inner ankle. A DVD picture of poor quality does indicate a recent flesh wound (at the time of the film been taken), the appearances of which suggest a scar may still be present, less than a year after the incident. There are also poor quality pictures of Mr. Corduff reclining against a pillow, with apparent swelling over his left zygomatic (cheek) area and a suggestion of left periorbital bruising. He complains (on the audio DVD) of being very sore all over. Mr. Corduff (on this same DVD clip) is rubbing his chest and had claimed in a previous report that he was sat upon by a number of men, after being struck over the head with an unknown weapon. His facial injuries, in as much as they were visible on DVD, are consistent with soft tissue bruising of recent event, and it would be expected that his rib cage would be sore all over if he had suffered compression by the weight of another person(s) as he alleges, when held to the ground.

The accounts of summoning help, by a person(s) unknown and whose qualifications are not at all clear raises the possibility of an un-trained person, first aider, paramedic passing information to Ambulance Control for help, but not giving an informed opinion. It is not unknown for persons summoning help in an emergency to overstate the gravity of the situation. There appears to be a considerable amount of conflict regarding the mention of 'chest pain' for example, although this would represent a 'red light' concern to people such as an ambulance Controller, to despatch help *sine mora*.

Hospital reports from the Accident and Emergency Service at Mayo General Hospital may be reasonably regarded as factual findings. The hospital staff, acting in their professional capacity, would have no need to exaggerate or disregard signs and symptoms when examining a casualty.

It is recorded in the hospital notes, at 05.53 hrs on 23/04/09 by the examining physician, that there was a history ... *'of alleged assault by security guards; that the patient was hit and kicked all over the body; that there was ' ? LOC (loss of consciousness) x 2/3 mins (sic); that the patient had nausea and vomiting; and pain in left lower jaw and ankle, and right thigh and shoulder ...'* His Glasgow Coma Score 15/15 would indicate a fully conscious and responsive patient at the time of this examination. However it was also recorded in the hospital notes that *' ? LOC as he cannot remember exactly what happened..'* This might reasonably support a state of *brief concussion*, such as could result from a blow to the head.

These observations combined with the clinical notes are totally consistent with a history of assault. Mr. Corduff was admitted for observation on account of his overall condition, including headache and tinnitus (ringing in the ears), both of which could reflect head injury. In fact he was placed on a neurological observation order, to monitor any change in his level of consciousness. He was administered clear fluids by mouth and given regular analgesics for pain. Extensive radiology and CT brain scan did not elicit any fracture or evidence of cerebral haemorrhage or other injury and he was deemed fit for discharge from hospital the following day.

In summary, Mr. Corduff appears to have sustained extensive soft tissue injuries to his body, principally to his face and head, neck and lower left leg, when he alleges he was the victim of assault by a person or persons unknown who were members of a private security firm or An Garda Síochána, at the Shell Corrib site in Co Mayo.

This Opinion is given without prejudice, at the request of Mr. Brian Barrington, Barrister at Law.



John Good, MICGP MFFLM

ANNEX D

RELEVANT EXTRACTS FROM MEDICAL AND AMBULANCE REPORTS OF MR WILLIE CORDUFF

* y



Feidhmeannacht na Seirbhíse Sáinte
Health Service Executive



PATIENT: WILLIE CORDUFF
ADDRESS: DR SWANNICK, BELMULLET

22ND APRIL 2009

INCIDENT NO: 34036

- 15.45 Call from Dr Swannick for a patient with chest pain
- 15.49 Crew alerted and mobile to pick up patient
- 16.11 Crew on scene to pick up patient
- 16.20 Patient refusing to travel, refusing to sign the forms and claiming that he has been abused by security, crew returning to base.

23RD APRIL 2009

INCIDENT NO: 34083

PATIENT: WILLIE CORDUFF
ADDRESS: GLENGAD, SHELL PROJECT, BELMULLET

- 03.20 Call for gentleman, feeling unwell. He is at Glengad - Shell project. A medic is with the patient and banging on gate to get entry.
- 03.55 Crew in attendance with patient.
- 05.31 55 YO male on board, query loss of consciousness, spinal protocol in place, ETA Mayo General Hospital 05.41

Incident Log for 034036-22042009 requested by PAJE on 14/08/2009 at 12:39:51

Incident Header

034036-22042009 15:45 C Priority E 10 CHEST PAINS PAJE
 „BELMULLET„,BALLINA,BALLINA BEL
 No Incident Details
 No Informative Messages
 No Stop Message

Caller Details

DR SWANICK Doctors Line
 No Caller Address

Ambulance Details

Csign	Loc	Crew	R	Assigned	Alerted	Mobile	On Scene	Left Scene	At Dest	Available
WA66	BEL	Alan Gaughan, Ronnie McDonnell	2	15:45:09 22/04	15:46:27 22/04	15:49:33 22/04	16:11:30 22/04			16:20:38 22/04

Officer Details

Csign	Loc	Name	Assigned	Alerted	Mobile	On Scene	Left Scene	Available
No Officers Assigned								

Incident Narrative

Date	Time	User	Source	Message
------	------	------	--------	---------

22/04/2009	15:45:34	PAJE		Call Collection New Incident key pressed
22/04/2009	15:45:44	PAJE		Call Collection Gazetteer searched „BELMULLET„
22/04/2009	15:45:44	PAJE		Call Collection Gazetteer search ended „BELMULLET„
22/04/2009	15:45:46	PAJE		Call Collection Incident created
22/04/2009	15:45:46	PAJE		Call Collection Position ID: AM05
22/04/2009	15:45:46	PAJE		Call Collection Address selected (replace) „BELMULLET„, BALLINA, BALLINA, MAYO
22/04/2009	15:45:46	PAJE		Call Collection Duplicates identified: 033455-21042009 033456-21042009 033457-21042009 033458-21042009 Not viewed
22/04/2009	15:45:53	PAJE		Call Collection 2(1) message recorded
22/04/2009	15:46:09	PAJE	WA66	Status changed from 24 - At Home Station to AE - Assigned Emergency
22/04/2009	15:46:09	PAJE	WA66	Assigned to incident 034036-22042009
22/04/2009	15:46:09	PAJE	WA66	Role set to Ambulances
22/04/2009	15:46:27	SYS	WA66	Status changed from AE - Assigned Emergency to PE - Passed Emergency
22/04/2009	15:46:27	SYS		Incident turnout to BEL for WA66 completed [25703]

22/04/2009 15:49:34	WA66	WA66	Status changed from PE - Passed Emergency to 1B - Mobile to Incident
22/04/2009 15:50:36	CDLH		Call Collection 2(2) message recorded
22/04/2009 15:50:37	CDLH		Type changed from to 10 CHEST PAINS
22/04/2009 15:50:37	CDLH		Caller changed from to DR SWANICK
22/04/2009 15:50:37	CDLH		Call Source changed from to Doctors Line
22/04/2009 15:50:37	CDLH		Patient changed from to WILLIE CORDUFF
22/04/2009 16:01:27	CSLH		Key SWANICKS RANG TO CONFIRM THAT AMBULANCE EN ROUTE. CONFIRMED AS SUCH. DR
22/04/2009 16:11:30	WA66	WA66	Status changed from 1B - Mobile to Incident to 19 - In Attendance
22/04/2009 16:17:29	WA66	WA66	Processing action status [\$K Request to speak] for status [98]
22/04/2009 16:18:10	WA66	WA66	Processing action status [\$K Request Speech] for status [99]
22/04/2009 16:20:35	CSLH		Key PATIENT IS REFUSING TRANSPORT, REFUSING TO SIGN THE FORMS AND CLAIMING THAT HE HAS BEEN ABUSED BY SECURITY. CREW RETURNING TO BASE.
22/04/2009 16:20:35	CSLH		Status changed from R - Responding to O - On Scene
22/04/2009 16:20:39	CSLH	WA66	Status changed from 1B - Mobile to Incident to NP - Not Proceeding
22/04/2009 16:20:39	CSLH	WA66	Clear of incident 034036-22042009
22/04/2009 16:20:52	CSLH		Revised type changed from to 10 CHEST PAINS
22/04/2009 16:20:52	CSLH		Incident Closed

Action Plans

No action plans

End of Log for 034036-22042009

Control: Hello Ambulance Control

Dr.: Ah I want you to send an ambulance to the Glengad land forest site in Glengad please.

Control: Glengad

Dr.: The land forest site please. The Shell Land forest site please

Control: The shan...?

Dr.: Glengad you know just out on the way to Belmullet on the coast road.

Control: Yeah and it's the halting site, what's wrong there?

Dr.: It's not the halting site it's the land forest site the shell site, the shell factory in Glengad yeah.

Control: Oh right oh, sorry

Dr.: Yeah.

Control: And what's happened?

Dr.: We've an elderly man who's feeling faint

Control: Elderly man

Dr.: Yeah and he's I suppose in a semi conscious state we have a medic here

Control: Ok now when the ambulance crew get there do they have to do anything? Will they be able to get onto the site?

Dr.: They need to come to the main gates, there'll be... to the site gates and bang on the gate

Control: Bang on the gate

Dr.: Yeah and we will ah let them in then yeah

Control: Give me you phone number.

Dr.: 0876714552

Control: I'll send the ambulance now OK.

Dr.: Thank you, cheers, bye bye.

Control: Bye

Call 2.

Dr.: Hello?

Control: Hello how're you doing this is the Ambulance Control here. Now the ambulance has been despatched

(background on recipient's side someone says, I should think so!)

Ah, I just wanted to know the man's name.

Dr.: The man's name is Willie Corduff.

Control: Willie Corduff. Ok they're on the way.

Dr.: Ok

Control: Thank you

Dr. Bye

Date of Call	25/04/2009	Time of Call	3:24
Passed	3:26	Mobile	3:35
At Scene	3:55	At Patient	
Depart Scene	4:15	At Destination	5:40
HandOver	5:40	Clear	
Hospital	Mayo General Hospital		Department
Emergency Dept			
TCD/NTT	Nature of Assistance		
Clinical Level			
Identity of Assistance			Location Type
Location			
CC	CC02-34083-WA68-A		

Patient Information

Surname	CORDUFF	First Name	WILLIAM
Address	ROSSPORT SOUTH BALLINA CO MAYO	DOB	28/01/1954
		Gender	Male
		Age	55 Year(s)
Next of Kin	MARY CORDUFF	Patient Phone #	09788986
NOK Phone	09788986	GP	DR MOLLOY, MICHAEL B

Clinical Information

Patient's chief complaint

Assault, Injury Head

Clinical Impression

Trauma

Head Injury

PATIENT REPORTS A LOT OF PAINS

Vital Observation Sheet

Time	Pulse Rate	ECG Rate	ECG Rhythm	Respiratory Rate	Respiratory Quality
4:16	86 R			20	Normal
4:36	86 R			20	Normal
5:01	90 R			18	Normal

SpO2	ETCO2	BP Systolic	BP Diastolic	Temperature	Left Pupil	Right Pupil
98.00		165	101		6	6
97.00		135	91		5 Reacts	5 Reacts
97.00		135	90		5 Reacts	5 Reacts

Total GCS	Eye	Verbal	Motor	Pain Score	BG Level
8	To Voice	Confused	None		11.40
12	To Voice	Confused	Local Pain		11.40
12	To Voice	Confused	Local Pain	5	11.40

Care Management Information

Time	Care	Administrator
04:05:00	SpO2 Monitor	Practitioner Attending
04:05:00	Cervical Collar	Practitioner Attending
04:05:00	Spinal Board	Practitioner Attending
04:05:00	Positioning	Practitioner Attending

Primary Survey

A	Clear					
C	C Spine	Suspected				
B		Normal				
C	Pulse	Present	Rate	86	Haemorrhage	No
		Regular				
	Skin	Pale	Cup-Roll	> 2sec		
D	LOC Before Arrival	Yes	AVPU	Alert To Voice		



Medical Observations

Allergies

Unknown

Event Mechanism of Injury

Assault

PATIENT HAS NO RECOLLECTION OF COMING OUT FROM UNDER LORRY REMEMBERS SEEING
SEVERAL MEN DRESSED IN BLACK HATS REMEMBERS HIS HEAD BEING BANGED NO FURTHER
RECOLLECTION

Last Intake

Unknown

Medication

None

Past Medical History

None

Additional Info PATIENT HAS NOT MUCH RECOLLECTION OF INCIDENT SON TRAVELLED TO A&E WITH
PATIENT ASKED AS TO HOW PATIENT WAS REMOVED FROM UNDER LORRY, NO
INFORMATION WAS GIVEN TO PARAMEDICS

Clinical Status

☐ Life Threatening

☒ Non Serious or Life Threatening

☐ Serious not Life Threatening

Receiving Staff Signature

June 18, 2009



MAYO GENERAL HOSPITAL



Surgic B/N: 0492959 (M) Surge Summary

MR CORDUFF
WILLIAM
CB037861
DOB: 27/01/1954
ROSSPORT SOUTH
BALLINA
CO MAYO

Re:

To:

Dr Michael Mallon
Quay Street
Belmullet
Co. Mayo

Copy To:

1

2

From:

Mr. P. W. Eustace,

Mr. K. Barry, / Khon

Mr. R. Waldron,

Other (specify)

Date Admitted:

22/4/09

Date Discharged:

23/4/09

Diagnosis:

- 1 Alleged assault by security guards
- 2 Hit & kicked all over body
- 3 with 2 LOC & 2/3 mms
- 4 Headache & Tinnitus
- 5 Nausea & Vomiting
- 6 Pain in (L) jaw & ankle, and (R) Throat & shoulder

Date:

Operations:

1 23/4/09
23/4/09

CT- Brain - normal
Spine: chest Ankle
X-rays all normal

Treatment:

Neuro-obs
Analgesia

Follow up:

GP to follow-up with any problems

Signed,

Further summary to follow:

Yes

No

Discharge Summary

037861/ MH

Board No: 0492959

Dictated: 11th May, 2009

Typed: 19th May, 2009

Dr. Brendan Molloy,
Belmullet.

Re: William Corduff, Rosspoint South, Ballina, Co. Mayo.
D.O.B. 27/01/1954

Admitted: 23/04/2009

Discharged: 24/04/2009

Diagnosis:

1. Alleged assault with ? LOC
2. Bruising on body from kicks
3. Headaches
4. Nausea + Vomiting

Dear Dr. Molloy,

This patient was admitted following an alleged assault by security guards. He had been kicked all over the body and had ? LOC. He had headaches, nausea and vomiting. During his stay, he had a CT brain which is normal. He had a series of X-Rays, spine, chest and ankle. X-Rays are all normal. He had an uneventful recovery with no signs of increased intra-cranial pressure. He has been discharged back to your care.

Yours sincerely,

Mr. Osama Elfaedy, Registrar to
Mr. Kevin Barry, MD, F.R.C.S.I. (Gen Surg), F.A.C.S.
Consultant Surgeon.

BREAKDOWN IN TRUST: A REPORT ON THE CORRIB GAS DISPUTE

Front Line was founded in Dublin in 2001 with the specific aim of protecting human rights defenders at risk, people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights (UDHR). Front Line aims to address the protection needs identified by defenders themselves.

Front Line seeks to provide rapid and practical support to at-risk human rights defenders, including through:

- international advocacy on behalf of human rights defenders at immediate risk;
- grants to pay for the practical security needs of human rights defenders;
- training and resource materials on security and protection, including digital security;
- rest and respite, including the Front Line Fellowship;
- opportunities for networking and exchange between human rights defenders;
- the annual Front Line Award for Human Rights Defenders at Risk;
- an emergency 24 hour phone line for human rights defenders operating in Arabic, English, French, Spanish and Russian.

Front Line promotes strengthened international and regional measures to protect human rights defenders including through support for the work of the UN Special Rapporteur on the situation of human rights defenders. Front Line seeks to promote respect for the UN Declaration on Human Rights Defenders.

Front Line has Special Consultative Status with the Economic and Social Council of the United Nations. Front Line has Observer Status with the African Commission on Human and Peoples' Rights. Front Line received the 2007 King Baudouin Prize for International Development.

WWW.FRONTLINEDEFENDERS.ORG

PROTECT ONE: EMPOWER A THOUSAND



European Commission

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