EJNI
Environmental Justice Network Ireland

Civil Society Briefing Paper

Rights of nature: Origins, development and possibilities for the island of Ireland

EJNI Briefing Paper

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'Our Mother Earth -- militarized, fenced-in, poisoned, a place where basic rights are systematically violated -- demands that we take action.'
(Berta Isabel Cáceres, 1971-2016, Earth Defender, Honduras)

'We abuse land because we see it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect.'
(Aldo Leopold, 1887-1948, Environmentalist, United States)

1. Introduction

Inspired by a global rights-based movement, in June 2021 Derry City and Strabane District Council adopted a pioneering motion on the 'rights of nature'. In the motion, the Council recognises that the rights of nature can act as a catalyst for a new kind of economic thinking, one that is post-extractivist and regenerative. Within days, a similar motion was adopted by Fermanagh and Omagh District Council, followed by Donegal County Council in December 2021. In doing so, councils in both Northern Ireland and the Republic of Ireland have embarked on a significant challenge to the dominant paradigm of environmental law.

These motions are a sign of our times that has both intensely 'local' and 'global' significance. That is to say, progressive planetary activism is intimately connected to our sense of place and belonging, while simultaneously attuned to multiple conversations and transitions taking place across our imperilled planet. The rights of nature movement is capturing the imaginations of communities across the world because it helps to turn our narratives of transition towards the 'more-than-human': that intimate web of nature and meaning in which we are all entangled and implicated. It also represents an expression of a 'biocentric' or 'ecocentric' turn in the law: a decentring of 'the human' in favour of protecting the intrinsic rights of other beings. This briefing paper seeks to introduce readers to the rights of nature concept, in the hope that it furthers this important conversation on the island of Ireland. It outlines some of the key developments in practice, as well as the theoretical contributions rights of nature can make to the way we think about human relationships with our planet.

2. Rights of nature: Duplicating environmental law or paradigm shift?

The local authority initiatives across Northern Ireland are not the first attempts to recognise rights of nature in the United Kingdom. In 2018, independent members of Frome Town Council proposed a rights of nature bylaw in an attempt to protect Rodden Meadow and the River Frome. The bylaw would have offered protection for current and future generations, and enabled citizens to act on behalf of the local ecosystems. However, it should be noted from the start that early indicators of the UK Government's attitude towards rights of nature campaigns are not encouraging. In 2020, the UK Government rejected the Frome Town Council proposal on the grounds that the Council initiative would duplicate existing environmental protection regulations. This essentially halted the proposal because while local authorities in England have the power to propose bylaws they must be approved by central government. Similar restrictions apply in Northern Ireland and in some cases in the Republic of Ireland.

Mari Margil, the Executive Director of the US-based Center for Democratic and Environmental Rights (CDER) and programme manager for CDER's International Center for the rights of nature, challenges the duplication argument. As she explains in correspondence with the authors, 'there are no rights of nature laws at the England or UK level.' Indeed, the duplication argument is a familiar one, which Margil has encountered in other jurisdictions and that she is confident can be challenged and overturned. She believes it is an attempt by national or high-level government departments to 'ignore or reject' rights of nature initiatives by insisting that they are not necessary. Margil has described developments in Northern Ireland councils as the latest and 'very important' steps in a campaign which, she hopes, will bring the rights of nature into binding law at the local, Northern Ireland and eventually UK levels. Under the provisions of the Local

Government Act (NI) 1972, local authorities can only implement bylaws once they are 'confirmed' by the relevant department at the Northern Ireland Executive.

The 'duplication' argument used by the UK government appears to be based on an intentional misrecognition of the paradigmatic shift signalled by the rights of nature movement. In fact, the movement is part of a wider set of transitions in our understandings of how human beings have come to occupy the earth. These transitions challenge historically privileged narratives associated with the dominant and often violent rise of Western modernity, colonialism, the enclosure of the commons and the industrial revolution. Environmental lawyer David Boyd has outlined this privileged narrative as one which understands humans as separate from, and superior to the rest of the natural world, as one that grants humans the right to use (and destroy) all natural resources as property, and one which views unlimited growth as the paramount objective of the modern economy.

Ugo Mattei and Fritoj Capra have linked the rise of this 'owner-centric' idea of jurisprudence to Western historical, philosophical and scientific traditions of thought that enshrine a vision of human domination over nature. The influential English legal scholar, William Blackstone captured this profound cultural bias in his observation that: 'The Earth, and all things herein, are the general property of mankind, exclusive of other beings, from the immediate gift of the creator.' As Barrister Paul Powlesland, founder of Lawyers for Nature, highlights, this 'property' view of nature, which originated on English soil, has subsequently been exported around the world. Indeed, Liesolette Viaene has linked the 'mainstream and universalized legal conception that Nature is a commodity for human exploitation' to the history of colonialism. As a result, these ideas are deeply encoded in global institutions, including our legal systems.

Earth defenders, notably opponents resisting state/corporate-sponsored extractivist economics predicated on endless growth and inequality, occupy the multiple frontlines in a new movement of opposition to such legal frameworks that have, for the most part, serviced the ongoing global enclosure and privatisation of the natural world. These frameworks have developed without questioning the fundamental pathologies of anthropocentric bids for control over and domination of nature, exclusive forms of ownership, and the privileging of private property. Rights of nature movements are, perhaps, best understood as part of an eco- or bio-centric turn in the legacy of a dominant Western approach to the organisation of society, law, and jurisprudence.

Sinéad Mercier describes law as a 'spatial practice' that renders all beneath its gaze as the 'inert background for the unfolding of the human saga.' As such, conventional 'environmental law' participates in rendering the world as property, de-physicalised to suit capitalist progress; and 'heritagised' to suit the imperatives of the Market and the State. The ecocentric turn instead reflects a paradigmatic shift or radical re-framing of deep patterns of human understanding, prompted by the unprecedented challenges of the climate and biodiversity emergencies facing the planet. The transition includes an emergent acknowledgement of the limitations of conventional 'environmental law' approaches, as campaigners and advocates come to an understanding that it is the integrity of whole ecosystems together with socio-ecological systems of practice, culture and knowledge that require respect and protection. In other words, isolated or fragmented successes in protecting strips of land or other natural features feed into a false incrementalist narrative, while the logic of ecocide continues to inform the big picture when it comes to our dominant ideologies and societal myths.

The rights of nature movement points to a significant intellectual and cultural change in our transition narratives, away from regarding nature as a mere field of objects or storehouse of commodities. In the words of the UN Special Rapporteur on Human Rights and the Environment, David Boyd:

'protecting the environment is impossible if we continue to assert human superiority and universal ownership of all land and wildlife to pursue endless economic growth. Our contemporary dominant culture and the legal system that supports it are 'self-destructive'… We need a new approach rooted in ecology and ethics. Humans are but one species among millions, as biologically dependent as any other on the ecosystems that produce water, air, food, and a stable climate. We are part of nature: not independent, but interdependent'.

In his call for the establishment and enforcement of a new set of rights and responsibilities – belonging to non-human animals, other species, and ecosystems – Boyd asserts that actions by people, legislatures and courts across the world that recognise such rights and responsibilities can reduce the suffering of sentient animals, stop human-caused species extinction, and protect our planet's life-support systems. The rights of nature may form an important part of just

transitions demanded in the face of the global climate and ecological emergencies.

3. Origins of the rights of nature movement

While the desire to live in right relationship with nature has been evident in the governance and community structures of many Indigenous peoples for centuries, the concept of a system of 'rights' is an inherently Western concept. Therefore, in the West the origins of the contemporary juridical conversation about the rights of nature are often traced back to a germinal article by a young law professor, Christopher Stone. His article 'Should Trees Have Standing? – Toward legal rights for natural objects', prompted by an impromptu classroom discussion, appeared in the *Southern California Law Review* (SCLR) in 1972. The article drew attention to the absence of any legal recognition of the *intrinsic* rights of nature while 'the world of the lawyer is peopled with inanimate right-holders: trusts, corporations, joint ventures, municipalities…'.

The article became hugely influential in environmental law activism after it was cited in a dissenting judgement by Justice William O. Douglas in *Sierra Club v Morton*. The Sierra Club had sought to restrain federal officials from approving a proposal by the Walt Disney corporation for the construction of a skiing resort in the Sequoia National Forest, California. The Sierra Club was denied legal standing, on appeal to the US Supreme Court, because there was no evidence before the Court that its members would be directly harmed by the proposed development.

Justice Douglas happened to be a guest editor of the SCLR at the time and had written passionately about his belief that humans are part of, not separate, from, nature. Stone managed to slip his article into a set of papers put before the Supreme Court Judge. In his dissenting opinion Justice Douglas argued that the central question of standing in the case would have been simplified if federal rules allowed environmental issues to be litigated 'in the name of the inanimate object about to be despoiled, defaced, or invaded by roads and bulldozers, and where injury is the subject of public outrage.' He argued that the rules of standing be amended to extend to 'all forms of life,' and concluded his judgement with a quotation from Aldo Leopold: 'The land ethic simply enlarges the boundaries of the community to include soils, waters, plants, and animals, or collectively, the land.' The Sierra Club's opposition prevailed, thanks to public opinion, and the ski resort was never built.

These developments were followed up by Roderick Nash's work on 'The rights of nature,' which located demands for a recognition of nature's rights within an evolution of ethics, reflected in a critical history of progressive demands for and extension of rights to categories of people, including colonists, slaves, women, labourers and other groups. The discussion was not limited to law, and debates about the rights of nature concept have always straddled the law and other disciplines or conversations, including consideration of deep cultural – even civilizational – codes.

Someone who embodied the expansiveness of the conversation was the cultural historian, Father Thomas Berry. Setting out principles for what he described as 'earth jurisprudence,' Berry observed that most of the world's jurisprudence does not recognise that the 'universe is a communion of subjects, not a collection of objects.' Drawing on Berry's initial work, Cormac Cullinan set out this initial understanding of a rights-based 'earth jurisprudence':

- The Earth Community and all the beings that constitute it have fundamental 'rights', including the right to exist, to have a habitat or a place to be, and to participate in the evolution of the Earth community;

- The rights of each being are limited by the rights of other beings to the extent necessary to maintain the integrity, balance, and health of the communities within which it exists; and

- Human acts or laws that infringe these fundamental rights violate the fundamental relationships and principles that constitute the Earth community and are therefore illegitimate and 'unlawful.'

Cullinan also calls on humans to adapt their legal, political, economic, and social systems to be consistent with this worldview. As the following section shows, developments towards such a worldview are evident around the globe.

4. Global rights of nature movement

The following sub-sections detail some examples of rights of nature developments over the past fifteen years. A timeline of some of the key developments is set out in the panel to the right.

a. The United States

Early breakthroughs in the rights of nature movement were pioneered by the US-based Community Environmental Legal Defense Fund (CEDLF) led by Thomas Linzey and Mari Margil. Focusing their efforts on rights-based actions on behalf of local communities and eco-systems, they had their first successful community-based rights ordinance in Pennsylvania in the year 2000, to effect a ban on factory farming. Hundreds of communities across the US and Canada have followed since, prohibiting a range of industrial, farming, and other extractive activities.

In 2006, Linzey and Margil worked with community groups resisting uncontrolled toxic dumping in the Pennsylvania municipality of Tamaqua, resulting in the first ever local ordinance recognizing the rights of nature to exist, thrive and evolve. They helped the community draft the Tamaqua Borough Sewage Sludge Ordinance to protect the health, safety, and welfare of citizens who had opposed dumping sewage in old pits. The ordnance qualified the power of corporations within the borough and recognised the rights of residents to defend natural communities and ecosystems. Similar ordinances have now been pursued in communities across the United States, prompting a legal backlash from corporate actors seeking to limit community control over extractivist activity. Mirroring the resistance from the UK Government noted above, several community rights of nature measures have already been struck down because they have been found to be inconsistent with State or Federal laws. The list includes, for example, the Lake Erie Bill of Rights.

b. Ecuador

In 2008, Ecuador became the first country to introduce constitutional recognition of Rights for Nature, with the close collaboration of Linzey. The constitutional innovation has origins in the election of President Rafael Correa who united the left in Ecuador in 2006. Alberto Acosta, of the Latin American Institute for Social Research, became Correa's powerful Minister of Energy and Mines, and was elected to lead a constituent assembly to develop Ecuador's new Constitution, designed to reject neoliberal economics. Acosta played a pivotal role in introducing a proposal for the inclusion of the rights of nature in the new Constitution, as set out in his paper, 'Nature as a Subject of Rights,' in which he articulated the legal recognition of rights of a river to flow, and the use of the law to prohibit acts that destabilize the Earth's climate system. The proposal was supported by the celebrated Uruguayan writer, Eduardo Galeano, and the Confederation of Indigenous Nationalities of Ecuador (CONAIE).

At the heart of the 2008 Ecuadoran Constitution is the Indigenous ('*sumak kawsay*') concept of '*buen vivir*', which encompasses wellbeing or 'living well', founded on harmonious relationships of mutual co-existence and regard that extend to people, society, and nature. For Acosta, the concept encompassed opposition to industrial capitalism, the subjection of nature, and the pursuit of endless growth/consumerism. It also promotes organic agriculture, renewable energy, ecotourism, and recycling as the basis for community and economic flourishing. Indigenous Quechua leader, Nina Pacari, and former Minister of Foreign Affairs has written that nature cannot be reduced to the

Rights of Nature Timeline

2006

Tamaqua Borough, Pennsylvania, in the U.S., bans the dumping of toxic sewage sludge as a violation of the rights of nature.

Since 2006, dozens of communities in the U.S. enact rights of nature laws after Tamaqua became the first place in the world to recognize these rights.

2008

Ecuador becomes the first country in the world to recognize the rights of nature in its national Constitution.

2010

Bolivia holds the World People's Conference on Climate Change and the Rights of Mother Earth, where the Universal Declaration on the Rights of Mother Earth is issued. It has been submitted to the U.N. for consideration.

The Global Alliance for the rights of nature is formed.

Bolivia's Legislative Assembly passes the

status of a 'natural resource', all beings of nature are invested with an energy called *samai*, and consequently they are living beings: a rock, a river, a mountain, the sun, the plants, all are alive.

The Constitution states that both humans and nature have rights, that none of these rights is more superior to the other, and that the State's 'supreme duty' is to respect and enforce respect for these rights. Nevertheless, implementation of the ideals has fallen far short, and extractivist activities, including oil and gas industries, continue to play a central role in the Ecuadorian national economy. The power of the new Constitution to protect Indigenous rights and the rights of nature remains an open question.

c. Bolivia

In 2010, Bolivia seized the imagination of activists around the world when the Government adopted a ground-breaking *Law on the Rights of Mother Earth*, which sets out in some detail the rights of nature and the corresponding responsibilities of people and the administration. The law emerged from a *Pact of Unity* document prepared by a coalition of Indigenous and small farmer organisations. Seven rights are codified – in broad terms – in the Bolivian law: i) the right to maintain the integrity of living systems and the natural processes that sustain them; ii) the right to preserve the variety of beings that make up Mother Earth; iii) the right to preserve the functionality of the water cycle; iv) the right to preserve the quality and composition of air for sustaining living systems; v) the right to maintain or restore the interrelationship, interdependence, complementarity, and functionality of the components of Mother Earth; vi) the right to timely and effective restoration of living systems directly or indirectly affected by human communities; and vii) the right to preserve Mother Earth's components from contamination.

In 2012, Bolivia enacted a more detailed piece of legislation, the *Framework Law on Mother Earth and Holistic Development for Living Well*. This legislation outlines the actions towards the country's ecological, economic, and societal restructuring in pursuit of *buen vivir* or holistic development guaranteeing that human activities will take place within the planet's carrying capacity. The vision explicitly aligns living well with a civilizational and cultural alternative to capitalism, based on indigenous people's insights.

Bolivia's formal legal commitments to the rights of nature have collided with its deep dependency on oil, gas, and mining interests that represent some three-quarters of exports. In 2015, President Evo Morales, who was nominally supportive of the rights of nature policies, nevertheless signed a presidential decree allowing exploration of oil and gas in national parks and in Indigenous territories. The early supporters of the movement have conceded that the transition to a new form of rights-based development is a process and not an overnight transition, a process that will also depend on collaboration with international partners.

d. New Zealand

New Zealand has so far recognised the rights of nature in three cases. Drawing from the Indigenous knowledge and governance systems of Māori tribes as well as New Zealand's settler colonial legal system, the country has granted legal personality and rights to the Whanganui River, the Te Urewera former National Park, and Mount Taranaki. In each case, the granting of rights can be situated within the historical origins of the colonization of the territory, and resultant treaty negotiations between the New Zealand Government and Māori tribes. These negotiations extend post-colonial processes of seeking reconciliation to relations between people and their traditional territories – in the case of the Whanganui River, the granting of rights was accompanied by measures of apology for

Law of the Rights of Mother Earth.

2011

In Ecuador, the first rights of nature court decision is issued, regarding the Vilcabamba River, upholding the rights of nature constitutional provisions.

2012

A campaign is launched in India to recognize rights of the Ganga River through national legislation.

The International Union for the Conservation of Nature (IUCN) adopts a policy to incorporate the rights of nature in its decision-making processes.

2013

The campaign for the European Citizen's Initiative for the rights of nature is launched. The first state constitutional amendment to include rights of nature is proposed in Colorado, in the U.S.

2018

The Ponca Nation of Oklahoma, in the U.S., adopts a customary law on the rights of nature.

In Colombia, the Supreme Court

past wrongs against the Whanganui tribe. Recognising parks, rivers and mountains as legal entities provides provisional solutions to difficult negotiations about who has the ultimate authority over the land, while allowing for human guardians to be appointed to protect the interests of the three natural entities. While the concept of 'rights' is not a Māori concept, in these cases granting rights simultaneously acknowledges the relations that the Māori tribes have with nature as ancestor and kin, while protecting natural environments and the ability of other people to enjoy natural spaces.

e. Colombia

In Colombia, Rights for Nature have emerged in two distinct ways. First, through decisions of the Colombian Constitutional Court and Supreme Court, which have recognised the Atrato River and the Colombian Amazon River ecosystem as rights-bearing entities deserving protection from harm. This means that the State has a duty to protect, conserve, maintain and restore these natural entities. Second, the Jurisdicción Especial para la Paz (JEP) - a specialist court established by Colombia's 2016 peace accord - has passed five resolutions recognising the territories of Indigenous peoples and Black communities as victims of the conflict. In doing so, the JEP gives legal expression to the idea that conflicts can victimise natural entities, as well as the important spiritual relationships that can exist between humans and their natural environments. More substantively, it offers judicial recognition of the fact that the territories are legal subjects of Colombia's 2016 peace treaty regime, with rights to truth, justice, reparation, guarantees of non-recurrence, and participation in legal processes. This recognition is largely attributable to the work of Indigenous peoples, who pushed for greater acknowledgment of their cosmovision and recognition of the agency of the other-than-human world.

f. Regional and global developments

In April 2010 Bolivia, Ecuador and other countries in the Andean region hosted the *World People's Conference on Climate Change and the Rights of Mother Earth*. This alternative 'people's conference' on climate change brought together thousands of people, including members of social movements and Indigenous groups. The result was the launch of the draft *Universal Declaration of the Rights of Mother Earth* ('Pachamama'). The *Declaration* acknowledges the inherent rights of Mother Earth and affirms that to guarantee human rights it is also 'necessary to recognise and defend the rights of Mother Earth and all beings in her and that there are existing cultures, practices and laws that do so.'

In 2014, the Global Alliance for the Rights of Nature created an International Rights of Nature Tribunal, established as a forum through which people from around the world could 'speak on behalf of nature…protest the destruction of the earth…and make recommendations about Earth's protection and restoration.' Since 2014, the Tribunal has met five times at locations around the world, and has heard a variety of cases based on the Universal Declaration. Although non-binding, the Tribunal's work serves as an indicator of how rights of nature might be protected in practice.

What the Declaration and subsequent judgments from the Tribunal have sought to highlight is that environmental rights are indivisible from human rights, including the right to life. In the absence of a paradigm shift in our institutional and legal recognition that fundamental human rights are predicated on wholesale protections for the integrity/flourishing of all living systems, guarantees of human rights will become increasingly threadbare, including the right to life itself. This is the emergent consensus captured in the work of Kate Raworth and Johann Rockstrom, which demonstrates that the realisation of all societal conditions for life, best summed up in the UN Sustainable

recognizes the Amazon as a 'subject of rights.' The Administrative Court of Boyacá recognizes the Páramo in Pisba, a high Andean ecosystem facing significant mining, as a 'subject of rights.'

Uganda enacts the National Environmental Act of 2019 in which nature is recognized as having 'the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.'

The Lake Erie Bill of Rights is approved by the residents of Toledo, Ohio, after they were prevented from voting on the measure in 2018 by the Ohio Supreme Court. It was the first law in the U.S. to secure legal rights of an ecosystem.

2019

In 2019, in Colombia, the Third Court of Penalties and Security Measures in Cali recognizes the Pance River, including the river basin and tributaries, as a 'subject of rights.'

In Colima, Mexico, the rights of nature are recognized in the state constitution.

In Sweden, a

Development Goals, rest on our ability to pursue those conditions within the critical thresholds defined by nine fundamental 'planetary boundaries'.

g. Ecocide as rights for nature?

While the rights of nature movement has typically not extended to criminal law, campaigns to criminalize the destruction of the environment have run alongside and intersected with rights of nature campaigns. A recent development in this long-standing campaign has been the production of a new proposed definition of 'ecocide', drafted by a panel of environmental and international criminal law experts in June 2021. The expert panel have expressed the hope that the definition might form the basis of a new international crime, capable of being prosecuted at the International Criminal Court (ICC). The proposed crime, which prohibits 'the extensive destruction, damage to or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been severely diminished' is ecocentric in focus. This means that damage or harm suffered by the natural environment itself is sufficient as the basis for the crime, without requiring additional harms to human beings.

Commenting on the new definition, expert panellist Philippe Sands QC has highlighted the importance of protecting the environment as 'an end in itself,' and has repeatedly acknowledged the influence of Christopher Stone's article 'Should Trees Have Standing' on his thinking. While the International Criminal Court (ICC) currently defines victims as including only natural persons and certain organisations and institutions, the criminalization of ecocide offers possibilities for extending understandings of victimhood to include more-than-human beings and environments. In the context of the ICC, such recognition could open doors to the rights of participation, reparation, and assistance for the natural world. Indeed, the criminalization of ecocide has been described as 'the logical extension of establishing rights of nature.' Developments regarding the concept of ecocide and the ICC are discussed in detail in this working paper.

5. Prospects for rights of nature in the UK and Ireland

The motions passed by local authorities in Northern Ireland will raise interesting questions about the competence and levels of autonomy enjoyed by local councils. While Ministerial restraints will also exist on their capacity to introduce new bylaws, it is worth noting that the devolved legislatures in Northern Ireland, Wales and Scotland enjoy considerable autonomy in contrast with the controls exercised by the central Westminster government over local councils in England.

Margil has pointed out, for example, that in Scotland, under the Local Government (Scotland) Act 1973, local authorities may make bylaws. Those bylaws may not conflict with the laws of Scotland - thus Scotland has the authority to determine the extent of local authority powers, including the power to make bylaws. Further, local bylaws, before they can be enacted, are subject to review and reversal by the Scotland Secretary of State which is designated as the 'confirming authority' for bylaws.

Westminster has devolved certain powers to Scotland - this includes matters related to the environment, forestry, and fisheries. This means that Scotland may be able to enact a rights of nature law without being overridden by Westminster. This would fundamentally depend on whether the proposed legislation would be considered as falling within Scotland's devolved powers related to the environment.

Margil adds: 'All of that said, in our consultations with groups and communities in

proposed rights of nature constitutional amendment is introduced in Sweden's parliament, the Riksdag.

The Catholic Bishops' Conference of the Philippines issues a Pastoral Letter calling for the recognition of the rights of nature, writing 'recognition of the rights of nature is at the core of the call for ecological conversion.'

2020

The Menominee Tribe of Wisconsin adopts its Recognition of the Rights of the Menominee River resolution.

The Nez Perce Tribe recognizes the Snake River as a living entity with legal rights.

The Tŝilhqot'in Nation enacts its Sturgeon River law which recognizes that 'animals, fish, plants…have rights in the decisions about their care and use that must be considered and respected.'

The Blue Mountain Council in New South Wales, Australia, adopts a measure to integrate the rights of nature in its municipal planning and operations.

2021

Scotland, we have always been of the mind that a) this requires more legal research to understand the full scope of authorities at the local and Scotland level, and b) we don't know what will happen - that is, whether a higher level of government will seek to override lower-level government decision making - until/if it happens. This means that we believe that because local authorities may make bylaws - including bylaws related to addressing 'nuisances' - that a rights of nature bylaw should be within the local authorities' powers, and similarly, that Scotland should be able to enact rights of nature legislation.'

The motions before local councils are also important contributions to an emerging campaign in the Republic of Ireland where the Government is committed to convening a Citizens' Assembly on biodiversity loss. It is likely that this forum will be used to introduce proposals for ground breaking amendments to the Irish Constitution with a view to stemming biodiversity loss. In a 1996 report, a Constitutional Review Group recommended the inclusion in the Constitution of a duty on the Irish State and public authorities to protect the environment. The Citizens Assembly will provide an opportunity to reopen the debate that followed a 2017 High Court judgement which held that the Irish Constitution already contains an unenumerated (unwritten) right to an environment that is consistent with the human dignity and wellbeing of citizens at large. This judgment was later overturned by the Supreme Court in a decision that flagged a constitutional amendment as a more appropriate legal route to enshrining the right to a healthy environment.

Civil society organisations, including trade union, medical, social justice and student bodies have already lobbied the Irish Government, calling for the Citizens' Assembly to consider a constitutional right to a safe, clean, healthy, and sustainable environment, consistent with a just transition. A Citizens Assembly could also be asked to take one step further and consider a constitutional amendment on the rights of nature.

Additional resources on 'rights of nature', including a documentary produced by EJNI in 2021, can be accessed here.

In Northern Ireland, the local Derry City and Strabane District Council, and the local Fermanagh and Omagh District Council, approve rights of nature motions.

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EJNI's Rights of Nature Project is a collaborative effort between academics, lawyers, NGOs and civil society.

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