

January 2021

Submission to the Ad Hoc Committee on a Bill of Rights call for views

Introduction

Friends of the Earth supports the introduction of a Northern Ireland Bill of Rights. Friends of the Earth is a member of the Northern Ireland Human Rights Consortium and endorses its submission. The Human Rights Consortium has consistently made the argument that a strong and inclusive Northern Ireland Bill of Rights is vital to the creation of a just, equitable, and peaceful Northern Ireland.

In addition to the points raised in the Human Rights Consortium's submission, Friends of the Earth would like to include the following:

1. Rights of communities, rights of nature

The system is failing people and failing the environment. Communities are viewed as a hindrance to be consulted in as narrow a scope as possible as part of a cynical tick-box exercise. The natural world is treated as a commodity to be exploited for short-term financial gain.

Business interests have framed legislation in such a way as to box communities in and restricted their ability to control what happens in their areas. Consultation exercises, the planning system, and the consent process is prescriptive and narrow in focus. This has the effect of confining communities' responses to a predetermined script, limiting their ability to think and plan in a visionary, expansive, and comprehensive way.

Licences, permits, and consents, rather than acting to limit environmental damage, in reality give consent to it. That is what the terms mean – literally.

For the sake of healthy communities, and a healthy environment, a Bill of Rights should include rights of communities and rights of nature in order to give communities direct control, and protect the natural world for its own sake.

- Community Bill of Rights
 - Using Local Authority legislative powers, communities can enact laws to protect their rights – rights such as the right to clean air, to clean water, to health, and to a safe climate, for example;
- Rights of Nature
 - Using Local Authority powers, communities can introduce laws to recognise rights of nature – rights such as the right to exist, to thrive, to evolve, to regenerate, and to be restored; and
- Aarhus Centre
 - The Aarhus principles of the right to access to information, the right to participation, and the right to access to justice should be included in a Bill of Rights. In addition an Aarhus Centre should be established in Northern Ireland. Aarhus Centres are information and support resources set up by the United Nations under the Aarhus Convention. These Centres are vital for promoting all three pillars of the Aarhus Convention. Given the systemic failure of environmental governance in

Northern Ireland, an Aarhus Centre would play an important role in redressing that failure.

2. Planning justice

The planning system is not fit for purpose. It favours opportunistic developers over local communities. It places economic considerations above environmental and social ones. It uses a flawed balancing exercise rather than a synergistic one.

To make the planning system fairer we recommend the Bill of Rights includes the following:

- Community directed plan-lead system
 - The planning system is something that is done to communities, rather than something in which they are engaged in a meaningful way. Consultations are narrow and prescriptive. Local Development Plans written by communities, in a fully participative, iterative, and responsive process should be the foundation for a democratic planning system. Such a system would result in fewer contentious applications that would be less likely to get tied down in court proceedings. Developers will also benefit with a faster, and less costly process; and
- An Equal Right of appeal
 - Developers have a right to appeal decisions to refuse planning applications, but local communities objecting to an application have no right to appeal approvals. This is unjust, and heavily favours developers. An Equal Right of Appeal would redress the imbalance, and enable communities to appeal planning decisions without having to resort to the costly, intimidating, and narrowly focused Judicial Review process.

Conclusion

Ours is a post-conflict society, struggling to come to terms with the past and find a new future for everyone. That leaves us vulnerable to exploitation and manipulation. Our environment is being degraded at an alarming rate. Our democracy is dysfunctional, with old conflicts stoked for political gain. A brutal, unreflective 'economy first' policy is imposed upon us. Outdated technologies are promoted, driving us closer to climate catastrophe.

We need a new way of thinking. One that works for everyone, not just for the rich, the powerful, and the privileged. We need a new way of working that doesn't destroy our life support systems: our air, our water, and our soils.

We can have a truly functional, participative democracy, one where people are active citizens, not passive voters. Democracy should include full community participation in the decisions that affect them. Democracy should include who controls essential services, and who benefits financially.

Friends of the Earth believes a Bill of Rights is a vital component of an inclusive, equitable, and just society in Northern