

THE RIGHTS REMOVAL BILL

AND ITS IMPACT ON ENVIRONMENTAL ISSUES

HOW WILL THE RIGHTS REMOVAL BILL IMPACT ON ENVIRONMENTAL ISSUES?

The Human Rights Act is the UK law that puts a legal duty on public authorities in the UK to respect, protect and fulfil human rights in everything they do. It also puts positive obligations on those authorities to take proactive steps to protect people's human rights. Plan B and four young people have applied to the European Court on Human Rights to bring a case against the UK Government for failing to meet its positive obligations to act on climate change in breach of their Article 2 right to life, Article 8 right to private and family life, and Article 14 right to be free from discrimination (as members of groups disproportionately impacted by social and economic breakdown, including women, racially marginalised communities and people with mental health issues).

However, the Rights Removal Bill will both limit the positive obligations placed on the Government to protect people's rights and weaken the right to private and family life - putting important cases like this at risk.

Plan B's case comes as part of a wave of emerging climate litigation; a July 2021 report found, "the use of human rights arguments in climate cases continues to rise [with] 112 human rights cases...identified globally". However, the Rights Removal Bill adds a permissions stage for people who want to bring human rights claims, requiring them to show "significant disadvantage" in addition to the victim status already required. This will make it particularly difficult to bring human rights cases in emerging areas such as climate change - not just despite but because of the fact the impact will be widespread and the magnitude may not be fully realised until it is too late.

The Rights Removal Bill will also remove protection for those significantly disadvantaged by climate change. Friends of the Earth estimates there are more than 40 million environmental refugees. However, the Rights Removal Bill will remove the Article 8 rights of those at risk of deportation and virtually remove it for their families, while Clause 24 will allow the Government to ignore European Court of Human Rights interim measures. These exist to prevent "irreparable damage" being caused before a case is concluded, such as in asylum cases.

OUR BIGGEST CONCERNS

The Rights Removal Bill will make it harder to challenge Government inaction on climate and environmental issues that impact people's human rights by weakening the rights themselves; the Government's obligations to uphold them; and the mechanisms in place to challenge failures.

- ➔ Clause 8 of the Bill fundamentally weakens our Article 8 right to respect for private and family life.
- ➔ Clause 5 of the Bill destroys the positive obligation on the Government to take action to protect our rights.
- ➔ Clause 15 of the Bill creates additional and unnecessary barriers to bringing a human rights case.

THE HUMAN RIGHTS ACT IN ACTION

Ella Adoo-Kissi-Debrah was a nine-year-old girl who lived with her family near a busy London road. She was hospitalised nearly 30 times in three years for asthma-related issues. She died in 2013 and an inquest into her death found it was a direct result of air pollution. Her family argued that the Government failed to uphold Ella's right to life by allowing dangerously high levels of pollution. A solicitor for the family said, "the scale of the inquest and the detail that the coroner went into was mandated by [positive obligations under] Article 2 of the European Human Rights Act, Right To Life, which sets a precedent for other lawyers in other jurisdictions to use Article 2 in this way to protect lives from environmental danger."

The findings from the inquest into Ella's death prompted the Clean Air (Human Rights) Bill (known as Ella's Law) to be introduced to Parliament in May 2022. However, the Rights Removal Bill will limit the positive obligations that make crucial investigations like this possible - preventing important lessons from being learned.