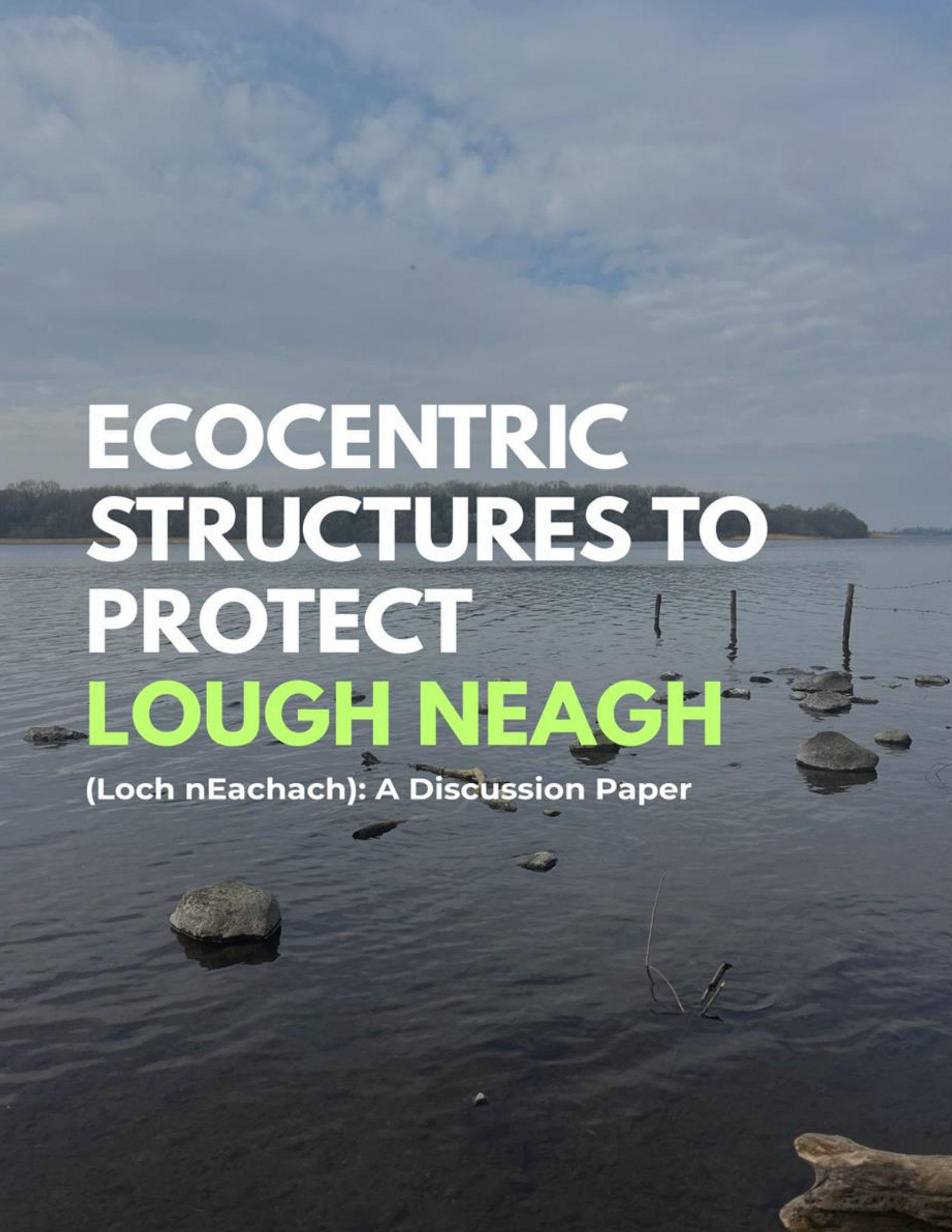




ECOCENTRIC STRUCTURES TO PROTECT LOUGH NEAGH

(Loch nEachach): A Discussion Paper

**To Lough Neagh (Loch nEachach)—
a body of Living waters steeped in legend, resilience, and spirit.**

**May this honor your depth, your ecosystems, and the communities that have long known
your true value.**

To: Lough Neagh and her Wider Community
From: Earth Law Center (Charlotte Dent, Grant Wilson, Pooja Sharma, Eva Duggan, Zoë Barrett-Wood, Jessy Kate Schingler), Lawyers for Nature (Paul Powlesland), and Kate Chan (Pro-bono counsel to Earth Law Center), with Dr Peter Doran, School of Law, Queen's University Belfast.
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Preface

'In the literature of Medieval Ireland, the landscape is everywhere portrayed as both evolving of its own accord and continually affected by the human and Otherworld peoples who inhabit the island'.
(Arbuthnot in Burke et. al, 2022, p.252)¹

Inspired by the emergent Rights of Nature movement across the island of Ireland, and informed by legal precedents and political developments from around the world, this discussion paper is informed by a mix of local and international dialogues,² and is offered in a spirit of mutual learning, reflection and solidarity with communities and citizens across the island. Advocates of the Rights of Nature and a renewed spirit of kinship with the 'more than human' around the world are reaching out to learn from developments on the island. The global movement for the Rights of Nature has been seized by developments across Ireland, north and south, with anticipation and a deep sense of solidarity.

We have been privileged to bear witness to emergent discussions about the rights of Lough Neagh and the wider Rights of Nature movement in the context of moves to restore community 'ownership' and guardianship to the Lough and her catchment.

The Lough is a prominent ecological and geological feature³ and has featured imaginatively in the minds of generations on the 'island of stories'. It seems appropriate that the Lough, which harbours some of the most ancient and celebrated myths of origin on the island, should now enjoy the prospect of moving to the centre of citizens' and political attention thanks to the foundational work of *The Environmental Gathering* and the pioneering interventions of activists such as the former Derry City and Strabane District Councillor, Meabh O'Neill and Rose Kelly in Donegal County Council⁴ supported by Friends of the Earth (NI).

¹ Sharon Arbuthnot, 'Lough Neagh, upwelling and other origin stories,' in William Burke, Liam Campbell and William Roulston, *Lough Neagh, an Atlas of the Natural, Built and Cultural Heritage* (Ulster Historical Foundation, 2022), 252.

² It was a collaboration between the US-based Center for Democratic and Environmental Rights, Mari Margil and Thomas Linzey, with Friends of the Earth (NI) in 2019 that first introduced the prospect of a community- and citizen-led movement in the north of Ireland and, subsequently, across the island. Linzey made a memorable and inspired observation when he pointed out that much, if not all, environmental regulation is designed to regulate environmental lawyers rather than offer an effective and radical response to the socio-ecological crisis.

³ The largest lake in Ireland and Britain, Lough Neagh has a surface area of 383 km² and a catchment of 4,453 km² which represents 43% of the land area of Northern Ireland.

⁴ Meabh O'Neill and Rose Kelly, supported by Friends of the Earth (Northern Ireland) sponsored pioneering motions calling on Derry City and Strabane District Council and Donegal County Council respectively, to launch

In moving to the centre of the creation of new social, ecological and cultural narratives, let us dare to hope that - in the spirit of a new imaginary and narrative of ‘environmental peace’ - ever expanding circles of reconciliation will be extended to the island and her landscapes. Perhaps there is an opportunity to extend that defining invocation of the ‘peace process’, to extend our understanding of the ‘totality of relationships’ to include Loch nEathach (Lough Neagh) herself.

In common with other distressed ecosystems across the world, there is a residual love and respect for the life of the Lough and her catchment, and a growing demand that communities be heard and supported in their desire to restore a relationship of ‘kinship’ and deep regard. As the *Children and Young Persons’ Assembly on Biodiversity* (2023)⁵ attested in an endorsement of the Rights of Nature for Ireland, the landscape and all her species are more than an object. She is ‘our relative’, our kin.

The plight of Lough Neagh might be seen as a modern local/global ecological parable that summons up an ancient insight in the Brehon Law tradition, one that recognises that environmental harms are ultimately a ‘sign of the times’ and a call to address the underlying causes in a breach of sacred trust by political and administrative leaderships and fractures in relationships with communities and Nature - fractures often mediated by our dominant economic and societal narratives, such as consumerism, extractivism, disconnectedness, and political dedication to the ‘fairy tale’ of endless economic growth.

In stories, song and literature across the island and around the Lough there is a treasure of ecological wisdom that has kept faith with Loch nEathach, echoing local knowledge traditions that continue to call us into an alignment of human cultures and practices with the rights of our rivers, loughs and landscapes to flourish as they have done in the past and alongside future generations.

As the celebrated broadcaster and writer, Manchán Magan, told the Citizens Assembly on Biodiversity Loss in 2023:

Every single river in Ireland, with the possible exception of two, has a female name in the Irish language. Rivers were associated with these entities, these female beings. We particularly see this in the number of rivers that were regarded as Goddesses such as the Shannon, the Bann or the Boyne....If we start thinking about our rivers as Goddesses again just think how we’d change our attitudes, we would not allow nitrates to be pumped into them...as a people and as a community we would not allow them to be polluted...Our society managed to live on this fragile, difficult wild rocky island for thousands of years in an entirely harmonious and sustainable way because we were once so attuned to the seasons, to the landscape, the needs of the soil and the land.⁶

public consultations on the incorporation of the Rights of Nature into their local policies. These motions, which enjoyed unanimous support, sparked an island wide chain of similar community-driven initiatives, gathering support from local authorities and PPNs up and down the country.

⁵ The website of the Children and Young Persons Assembly on Biodiversity.

⁶ Manchán Magan, comments delivered to the Citizens Assembly on Biodiversity Loss, Republic of Ireland.

Manchán's was just one of many voices who encouraged the 99 members of Ireland's *Citizens Assembly on Biodiversity Loss* (2022-2023)⁷ to think otherwise, to look beyond the conventional discussions about 'environmental protection' and embrace a special democratic moment to call for a referendum on the incorporation of the Rights of Nature into the Irish Constitution (Bunreacht na hÉireann). This has been the pattern globally. When afforded the opportunity to re-imagine national constitutions or participate in special deliberative fora, the voice of Nature - the 'more-than-human' - has emerged loud and clear. We see a pivotal and enabling role for an innovative citizens' deliberation process in gathering an essential consensus - discerning human and more-than-human voices - around any new governance and guardianship arrangements.

Citizens and communities across the world are reading the 'signs of our times' and recognising that the fate of our own human species is deeply entangled with the fate of the 'more-than-human', the landscapes, waters, species, mountains and lakes that support all life. Humans are one small part of the larger interconnected web of life, and increasingly, legal frameworks are beginning to reflect this reality.

This memorandum explores some of the questions surrounding the implementation of such an approach for a catchment that makes up more than 40% of the territory of Northern Ireland: What specific rights could be granted to the Lough? What form might a guardianship body take? Who would speak for the Lough? How would this framework tangibly benefit both the ecosystem and the communities that depend on her? And how would it empower the Lough to defend herself against ongoing harm? How could such arrangements be underwritten in legislation? Absent legislation, what other legal tools are available?

As local and international observers and advocates, we believe Northern Ireland can help shape a transformative vision for living in harmony with nature - one rooted in reciprocity, care, and a renewed sense of shared belonging.

We are mindful that the 'law' is but one dimension of this important conversation about the future of Lough Neagh. The conversation has and will continue to be led by local citizens and communities, informed too by issues of democracy and deliberation, culture and belonging, language, verse and story. The Lough is much more than a 'resource' and a catchment of water: her being is central to the shared memory of people across the island of Ireland, and now a bearer of possibilities for revisiting and reimagining relationships between communities and the more-than-human, in a spirit of reconciliation.

We offer this discussion paper as the first contribution to a living document,⁸ shaped by and for all of us - local and globally - who celebrate the Rights of Nature conversation as an innovative approach to social and ecological relationships, and as a return to ancient cultural and spiritual insights that emphasise care, justice and wellbeing without discrimination: as a fresh new take on the 'totality of relationships' that might yet redefine aspirations for an ecological and civic peace.

⁷ The website of the Citizens Assembly on Biodiversity Loss, Ireland, 2022-2023.

⁸ Bolded words in blue are defined in the glossary below. *See Appendix.*

Lough Neagh Biographical Note

A biographical note on myths of origin based on Arburthnot (2022) and other sources:

‘Lough Neagh is an anglicised form of the original Irish name. In Modern Irish, the lough is called *Loch nEathach* or *Loch nEachach*, which means ‘of Echu’, Echu being a common Medieval Irish name for a man.’ ‘In the narratives of Lough Neagh, Echu is generally depicted as a native of Munster who eventually became a king of the Ulaid. In its modern spelling of Ulaidh this is now the Irish name of the province of Ulster, but in the Middle Ages Ulaid comprised a much smaller area in present-day counties Antrim and Down.’

Arburthnot (2022, p.252) recalls an account of the eruption of Lough Neagh that appears in the Medieval Irish literary work, *Dindshenchas Éirenn*, ‘Traditions of Ireland’s Notable Places’. The basic narrative has Echu mac Mairéda travelling with a thousand followers towards the Boyne. In some accounts Echu is ‘on-the-run’ from his father, the King of Munster, having fallen in love with his stepmother, Eibhliu. The tale may well have origins in the actual flooding of the Lough between 2354 and 2345 BC.⁹

‘Around the area known today as Newgrange, Echu encountered Óengus In Mac Óc [or Aengus Mac ind Óic], a figure from the Otherworld associated with love and youth. Óengus instructed Echu’s company to move on. When they did not, he killed their cattle, then he killed their horses. Only when Óengus threatened to kill Echu’s people did the group agree to leave. Because he had destroyed their horses, Óengus lent Echu a “wonderful horse” (*ech ingnad*) which was able to carry the belongings of the entire group. Echu was warned, however, to send the horse back before it was allowed to urinate or they would all suffer sudden death.

‘Echu moved on to a place called Líathmuine, arriving on Sunday in September. Almost inevitably, the horse wandered off and urinated, generating so much water that a well was formed. Echu built a house over the well, now named Linnmuine, and left a woman to guard it. That is how the situation remained for 19 years, during which time Echu became joint king of the Ulaid. Eventually, however, the woman allowed the well to overflow and Lough Neagh was formed. In keeping with Óengus’s prediction, Echu, most of his family, and the inhabitants of the local area all drowned.’

⁹ Manchán Magan cites the research of QUB scholar, Professor Mike Baillie, who has established the history of the flooding episode using ancient specimens of preserved tree rings. Baillie is also reported to have speculated that the reference to the Isle of Man in the tale of Fionn Mac Cumhaill raises the possibility of an association with the island’s inhabitant, Manannán ma Lir, the sea god, whose symbol is a triskele (the triple spiral motif often regarded as a sun symbol and similar to the triskelion symbol of the Isle of Man. Triskele shapes in ancient art, according to Manchán, are interpreted by some anthropologists as representing a comet. Baillie has suggested that, in the case of Lough Neagh, its origin story might be a record of a scorching comet tearing through the sky and then crashing down to leave a massive indentation. He points to the fact that Fionn mac Cumhaill’s first name, can be translated as the ‘bright one.’ See Manchán Magan, *Listen to the Land Speak: A Journey into the Wisdom of What Lies Beneath* (Gill Books, 2022).

In a twelfth century adaptation of the origin story, by Giraldus Cambrensis (Gerald of Wales) there is an early reference to the tale of a submerged city in the Lough, with references to the visibility of the tops of church towers just under the surface.

A later reworking of the tale of Echu, in *Aided Eachach*, foregrounds Echu's daughter, Lí Ban or Lí Bán. This is a reference to the second daughter of Echu who, it seems, survived the flooding of the plain of Líathmuine. In this twelfth century telling of the story, in a volume entitled *Aided Echach maic Maireada* ('The death of Echu mac Maireada'), Lí Ban and her lapdog live in a 'gríanan' or transparent structure open to the sun, under Lough Neagh. On observing the fish swimming in the Lough, she asks if she might swim with them. Her Lord obliges and turns Lí Bán partially into a salmon and her dog is turned into an otter, a state of metamorphosis in which they remain for 300 years.

A special aspect of the stories of Lí Bán is her use of song or celebratory chant (*celebrad aingel*, meaning 'the celebration of angels'.) to attract the attention of messengers. The story of her ultimate fate begins with her capture in the nets of Fergus of Mulleague and her transport to land, where she is apparently displayed in a vessel of water. After a dispute over her ownership, she ends up on Saints Island in Lough Derg, baptised by St Comgall, and sacrificing her life. Under the influence of this latter Christian myth making, it is recorded that wonders and miracles were later performed through Lí Bán's intercession, and she comes to be honoured and revered as a holy young woman accepted into the Christian faith.¹⁰

Perhaps the most famous tale of origin is that of the giant, Fionn mac Cumhaill (Finn McCool), who, reputedly, scooped up a sod of earth and hurled it at an opponent on the other side of the Irish Sea. The resulting hollow became Lough Neagh and the sod that fell into the Irish Sea became the Isle of Man. MacCumhaill has been described as the leader of a band of hunters and fighters living on the margins of society, in the tradition of the *fianna*.

¹⁰ Manchán Magan, *Listen to the Land Speak: A Journey into the Wisdom of What Lies beneath Us* (Dublin: Gill Books, 2022).



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Executive Summary

What if Lough Neagh herself could be represented in a new governance structure? What if her intrinsically valuable and precious life as an ecological system was recognised in legislation and as part of a new biocentric model of community trust?

What if Lough Neagh wasn't owned by any private individual, and instead enjoyed rights to be represented as a living entity, worthy of our deepest regard and intrinsically valuable, in a way which directly benefits both the Lough herself, and which enhances the democratic engagement and participation of communities and citizens in a spirit of kinship on the lough shores and beyond?

This memorandum explores legal frameworks and governance pathways to ensure Lough Neagh's ecological well-being, specifically drawing from the Rights of Nature movement and 'commons' principles. It begins to identify innovative approaches to governance and ownership that integrate community and ecological interests, based on prominent international models of good practice. The proposals are consistent with and could be adopted, adapted or developed as part of emerging proposals and principles being advanced by community-based activists, the National Trust in Northern Ireland and its partners, notably the Lough Neagh Development Trust and the Lough Neagh Partnership.

In setting forth an informal discussion paper it is also important to clarify the limits of the work undertaken. Clearly, should the process of the transfer of ownership/guardianship commence, multiple complex issues - including existing contractual commitments and liabilities - will have to be addressed. We also refer to the Lough *and* her catchment, and note that any new arrangements will have to engage with stakeholder views and tenure arrangements currently in place. Our paper is for illustrative purposes only and does not seek to pre-empt these important deliberations that will fall to citizens and representative organisations.

Moreover, the prospect of a transfer of ownership will inevitably trigger complex mapping issues, bearing in mind changes in the shoreline due to erosion and level changes over the years. These and other detailed considerations have not formed part of this exercise.

The discussion paper is offered as a modest contribution to discussions on the future *governance* and *ownership* of the Lough. In the context of the Rights of Nature and the adoption of a commons-based approach, there is an important connection between the forms of governance envisaged for the future of the Lough and how we approach future models of ownership/guardianship. Rights of Nature and the commons imply a shift towards a model of

relationalized property. Our contribution does not separate out these dimensions: we believe that the prospect of a transfer to community ownership/guardianship raises a unique opportunity to consider the form of ownership and our understanding of the Lough and her future governance at the same time.

In other words, the prospect of the transfer of ownership of the Lough bed and foreshore presents a historic moment of decision to transform our very understanding of ownership in the context of the Lough, and with wider lessons for political ecology and Transitional Justice on the island of Ireland. No such opportunity will be fully realised, however, if wider environmental governance questions are not also addressed as part of the ongoing independent review of environmental governance in Northern Ireland. We therefore endorse calls for a truly independent environmental protection agency with a role in integrating the environment into Transitional Justice and peace building, and shifting the NI economy towards a regenerative model of production and consumption and the wellbeing economy,¹¹ a review of the enforcement of environmental governance with a view to enhancing capabilities and funding, and for a sea-change in the attitudes of the Northern Ireland judiciary when it comes to punishing environmental crime.

The case for an innovative deliberative forum such as a citizens' assembly is also compelling, given their unique legitimating role in mediating complex and challenging proposals in settings where there may be a lack of elite political consensus. As the experience of the Citizens Assembly on Biodiversity Loss in the Republic of Ireland (2023) and the Children and Young Persons' Assembly on Biodiversity (2023) have demonstrated, with considered design and inputs to support in-depth reflection, a citizens' assembly model can encourage and enable a spirit of solidarity and kinship with the more-than-human (Nature).

As one of our correspondents has written, the discussion about the Rights of Nature and the rights of the Lough is a complex one because it takes place amidst attempts to undo great harms while attempts are made to re-design and reimagine future governance and ownership arrangements. Familiar tests will ultimately determine the legitimacy and effectiveness of future arrangements, including 'a clear separation of duties, rights and interests' with 'independent oversight and enforcement of regulations in developing a structure based on Nature as the rights holder.'

¹¹ See the work of the international Wellbeing Economy Alliance at: www.weall.org. The island of Ireland has an active hub and contributes regularly to the debate on a new economy across the island.

Background

'We belong to the land, the land does not belong to us.' (Culture Hack, 2020, p.37)¹²

One of our defining challenges today is securing meaningful protection for the natural world and for human cultures and ways of life that draw sustenance, identities and both cultural and spiritual inspiration from our landscapes, mountains, coastlines, lakes, rivers and forests.

The emergent Rights of Nature movement seems to be much more than an environmental moment, for the island of Ireland, for Lough Neagh. It is perhaps above all a democratic moment - an opportunity to extend regard for and active discernment to the living landscapes and the 'communion of subjects' (Thomas Berry) who constitute the life of the island, north and south.

Notwithstanding the challenges that lie ahead, we have detected a shared longing for the voice of distress emanating from the Lough to be honoured with decisive action on the part of those public and private actors who bear greatest responsibility and with a decisive turn away from an over-reliance on conventional 'solutions' that have systematically failed to preserve the life of the Lough, the catchment and her communities of species.

Of course Lough Neagh is but one symptom of a larger failure to protect rivers and coastlines across the north.

In their recent report on the pressures and drivers affecting Nature in Northern Ireland, the Office of Environmental Protection (OEP, 2024)¹³ also underline the global-local dimensions of the crisis of Lough Neagh. While the effects have origins in local pollution and failures in environmental governance, the phenomena of a dying lough, smothering in blue-green algae as a result of farm run-off (nutrients, phosphorous) and untreated wastewater, amplified by climate change impacts, is also a sign of a global tipping point (Möller et al., 2024).¹⁴

The global phenomenon of harmful algal blooms (HAB) is associated with at least three of the nine Planetary Boundaries (Rockström et. al. 2009).¹⁵ These are the nine authoritative measures

¹² *Narrative Report: Territories of Transition*, (Culture Hack Labs, 2022),37. Retrieved from www.culturehack.io [9.10.2024].

¹³ Office of Environmental Protection, (OEP) Report on the Drivers and Pressures on Nature in Northern Ireland, Office of Environmental Protection, 2024. Retrieved from www.theoep.org.uk [12.10.2024].

¹⁴ T. Möller, A. E. Högner, C. F. Schleussner, et al., "Achieving Net Zero Greenhouse Gas Emissions Critical to Limit Climate Tipping Risks," *Nature Communications* 15 (2024): 6192, <https://doi.org/10.1038/s41467-024-49863-0>.

¹⁵ The Planetary Boundaries are the safe limits or 'operating space' across nine critical processes which together maintain a stable and resilient Earth. Globally, six of the nine boundaries have been transgressed: the introduction and dispersion of novel entities, such as synthetic chemicals and microplastics, into the environment; climate change; biosphere integrity or rates of species extinction; land system change; fresh water change; and biogeochemical flows, notably the global disruption to nitrogen and phosphorus cycles. The three remaining boundaries are: ocean acidification; atmospheric aerosol loading; and stratospheric ozone depletion. 1. "Planetary boundaries," *Nature Clim Change* 1(2009):112. <https://doi.org/10.1038/climate.2009.92>

of the Earth's thresholds or limits of tolerance for human or anthropocentric activities, notably industry, intensive farming, extractivism and other economic impacts.

HABs are intricately linked to the three 'planetary boundaries' regarding nutrient cycling, freshwater changes and biodiversity loss. The excessive use of fertilizers disrupts nitrogen and phosphorus cycles, leading to nutrient overloads that trigger eutrophication and subsequent algal blooms. As climate change continues to alter water temperatures and precipitation patterns, the frequency and severity of HABs are expected to rise globally. Additionally, human-induced alterations to freshwater cycles and habitat destruction exacerbate the conditions conducive to HAB formation, emphasizing the urgent need for effective management strategies to mitigate their impacts.

The OEP notes that while global environmental crises might appear distant from the daily lives of many in Northern Ireland, Lough Neagh's chronic deterioration brings into sharp focus the local consequences of long-term neglect of the natural environment. Unsustainable practices in the Lough and her cross-border catchment, exacerbated by global environmental change, have led to increased risks to human and animal health, tourism, fisheries and even to supplies of precious drinking water. All of which are over and above the evident harms to the Lough's diverse habitats and species.

Lough Neagh can become a laboratory for a paradigm shift, an acknowledgement that the fate of the Lough and our planet is deeply entangled with the challenge of a comprehensive system change sought by citizen-led movements and supported by science. This is a paradigm shift that will be as much a democratic and culture shift as one that must command the attention of public bodies.

A Living Island of Stories

'Our forebears endured and sacrificed so much to protect and conserve this island that we share. Our forebears endured and sacrificed so much to get us to this moment. There's an enormous moral obligation on us now to ensure we maintain their legacy. It's vital we adopt the Rights of Nature.' (Manchán Magan, personal communication)

As the popular Irish broadcaster and author Manchán Magan has reminded us in his popular books, podcasts and television programmes, in common with communities across the world the people of Ireland once cherished and practiced a different kind of knowledge, an ecologically-informed orientation to the more-than-human. Echoes of these insights linger through collective memories, stories, myths and language traditions, and even in the island's ancient pre-colonial legal traditions such as the Brehon Laws.

One of the most popular examples of an ancient and poetic rendering of a beautiful human identification with the island's landscapes appears in one of the earliest pieces of Irish literature, the Song of Amhairghin,¹⁶ which appears in the eleventh century *Book of Invasions* (Leabhar Gabhála):

I am the sea blast

I am the tidal wave

I am the thunderous surf

I am the stag of the seven tines

I am the cliff hawk

I am the sunlit dewdrop

I am the fairest of flowers

I am the rampaging boar

I am the swift-swimming salmon

I am the placid lake

I am the summit of art

I am the vale echoing voices

I am the battle-hardened spearhead

I am the God who inflames desire

Who gives you fire

Who knows the secrets of the unhewn dolmen

Who announces the ages of the moon

Who knows where the sunset settles

¹⁶ Translation by Richard Burch. Accessed 13 April 2025:
<http://www.thehypertexts.com/Song%20of%20Amhairghin%20Modern%20English%20Translation.htm>

In ancient Irish legal traditions, the health of the land was the ultimate arbiter of legitimate rule. Old legal texts refer to the king's *fir flathemon* (justice) upon which rest the possibilities of peaceful and prosperous times. A king guilty of *gau flathemon* (injustice), the texts warn, will see the 'soil and elements' rebel against him, 'bringing crop failure, dearth of fish, defeat in battle, plagues, lightening, etc.'¹⁷

Lough Neagh participates in these memories and associations. Her history is - in some respects - a mirror of the history of the island and of the island's relationships with others. Her shores are a fundamental part of an ancient mythos. Down deep, under the waters of the Lough, it is said that the columns and walls of the beautiful palace once inhabited by the Daoine Sidhe can still be seen. The Sidhe race were known as the Gods of the Earth.¹⁸ Giraldus Cambrensis states in his accredited manuscript, that in his time, the tops of towers - 'built after the fashion of the country, are distinctly visible in calm, clear weather, under the surface of the lough; and still the Sidhe haunt the ruins of their former splendour, and hold festivals beneath the waters when the full moon is shining.' They are said to be descendants of the Tuatha Dé Danann, who are associated with a way of being that respects the sovereignty of the Earth.

Advocates of the Rights of Nature in Ireland draw inspiration from writers such as John Moriarty, an eco-philosopher of some renown, who once asked: 'Why don't we ...enfranchise the universe, enfranchise the whole earth and everything in it'¹⁹. Indeed. He understood that when we begin to heal our relationship to land, to liberate land from ownership, possession, extraction and abuse we begin to heal the trauma that lives in the bodies of those who belong to land. We belong to the land, the land does not belong to us.

¹⁷ Fergus Kelly, *A Guide to Early Irish Law* (Dublin Institute of Advanced Studies, 1988) 18.

¹⁸ The Irish word 'Sidhe' is linked to the Sanskrit, 'Siddha'. Both are associated with spiritual insight.

¹⁹ John Moriarty, 2024, in The Bog Shaman Podcast.

Community Input²⁰

The immense importance of community engagement was a recurring theme in our short series of conversations with local citizens about potential legal solutions to the degradation of Lough Neagh. For example, a long-standing community advocate spoke for most in asserting that community leaders should serve as guardians of the Lough, rather than leaving it to political parties or those with commercial interests over the Lough.

Community members highlighted that their livelihoods depend on the Lough. Regenerative farmers emphasized their interest in building inter-community understanding to challenge the narrative of being disconnected from modern environmental discourse. There was also a desire to acknowledge a deeper connection to the Lough and the farming culture's symbiotic relationship to nature.

Community environmental advocates believe that listening to the views of the community is just a starting point, identifying the need for a bottom-up approach that integrates transparency, accountability and community involvement, and acknowledges that the Rights of Nature debate across Ireland has come from the grassroots, and is deeply embedded in historical and cultural local knowledge/narratives.

The Lawscape: The Failure of Conventional Environmental Regulation

Nicole Graham and Allain Pottage's 'lawscape' thesis explores the intricate relationship between law, property regimes, and our deep understandings of our place in the landscape, emphasizing how dominant property laws affect both natural environments and social economies.²¹ Central to Graham's thesis is the concept of 'dephysicalisation', which describes the socio-legal process where land and natural resources are increasingly abstracted from their physical contexts. In other words, through the lens of the law, regulation and planning, the particularities, the sensuous presence of landscape features, the smells, and the colours retreat behind a complex of bureaucratic calculations and 'thingification': the law translates, transforms and encloses Nature behind a veil of pure calculation and economic transaction. This abstraction creates a legal discourse characterized by entitlement and fragmentation, often disconnecting communities from their environments and their rights, including legal standing, to protect them.

By addressing the commodification of land through property law, Graham's thesis advocates for a transdisciplinary understanding that connects cultural concepts of land tenure with historical and ecological contexts. This integration allows for a richer analysis of how legal frameworks impact both the environment and societal structures, emphasizing the responsibilities that come with property ownership rather than merely the rights. With Boulot and Sterlin (2022)²² and Law

²⁰ Community-based organisations, politicians, advocates, and others have been exploring the rights and voice of Lough Neagh for many years. We deeply respect and acknowledge their role in moving this process forward and put forth this report as a contribution to this dialogue. We had conversations with community members in preparation for this report and summarize some of their comments and feedback in various places throughout the document. Note this is not an exhaustive list of all feedback received but is indicative of some of the common themes.

²¹ Nicole Graham and Alain Pottage, *Lawscape: Property, Environment, Law* (Abingdon, Oxon: Routledge, 2011).

²² Emilie Boulot and Joshua Sterlin 'Steps Towards a Legal Ontological Turn: Proposals for Law's Place Beyond the Human,' in *Transnational Environmental Law*, 11:1 (2021): 13-38.

(Law 2015),²³ we believe that conventional environmental legal systems risk failing to prevent and remediate ecological degradation despite this being their ostensible purpose. This is certainly apparent at the global level and is the conviction of many activists across the island. Citing Grear²⁴ (1917, p.225), Boulot and Sterlin²⁵ hold that, ‘Nature, in environmental law, is abstracted and sheared from social context (both human and more-than-human), becoming passive or non-agentic, and therefore *res nullius*: a resource empty of meaning and purpose and therefore available for human annexation.’

Sinéad Mercier has used Graham’s work to explore the impact of colonial-modernity²⁶ on communities and their relationship to the land and ecology of Ireland. She asserts that the subsequent modernist rationalities associated with the Lawscape in Ireland have often resulted in citizens being excluded from expressing a voice about the landscapes that concern them and an undermining of ‘alternative and pluralistic ways of seeing’ (Mercier and Holly, 2022, p.12). In her influential essay, ‘Men Who Eat Ringforts: Understanding Fairy Fort Destruction in the Modernist Lawscape’ Mercier argues that the lawscape functions to uphold its own vision of itself, including the imposition of ‘new names’:

Modern, rational, and formed through language, the new disciplined bodies and objects of the law conduct themselves in service of capital and nation-state. The Lawscape protects only what it chooses to see, and the disciplines of colonisation and the Enlightenment translate the land into the proper, rational, capital-oriented format...The Lawscape is a cartography that renders all beneath it the “inert background for the unfolding of the human saga”.

Citing Kotsakis (2011),²⁷ Mercier notes that ‘a spatial paradox dominates environmental law’ where nature, believed by Enlightenment thought to have no quality of its own, can only ever be ‘acted upon’, external and ‘a precarious background to humanity’s folly.’ (Kotsakis 2011, p.195). This colonial-modernist dilemma was dramatised in works such as Brian Friel’s play, *Translations* (Field Day, 1980), a play that Mercier describes as a parable of how high modernist ideology can cause harm to local metis and knowing, simultaneously displacing communities from their native language and landscape, through processes of re-naming that accompany all enclosures. Michael Cronin reminds us in his *Irish and Ecology* (2019)²⁸ that central to the

²³ John Law, “What’s Wrong with a One-World World?,” *Distinktion: Journal of Social Theory* 16, no. 1 (January 2, 2015): 126–39, <https://doi.org/10.1080/1600910x.2015.1020066>.

²⁴ Anna Grear, “Deconstructing Anthropos: A Critical Legal Reflection on ‘Anthropocentric’ Law and Anthropocene ‘Humanity,’” *Law and Critique* 26, no. 3 (May 20, 2015): 225–49, <https://doi.org/10.1007/s10978-015-9161-0>.

²⁵ Boulot and Sterlin, “Steps towards a Legal Ontological Turn,” 13.

²⁶ Vanessa Machado de Oliveira, *Hospicing Modernity: Facing Humanity’s Wrongs and the Implications for Social Activism* (Berkeley, CA: North Atlantic Books, 2021).

²⁷ Andreas Kotsakis, “Heterotopias of the Environment: Law’s Forgotten Spaces,” in Andreas philippopoulos-Mihalopoulos (ed.), *Law and Ecology: New Environmental Foundations* (New York, 2011), 193.

²⁸ Michael Cronin, *Irish and Ecology/An Ghaeilge Agus an Éiceolaíocht* (Foilseacháin Ábhair Spioradálta: Baile Átha Cliath, 2019).

project that begins with the taking of land is the attempt at the foreclosure of memory through efforts to erase language.

Malachy Ó'Néill (2022, p.294),²⁹ who grew up in the parish of Ardboe on the shores of Lough Neagh, reminds us of the importance of Irish lore and the topography of notable places (Dinnseanchas) 'and the sense of identity with its indelible association with place' in his essay in Burke et al. (2022, pp.294-297). Ó'Néill recalls the omnipresent role of the Irish language in his identification of place and in articulating its value, and the inspiration of early classroom investigations of the words, sounds, myths and legends 'that have moulded this lough shore linguistic landscape ever since primary school days.' The continued use of Irish around the lough shore and growing interest in the language as a gateway to our understanding of and empathy with our places is an important dimension of this conversation about cultivating a shift in our relationship with the Lough. As a recent workshop, convened by the Burren College of Art, concluded (Chapman and Hawkes 2023)³⁰ on the theme of 'Earth-based Cosmology/Cosmeolaíocht Cré-bhunaithe',

'Irish inhabits an earth-based cosmology that puts humans in their proper place while respecting the feminine. Everything is connected in this inherently systemic understanding of the world. This inner knowing is where the treasure resides and it is time to recognize and protect it. Language, tradition, music, biodiversity and the environment are all inextricably intertwined and share a common experience of loss'

The Lawscape thesis is particularly relevant to the Rights of Nature movement, which seeks to recognize ecosystems as legal entities with rights, moving beyond the view of Nature as mere property or a thing and towards a reinvigorated relational understanding of our role and responsibilities towards the rest of the natural world or the 'more-than-human'. This shift aligns with Graham's argument for transforming property law from an anthropocentric perspective to one that acknowledges the intrinsic value of natural ecosystems.

The Rights of Nature approach can also empower communities to take legal action on behalf of natural entities, potentially rebalancing the power dynamics that, by default, tend to favour industrial and property/economic interests over ecological and planetary health and wellbeing.

A Return to Kinship with Our Loughs and Rivers: Riverkin

The Rights of Nature are, perhaps, best understood in the context of our immediate knowledge of a local ecosystem such as a lough or a river. Most of us have a favourite wild place that evokes a

²⁹ Malachy Ó'Néill, 'Briseann an dúchas trí shúile an chait - Hereditary breaks through the eyes of the cat' in William Burke, Liam Campbell and William Roulston, *Lough Neagh: An Atlas of the Natural, Built and Cultural Heritage* (S.l.: Ulster Historical Foundation, 2024).

³⁰ Chris Chapman and Martin Hawkes, *Exploring Language as a Resource for Sustainability*, Burren College of Art, 23 September 2023.

sense of deep connection and solace. The work of Cohen et. al. (2023)³¹ on the notion of ‘Riverkin’ helps ground the idea of the Rights of Nature in our everyday experience.

Responding to their concerns about the unfolding global extinction event that is impacting freshwater habits in particular, Cohen and his colleagues (2023) note that part of the reason for the precarious ecological situation is the long history of transformations in human relationships to freshwater:

This has been a process whereby overriding economic, technological and philosophical logics have privileged relating to waters as things over forms of kin. Understanding that history as processes whereby historically particular and local ways of knowing and doing became globally dominant, suggests other possibilities, including moving away from what we characterize as the derangement of relationship with our ‘riverkin’.³²

The authors identify kinship with waters as the central feature in the largely Indigenous-led struggles around the world for the recognition of the life, agency, voice and/or personhood of rivers in countries such as Aotearoa New Zealand, Australia, Canada and elsewhere. They are careful to highlight the limits of this movement if kinship can only be invoked within the context of Indigenous knowledge systems, and assert - correctly - that privileging acts of relating to rivers as kin in the very centres of colonial modernity could really open up the opportunity to seize the moment universally. Rejecting any notion that kinship in human terms cannot be extended to other relationships of mutual care, the authors understand kin as:

...those constituents of environments that reciprocally nurture, and contribute to the substance of, one another’s life and wellbeing.³³

The authors chart the modern silencing of waters, as waters come to be regarded as passive with the emergence of the scientific and industrial revolutions and their accompanying mechanistic worldview. Newly dominant mechanistic philosophies associated with unprecedented levels of human control and experimentation seemed to hold out the promise of a mastery of nature, and the prospect of turning it exclusively towards human political, economic and industrial purposes, initially within Europe and eventually as part of the colonial project. This is why the philosopher Aimé Césaire has referred to ‘thingification’ as the beating heart of colonialism.³⁴

Paradoxically and tragically for humanity, the dream of control that lay behind the construction of what Linton (2010) has described as ‘modern water’ (H²O) (value free, commodified, and disconnected from all human entanglements) has turned to the stuff of nightmares. Far from controllable and subject to human or economic agendas, extreme climate events, flooding,

³¹ Joshua B. Cohen et al., “Riverkin: Seizing the Moment to Remake Vital Relations in “The United Kingdom and Beyond,” *People and Nature* 5, no. 6 (September 20, 2023): 1877–92, <https://doi.org/10.1002/pan3.10534>.

³² Cohen et al., “Riverkin,” 1877.

³³ Cohen et al., “Riverkin,” 1879.

³⁴ Césaire, Aimé, and Joan Pinkham. *Discourse on Colonialism* (NYU Press, 2000).

droughts, and pollution threats suggest that water is reasserting its agency in history. To put it another way, wild waters are rising up in the cracks of colonial-modernity.

Inspired by Indigenous-led success stories of a shift in the relationship between human beings and the planet, Cohen et. al. (2023)³⁵ welcome this most serious and widespread attempt since the constitution of colonial-modernity to incorporate indigenous ecological ways of knowing, relating and valuing into national and international environmental governance, based on a profound rejection of any claim that the world is a ‘thing’ and not alive. In the United Kingdom, Cohen et. al. (2023) note that water governance is overall defined by privatization and property regimes, ‘where human beings figure as owners of the nonhuman world around them.’ They call for learning from the Afro-Colombian experience and from Aotearoa New Zealand, where ‘there has accumulated more collective experience of subverting British-derived water law and policy (and attendant social, cultural and ecological degradations) than maybe anywhere else’.³⁶

It seems that these lessons in how kin relations might be a more powerful, meaningful and sustainable way of proscribing certain river related behaviours than legalistic injunctions, focusing on the importance of local populations for whom waters are kin - for it is through them that waters enter into political terrains in deeply felt and urgent forms.³⁷

The Commons and the Relational Turn

Rights of Nature and the commons [commoning] share a point of departure insofar as they are both part of a resurgent ‘relational’ turn in social and ecological practice. Relationality opposes the dominant Western bias that insists that we live in a world of separation, things and mere transactions. Relationality is a different foundational story of life, one that is much more consistent with contemporary discoveries in the fields of biology and physics. At its heart, relationality points to the radical interdependence of all beings. This is also the story of the recovery of kinship as a generative and foundational practice as discussed by Cohen. et al. (2023).

The commons is also a useful way to think about Graham’s work in support of an alternative, pluralist and relational approach to property as ‘the commons.’ In common with the Rights of Nature, the commons (and commoning as a practice) paradigm is deeply *relational* and both approaches address the fragmentary nature of current environmental regulation. But first, let’s dispel a common myth about the commons: it is not a defunct or historical phenomenon. The commons and practices of commoning are happening right now in many locations across the world - e.g. in open source software communities, Community Supported Agriculture, Community Land Trusts, FabLabs, and Hackerspaces. Moreover, the commons support the livelihoods of up to two billion people.

³⁵Cohen et al., “Riverkin,”1881.

³⁶ Cohen et al., “Riverkin,” 1877, citing Dan Hikuroa et al., “Restoring Sociocultural Relationships with Rivers: Experiments in Fluvial Pluralism,” in *River Restoration: Political, Social and Economic Perspectives*, ed. Bertrand Morandi, Marylise Cottet, Hervé Piégay (Hoboken, NJ: John Wiley & Sons, 2023), 66–88.

³⁷ Cohen et al., “Riverkin,”1885.

So what are the commons? They are a pervasive, generative and neglected social form of organising life and provisioning. They are complex, adaptive, living processes that generate wealth (tangible and intangible) through which people address their shared needs with minimal reliance on markets or states. In terms of practice, a commons arises or emerges over time as citizens choose to engage in the practices of commoning, participate in peer-to-peer governance, and develop collaborative forms of provisioning.³⁸

In her classic work, *Governing the Commons* (1990),³⁹ Elinor Ostrom set out the results of a meta-study of the literature on the management of the commons. She demonstrated that negotiated arrangements in local communities - involving or with the limited involvement of the private and public sectors - and which included all relevant stakeholders were effective methods to manage the commons and fairly and sustainably share common resources.

For two of the world's leading authorities on the commons, David Bollier and the late Silke Helfrich (2012),⁴⁰ the world of commoning represents a profound challenge to our dominant economic system and to the ways in which States think and act. Commoning, in other words, belongs to an alternative 'OntoStory' or world view. They write:

'Commoning has a different orientation to the world because its actions are based on a deep relationality of everything. It is a world of dense interpersonal connections and interdependencies. Actions are not simply matters of direct cause-and-effect between the most proximate, visible actors; they stem from a pulsating web of culture and myriad relationships through which new things emerge.' (Bollier and Helfrich 2012, p.41)

To illustrate this relationality, Bollier and Helfrich (2012) cite the example of the South African adage, Ubuntu, which means 'I am because we are and, since we are, therefore I am.' In other words, the individual is intrinsically part of a 'we', or the 'I' and the 'we' are deeply entangled. This ethos can be enacted, cultivated and supported given the appropriate structures and practices for peer-to-peer community-led guardianship and commoning. Models such as the proposed Community Development Trust⁴¹ or a Land Trust, building on the ethos of cooperativism already established by the Lough Neagh Fishermen's Cooperative, are ideal foundations for the

³⁸ In 17th century England, commoners began to gather in assemblies as a response to significant social, economic, and political changes, marking a notable shift in the traditional power dynamics of the time. These assemblies emerged amid the backdrop of the English Civil War (1642-1651), a conflict that pitted Royalists against Parliamentarians and fundamentally altered governance structures. Commoners, previously marginalized within the hierarchical society dominated by the aristocracy and gentry, sought to assert their voices and influence local decision-making processes, highlighting their role in shaping early modern English democracy. The assemblies served as platforms for collective discussion, allowing commoners to address grievances and advocate for broader participation in governance. Notable political movements, such as the Levellers, emerged during this period, demanding reforms including voting rights and social justice, which underscored the commoners' quest for equality and representation. These gatherings, sometimes referred to as "moots," facilitated dialogue among diverse societal members, showcasing an early form of public assembly where various voices could be heard.

³⁹ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Great Britain: Cambridge University Press, 2021).

⁴⁰ Bollier and Helfrich (2012).

⁴¹ See Development Trusts Northern Ireland (DTNI), *The Future of Lough Neagh* (DAERA, 2016).

cultivation of a commons approach.⁴² Close makes this point when he describes the Co-operative's evolution of a system of 'co-management that has wider benefits for the local economy and community cohesion, as well as contributing to conservation goals.' (Burke et. al. 2022, p.330).⁴³

The Logic of the Commons & The Market: A Shorthand Comparison of Their Core Beliefs (Helfrich 2012, pp. 35-36)⁴⁴

	For-Profit Paradigm	The Commons Paradigm
Resources	Scarcity is given or created (through barriers and exclusions)	For rivalrous resources, there is enough for all through sharing. For non-rivalrous resources, there is abundance.
	Strategy: "Efficient" resource allocation	Strategy: Strengthening social relations is decisive for assuring fair shares and sustainable use of resources.
Idea of the Individual	Individuals maximize benefits for themselves (<i>Homo economicus</i>)	Humans are primarily cooperative social beings.
Human relationships to nature and other humans	Separation: a. Either/or b. Individualism vs. collectivism c. Human society vs Nature	Interrelationality a. Individuals and the collective are nested within each other and mutually reinforcing
Change agents	Powerful political lobbies, interest groups and institutionalized politics focused on governance	Diverse communities working as distributed networks, with solutions coming from the margins
Focus	Market exchange and growth (GDP) achieved through individual initiative, innovation and "efficiency".	Use-value, common wealth, sustainable livelihoods and complementarity of enterprise.

⁴² The Cooperative already exhibits aspects of a commons governance approach, using a number of mechanisms to sustain the population of eels, with a defined fishing season, a numerical limit on the number of licences issued, and a daily quota.

⁴³ Burke, William, Campbell, Liam and Roulston, William, *Lough Neagh: An Atlas of the Natural, Built and Cultural Heritage* (Ulster Architectural Society, 2022).

⁴⁴ Silke Helfrich, 'The Logic of the Commons and the Market: A shorthand comparison of their core beliefs,' in David Bollier and Silke Helfrich, *The Wealth of the Commons* (2012).

Core question	What can be sold and bought?	What do I/we need to live well?
<i>GOVERNANCE</i>		
Decision making	Hierarchical, top-down, command and control	Horizontal, decentralized, bottom-up. Self-organization, monitoring and adjustment of resource use.
Decision Principle	Majority rules	Consensus
Implications for Resources	Depletion/exploitation. Enclosure	Conservation/maintenance. Reproduction and expansion.
Implications for Society	Individual appropriation vs. collective interests Exclusion	“My personal unfolding is a condition for the development of others, and vice-versa.” Emancipation through convivial connections

Commoning as a practice is no mystery. It is an exploratory process by which people devise and enact situation-specific systems of provisioning (e.g. fishing from a shared resource or source of ‘care-wealth’) and peer governance (not top-down but collaborative) as part of a larger process of unfolding our common humanity. It occurs as ordinary people decide for themselves how to identify and meet shared needs, manage common wealth,⁴⁵ and get along with each other. As people draw upon their local or situated knowledge in assessing their problems and challenges, they are empowered to show creative agency in developing shared solutions that seem fair and effective to them, and which most often result in sustainable practices that preserve, conserve and respect their natural sources of wealth (e.g. a lough or a river).

In a fascinating paper by McKenna et. al. (2022),⁴⁶ the writers recall how they stumbled on the accuracy of the lough shore fishers’ Local Ecological Knowledge (LEK) and their mental map of

⁴⁵ Economists celebrate the price system as a sublime virtue of markets because it is able to aggregate a cacophony of “utility preferences” dispersed among countless individuals, and convert them into a single, universal representation of value – price, according to David Bollier. We have become so habituated to distilling diverse forms of value into price that we rarely see the reductionist violence that it entails – how it distorts and limits our very perceptions of value, and indeed, invites many things to be considered value-less. Price serves to commodify many things and living phenomena that in their natural state are dynamic, social, and relational. Thanks to the price system, however, “market forces” (people with money) are empowered to objectify nearly anything as property and commoditize it. Value is said to be created when independent, rational individuals, acting as agents in the marketplace, negotiate the price for a transaction. Voilà! Wealth is created.

⁴⁶ John McKenna, Rory.J.Quinn, Daniel J.Donnelly, and J.Andrew G.Cooper, ‘Mental Mapping and Traditional Ecological Knowledge,’ in William Burke, Liam Campbell and William Roulston, *Lough Neagh: an atlas of the natural, built and cultural heritage* (Ulster Historical Foundation, 2022) pp.305-317.

Lough Neagh. Citing the work of Elinor Ostrom, the first woman to win a Nobel Prize for economics, for her work on the commons, McKenna and his colleagues attribute their writing to their interest in the literature on traditional systems of resource exploitation and common property resources [‘the commons’].

Examining the communal knowledge bank of the Lough Neagh fishers, the writers compare the communal knowledge with their own technologically-generated sonar mapping. Their findings include:

- Comparisons with the science-based sources confirms that the mental maps held by Lough Neagh fishermen are highly accurate.
- While fishers with many years of experience have a comprehensive knowledge of the lough, younger fishermen also demonstrate impressive familiarity.
- Over time, individual distortions in the mental mapping across the group are counterbalanced and corrected by other influences, and significant inaccuracies are filtered out of the folk record.
- The knowledge of the fishers is treated as communal, rather than personal property, and is readily shared.
- Transmission of the fishers’ knowledge is facilitated by family kinship ties and the fact that the fishing community is historically very close knit.

The cultivation of a commons-based approach to the future guardianship of Lough Neagh will not be completed by any legal design as commoning exceeds any legal arrangement and requires a deep collective intention to support a trajectory that will be experimental and comfortable with a spirit of emergence. Alongside legal arrangements, the practices of commoning could be cultivated over time, building on the historical and cultural ties that bind the loughshore communities, with the aid of:

- Local Festivals;
- An enhanced role for story-telling and performance (e.g. Forum Theatre);
- International Summer Schools, possibly involving the universities and/or innovative community leadership laboratories for the study of bioregionalism, Non-Violent Communication, and biocultural rights;
- Institutional ties with Rights of Nature guardians in other parts of the world such as New Zealand, Colombia and England;
- Financial models compatible with community-led development and a commons-based approach and the Rights of the Lough; and
- Ongoing experiments in deliberative decision making such as Interspecies Councils.⁴⁷

⁴⁷ The ‘Interspecies Council’ is a methodology created by Phoebe Tickell in 2021 to introduce more-than-human ontologies and perspectives into decision-making and policy-making. It is a transformative group practice which can be used in organisational, community and government settings.



Examples of Water Commons⁴⁸

Acequias in New Mexico, USA

Acequias are community-based irrigation systems in New Mexico (US) that have provided water for agriculture for generations despite the arid climate of the region. Acequias are democratically governed, participatory systems that make allotments of water to farmers in exchange for cleaning and maintaining the canal system (ditches). The systems, authorized under state law, have proven far more effective in stewarding scarce water than nearby commercial and suburban developments.

Subak Irrigation Systems in Bali

Balinese farmers have relied on centuries of cultural traditions and religious practices to mobilize and guide community participation in stewarding scarce water resources to support their rice terraces in a fragile ecosystem.

Bisse de Savièse Irrigation Systems in Valais, Switzerland

Farmers and entire villages in the Swiss Alpine canton of Valais have collectively managed a network of irrigation canals since the 1300s to transport water from the mountains to their pastureland. In the 1990s, some 190 canals stretching at least 731 kilometers remained.

Pink Lake, Senegal

Hundreds of "salt diggers" make a living by using sticks and boats to extract salt from Pink Lake (also known as Lake Retba) in a rural area near Dakar, Senegal, by managing access and extraction of the lake's salt as a commons. A Management Committee of 18 members from five surrounding villages organizes the salt-extraction and commercialization in ways that prevent over-use, free-riding by outsiders, and exploitation of migrants and economically vulnerable workers.

⁴⁸ New Mexico Acequia Commission: <https://www.newmexicoacequiacommission.com>

Stanley Crawford, S. G., *Mayordomo: Chronicle of an acequia in northern* (New Mexico: University of New Mexico Press, 1993).

Estevan Arellano, Juan, *Enduring Acequias: Wisdom of the Land, Knowledge of the Water*, (University of New Mexico Press, 2014).

J. Stephen Lansing, *Perfect Order: Recognizing Complexity in Bali* (Princeton: Princeton University Press, 2006).

Eric Nanchen and Muriel Borgeat, "Bisse de Saviese: A Journey Through Time to the Irrigation System in Valais, Switzerland," in David Bollier & Silke Helfrich (Ed.), *The Wealth of the Commons* (Amherst: Levellers Press, 2012) 61-64.

Papa Sow and Elina Marmer, "Salt and Trade at the Pink Lake: Community Subsistence in Senegal," in Bollier & Helfrich, *The Wealth of the Commons*, (Amherst: Levellers Press, 2015) 271-276.

New Narrative Possibilities - Transitional Justice for Lough Neagh

‘I have always understood the sensitivities of my ownership in Northern Ireland. Since inheriting in 2005, I have repeatedly stated my willingness to explore different options for ownership as part of ongoing efforts to ensure a secure and sustainable future for Lough Neagh... I would like to transfer the ownership of the Shaftesbury Estate of Lough Neagh Ltd into a charity or community trust model, with rights of nature included, as I think that this could be the best way to support the long-term future of Lough Neagh.’

(Earl of Shaftesbury, Nicholas Ashley-Cooper, 2024)

Lough Neagh, designated as a Ramsar Site, a Special Protection Area (SPA), and an Area of Special Scientific Interest (ASSI), is formally among the most environmentally protected and legally designated ecosystems in Europe. Yet these protections and their enforcement regimes have failed to shield the lough from years of degradation, multiple sources of pollution in the form of agricultural nutrient run-off, waste water and sewage. Long-term pollution, compounded by factors such as climate change and geoengineering (lowering the lough), have brought about a near-death experience, culminating in the regular return of harmful toxic blooms of blue-green algae.

The Lough is also the site of sand extraction activities licensed by the Shaftesbury Estate, which has ownership claims over the bed and foreshore. The deeply contested interests of the Estate - combined with the family’s complex historical legacies - have turned the Estate’s association with Lough Neagh into a lightning rod for demands that the resolution of the crisis be embedded within a narrative of environmental justice.

Is there a possibility to situate a resolution of the Lough Neagh ownership and guardianship issues within a fundamental post-conflict narrative of Transitional Justice and reconciliation that encompasses restorative relationships that include kinship ties to the land, the rivers, the lakes and mountains?

Is the Lough re-entering contemporary history as an agent or catalyst of a new phase in the politics of an unfinished peace process. With rivers and water bodies - and their guardians across the Earth - *Lí Bán* (the mermaid linked to the waters of Lough Neagh in Irish mythology) is perhaps calling all of us into a new relationship of accountability, one that is future oriented but inspired too by an invitation to reconcile collective memories, ancient and modern. A delegation from Colombia’s Atrato River has observed that one area that has been less well developed in Ireland’s ‘peace process’ is the concept of ‘environmental peace’. This is closely aligned to Transitional Justice and, in Colombia, implies an understanding that nature is both a victim of conflict and is central to peace building efforts. This means integrating conflict prevention and resolution, environmental protection and recovery.

There are certainly calls for Transitional Justice scholarship and practices to take greater account of the nexus of conflict, violence, socio-economic narratives and the impacts on ecology.

In a special section on ‘Transitional Justice and Nature’ for the *International Journal of Transitional Justice* (2023),⁴⁹ Viaene, Liljeblad and Doran describe their critical understanding that in most Transitional Justice legal scholarship, the earth and the realm of the more-than-human are – more often than not – rendered invisible and accessible to legal intervention only when these phenomena have been translated into the language of natural resources or a commodities.

Legal decisions by the Colombian Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP), the justice component of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition created by the Peace Agreements between the Colombian Government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) in 2016, invite the transitional justice and human rights community to fundamentally re- rethink their conceptualization of living systems. The JEP’s Chamber for Recognition of Truth recognizes the territories of the Indigenous Awá and Nasa peoples, respectively, as victims of the armed conflict. It recognizes that the territory is ‘a living whole and sustenance of identity and harmony’ and that it ‘suffers damage when it is violated or desecrated by the internal armed conflict’ (Article 45). ‘Spiritual healing’ is acknowledged as part of the integral reparation of the territory (Article 8).

The developments in Colombia represent innovative and avant-garde jurisprudence in the international field of transitional justice and human rights more broadly, precisely because they seem to break with the hegemonic legal conceptions rooted in our modern systems of knowledge. They recognize that human beings are not the only beings who have the possibility to exist, to be damaged and violated and therefore to be recognized as the subject of reparation in the context of transitional justice processes.

As the crisis of the Lough’s condition has come to a head – the wider political, historical and cultural significance of the Lough as a confluence of competing histories and narratives has come to the fore. The governance failures and pollution have forced links between the island’s disputed ecological and social histories to the surface, including the role of larger corporate interests tied to local farming practices and impacts. Deeply contested histories of land, ownership and belonging have framed foundational moments in a narrative of struggle over the island’s history, touching the lives of the populations around the Lough at pivotal moments in that history.^{50,51} Patterns of colonial displacement – involving the taking of land, the disruption

⁴⁹ Viaene, Lieselotte, Doran, Peter, and Liljeblad, Jonathan, ‘Editorial Special Section: ‘Transitional Justice and Nature: A curious silence’, *The International Journal of Transitional Justice*, Vol. 17 (2023):1-14.

⁵⁰ The celebrated Indian writer, Amitav Ghosh (2021), has described how over two centuries European colonists tore across the world, viewing nature and land as something inert to be conquered and consumed without limits and the indigenous people as savages whose knowledge of nature was worthless and who needed to be erased: ‘It was this settler colonial worldview – of just accumulate, accumulate, accumulate, consume, consume, consume – that has got us where we are now.’ (Amitav Ghosh, *The Nutmeg’s Curse: Parables for a Climate in Crisis* (Chicago: University of Chicago Press, 2021) 445. The mass conversion of nature into dead matter has deep roots in the European Enlightenment tradition, which is associated with the celebration of possessive individualism, calculation, control and the instrumentalization of nature so that it can be placed at the service of human ends (economics).

⁵¹ Several stakeholders emphasised the decolonial context of reconfiguring the ownership or management of the Lough, including Ecojustice Ireland and Save Our Lough.

of language, and imposition of alien grids of intelligibility (law) and enforced visions of ‘improvement’ – were rehearsed in Ireland and exported to other parts of the world with traumatic social, economic, political and ecological consequences.⁵²

For example, Arthur Chichester, 1st Baron Chichester (1563–1625), was a pivotal figure during the Nine Years' War in Ireland, with significant influence in the Lough Neagh area. The Nine Years War (1593–1603) saw the last attempt by Irish chiefs to throw off English rule and preserve the old Gaelic systems of law and noble privilege, until the disastrous defeat of the Irish at the Battle of Kinsale in 1601. Serving as Lord Deputy of Ireland from 1605 to 1616, Chichester implemented harsh military strategies, notably a scorched earth policy designed to cripple the Irish resistance led by figures such as Hugh O'Neill, the Earl of Tyrone. This brutal approach, described by historians as part of an ‘age of atrocities,’ had severe consequences for the local population, intertwining warfare with widespread use of famine as a weapon of war and suffering.

The Lough has been a central part of a shared island imaginary, including ecological insights that have been driven to the edges of popular attention and imaginary. In the words of Robert McFarlane⁵³ the crisis of our loughs and rivers is one of imagination as well as of legislation. We have forgotten that our fate flows with that of rivers, and always has. Our relationship with fresh water has become intensely instrumentalized, privatised and monetised: rivers understood as resource, not life force. The duty of care for rivers, who extend such care to us, has been abrogated, he says. Regulation has gone unenforced, monitoring is strategically underfunded.

Consider one of our most ancient stories, which tells of two tribes living on the island: the Fomorian people who made war with the Tuatha Dé Danann. A war between darkness and light. A war, according to Jason Kirkey (2009),⁵⁴ between two peoples experiencing the world in two opposing ways. The Tuatha Dé Danann, content to live with nature, ruled only through the sovereignty of the land. The Fomorians, not so content, are possessed with Súil Míldagach (that is the ‘destructive eye’ which eradicates anything it looks upon) and intent on ravaging the land. In John Moriarty’s (Moriarty 2005)⁵⁵ interpretation this is a battle, a moment of utmost importance for Irish mythology. A battle between a people intent on shaping Nature to suit themselves and a people who, surrendering to it, would let Nature shape them to suit it.

Currently, the lough is treated as a legal *object* under the law - something to be protected, yet without an active, empowered legal representative or guardian to ensure that protection is

⁵² Sharae Deckard, “World Ecology and Ireland: The Neoliberal Ecological Regime,” *Journal of World-Systems Research*, special issue on “Ireland and the World System,” ed. Aidan Beatty, Maurice Coakley, and Sharae Deckard (March 2016). Retrieved from https://www.academia.edu/23271291/World_Ecology_and_Ireland_The_Neoliberal_Ecological_Regime [10.12.2023]

⁵³ Robert McFarlane, ‘Is this river alive? Robert Macfarlane on the lives, deaths and rights of our rivers,’ in *The Guardian* [Online], Saturday 26 April, 2025. Accessed 28th April: <https://www.theguardian.com/books/2025/apr/26/is-this-river-alive-robert-macfarlane-on-the-lives-deaths-and-rights-of-our-rivers>.

⁵⁴ Kirkey, Jason, *The Salmon Spring: The Ecology of Celtic Spirituality* (San Francisco: Hiraeth Press, 2009).

⁵⁵ Moriarty, John, *Invoking Ireland: Ailiu Iath n-hErend* (Dublin: The Lilliput Press, 2005).

enforced on the basis of the lough's sovereign and intrinsic value. In other words, Lough Neagh's fate is tied to the fact that her ecological health and wellbeing is dependent on systems of governance and ownership that are designed, impliedly, to prioritise human and economic ends and priorities. Typically, the Lough's fate falls into the hands of a governing imaginary, which equates the Lough's interest and public interest with the aggregation of fragmented and competing interests, often ignoring power differentials. Questions of political economy, regulatory capture and corporate accountability now loom large and add a new layer of contestation.

Lough Neagh's intrinsic value, needs and sources of ecological health are largely invisible in principle and in practice.

This paper draws from an alternative approach: a new and at the same time ancient legal-political paradigm in which Lough Neagh is recognised again as an irreducible living entity with rights, perhaps represented by a guardianship body composed of local advocates with no other interest but the intrinsic wellbeing of the Lough herself. Such guardianship bodies in other parts of the world (e.g. river guardians) are typically entrusted with speaking on behalf of an ecosystem, defending its integral wellbeing and its intrinsic right to exist and flourish. In doing so, river guardians also uphold the rights of the communities whose lives and livelihoods are interwoven in relations of kinship with the fate of their local landscapes, ecosystems and river catchments.

Such a model reimagines the lough not as a passive object of regulation, but as a dynamic biological, environmental and cultural subject...a subject of history.

The Rights of Nature Movement on the Island of Ireland

The Rights of Nature movement, led by an *ad hoc* ‘Environmental Gathering’ of community-based and life-long environmental activists originally centred around the North-West cross border region, emerged from grassroots campaigners in response to a collective post-conflict realisation that conventional environmental protection, governance and planning policies had failed communities, despite decades of demands for system change. Some of the harshest critics of the system have been former holders of the environmental portfolio in the Northern Ireland Executive.⁵⁶

Some of the first, pioneering local council motions raising the prospect of codifying the Rights of Nature in local biodiversity policies on the island of Ireland originated in Derry City and Strabane District Council and Donegal County Council. The first unanimous motion, proposed by former councillor Meabh O’Neill, committed the Council to a public consultation on pathways to the adoption of a Rights of Nature approach to policy. While the process stalled after a short series of meetings, the Council has, nevertheless, re-engaged with the ‘Environmental Gathering’ and recently appointed a representative of the bioregion’s River Foyle to a community stakeholder commission on climate change.

The movement for official recognition of the Rights of Nature in the Republic of Ireland took a significant step forward when the idea was taken up by the Citizens Assembly on Biodiversity Loss in 2022-2023.

A recommendation for a national referendum on the incorporation of the Rights of Nature into the Irish Constitution and legislation emerged in 2023 with the recommendations of the Children and Young Persons’ Assembly on Biodiversity Loss (2023)⁵⁷ followed by the findings of the Citizens Assembly on Biodiversity Loss.⁵⁸ The youth assembly prioritized a call for a new regard for Nature ‘as relative’, in line with a perspective that is often found in Indigenous worldviews.

⁵⁶ Brennan, Ciara, Purdy, Ray, & Hjerp, Peter ‘Political, economic and environmental crisis in Northern Ireland: the true cost of environmental governance failures and opportunities for reform,’ in *The Northern Ireland Legal Quarterly (NILQ)* 68, no.2 (2017): 123–157.

⁵⁷ Children and Young Persons Assembly on Biodiversity Loss (2023): <https://cyp-biodiversity.ie/>

⁵⁸ Citizens Assembly on Biodiversity Loss (2023): <https://citizensassembly.ie/previous-assemblies/citizens-assembly-on-biodiversity-loss/>



Fig.1 A poster produced by the Children and Young Persons' Assembly on Biodiversity Loss (2023), including a 'Vision' statement highlighting the 'Rights of Nature'.

The Citizens' Assembly on Biodiversity Loss (2023) was one of four proposed Citizens' Assemblies contained in *Our Shared Future: Ireland's New Programme for Government* (2020). In February 2022, following debates in both Houses of the Oireachtas, the Citizens' Assembly on Biodiversity Loss was formally established by way of resolutions of Dáil Éireann and Seanad Éireann. The Citizens' Assembly on Biodiversity Loss was comprised of 100 members, including 99 members of the public, randomly selected from households across Ireland, and an independent Chairperson, Dr Aoibhinn Ní Shúilleabháin, appointed by the then Taoiseach, Leo Varadkar.

At its final meeting on 21 January 2023, after deliberating on how the State can improve its response to the issue of biodiversity loss, the Assembly agreed 159 recommendations (Report of the Citizens Assembly on Biodiversity Loss 2023). These 73 high-level recommendations and 86 sectoral-specific recommendations were agreed through a mixture of consensus agreement and ballots.

Specifically, Citizens Assembly Recommendation No. 31 states that:

'There should be a referendum of the people to amend the Constitution with a view to protecting biodiversity. The proposal to amend the Constitution should include:

c. Substantive rights of nature, recognising nature as a holder of legal rights, comparable to companies or people e.g. to exist, flourish/perpetuate and be restored if degraded; not to be polluted/harmed/degraded.

d. Procedural rights of nature, e.g. to be a party in administrative decision-making, litigation, etc. where rights are impacted/likely to be impacted.

The subsequent publication of the Fourth National Biodiversity Action Plan 2023-2030 (NBAP) (2024) commits the National Parks and Wildlife Service to ‘explore the ways in which the rights of nature could be formally recognized, including the potential for constitutional change’ [Action 1C2]. This follows a recommendation from the Joint Oireachtas Committee (JOC) (2024) on Environment and Climate Action with regard to constitutional change and the protection of the environment.

In the wake of the Government’s recent problematic experience of constitutional referenda, a legislative approach to the Rights of Nature, possibly focusing on a specific river or body of water such as Lough Neagh, may prove more appealing.

Citizens’ Assemblies - The Role of Innovative Deliberative Mechanisms

Innovative democratic deliberative and decision-making mechanisms and processes have been a feature of the Rights of Nature movement. We have seen how the Citizens’ Assembly process in the Republic of Ireland facilitated a unique moment in the Rights of Nature dialogue, attracting many international and local written submissions. Historically, citizen led assemblies also have deep roots in movements of commoners resisting enclosures.⁵⁹

Through structured events such as citizens' assemblies and mini-publics, participants engage in meaningful discussions about governance, encouraging the development of laws or policies that are more responsive to the public interest. In the context of debates on ‘wellbeing’ and consideration of ‘future generations’, such fora allow citizens an opportunity to go to the edges of conventional policy discourses in search of innovation and new thinking.

Innovative democratic processes facilitate ideas like the Rights of Nature for a number of reasons:

- Typically, citizens assemblies and mini publics can facilitate public examination of ideas that offer a fundamental challenge to the prevailing political, legal and constitutional consensus, as in the case of the Rights of Nature.
- Relatedly, innovative participatory mechanisms can help a society air complex and challenging ideas and issues that may be perceived as electorally challenging for political parties and leaders. This has been the case on a number of issues delegated to Citizens Assemblies in the Republic of Ireland, which have led to successful constitutional referenda on equal partnership and reproductive health.

⁵⁹ In 17th century England, the dynamics of community life were deeply intertwined with collective decision-making processes, often facilitated through informal assemblies. These gatherings, which included local commoners, played a significant role in managing communal resources and addressing shared concerns. The management of commons was characterized by a community of users who collaborated to integrate various interests, often led by informal or formal leaders within the community. Such assemblies were crucial for fostering a sense of local identity and social cohesion among community members.

- Citizens Assemblies can facilitate nuanced and reflective dialogue involving a highly representative cross-section of a population in societies where there is a radical absence of consensus across political parties. In Northern Ireland the The Civic Forum in Northern Ireland was established as part of the Belfast (Good Friday) Agreement, under Strand One on governance within the region. Its creation aimed to enhance the democratic process by ensuring that a diverse range of voices from civil society could contribute to discussions on key issues affecting the region. The Forum was later replaced for a short time by a Civic Advisory Panel.
- The UK NGO, Involve UK,⁶⁰ specializes in public participation and deliberative democratic fora and has been active in Northern Ireland for a number of years. They have introduced significant new design capacity, convening of citizen assemblies and engaging with stakeholders and the public sector.

Europe's first example of legislation enshrining the rights of personhood on Mar Menor in Spain was the result of a Popular Legislative Initiative. This is a constitutional procedure designed to enable the direct involvement by citizens in bringing about regulations by raising 500,000 signatures in a petition to the Government.

In other parts of the world, decisions on Rights of Nature have come about as part of a wider constitutional moment or decision, as in Ecuador where developments are closely connected to the democratic empowerment of Indigenous voices. Indigenous communities played a large role in the Ecuador Constitution's extensive participatory drafting process,⁶¹ using over 3,000 proposals from members of civil society. Other citizens' assemblies have been commissioned by NGOs, research institutes and civil society groups. Despite this variety, there is an agreed set of standards that a citizens' assembly should uphold.⁶²

Deliberative decision making, a participatory process that prioritizes the inclusion of diverse perspectives and thoughtful discourse, is increasingly recognized as vital for effective governance, particularly in the realms of constitutional innovation and the rights of nature. Where fora are properly funded and facilitated issues such as the Rights of Nature can be explored in ways that garner an appreciation of the need for society to respond to new voices, including the voices of the more-than-human. Citizens Assemblies are ideally structured to open up conversations that can transcend conventional political frames [e.g. anthropocentric thinking] that merely seek to aggregate diverse public and private interests and equate this with the public good.

Citizens Assemblies and similar initiatives facilitate collective decision-making by creating spaces for informed dialogue among citizens, aiming to ensure that all voices are heard and

⁶⁰ See Involve UK: <https://www.involve.org.uk/about>

⁶¹Craig, M. Kauffman & Pamela L. Martin, "Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand." *Global Environmental Politics* 18, no. 4 (2018): 43–62.

⁶²Tim Hughes, "When Is a Citizens' Assembly Not a Citizens' Assembly? Towards Some Standards," *Involve*, 2019, <https://www.involve.org.uk/news-opinion/opinion/when-citizens-assembly-not-citizens-assembly-towards-some-standards>.

respected in the democratic process. Deliberative processes are marked by a commitment to inclusivity and political equality, where every citizen has an equal opportunity to participate. This is often facilitated through the selection of deliberators from a cross-section of the community, thereby creating a mini-public that reflects the larger populace's diversity.

In some cases, such as Interspecies Councils, an explicit biocentric approach is designed into the deliberation to ensure that participants are afforded an opportunity to cultivate empathy and some insight into other communities of species, with powerful effect. The 'Interspecies Council' was developed by Phoebe Tickell and has been stewarded into being by the team at Moral Imaginations,⁶³ and was prototyped and developed during workshops in 2021 and 2022, and first shared publicly in 2023. Since then, there have been many occurrences of Interspecies Councils proliferating around the UK. In essence, the Interspecies Council is an adaptation of 'The Council of All Beings' from the work known as *The Work That Reconnects*,⁶⁴ with the permission and trust from Joanna Macy to steward this practice for decision-making settings, using an approach similar to a citizens assembly. The aim of the Interspecies Council is to bring the voice of nature and non-human beings into organisational decision-making, governance mechanisms and policy development. It is a participatory, democratic, semi-improvisational practice guided by facts and real-world issues, brought alive by roleplay, improvisation, theatre, arts, imagination and sensing.

The idealized model of a mini-public aims to mitigate the influence of hyper-engaged stakeholders, who may dominate discussions due to their vested interests or social identities associated with specific outcomes. By addressing these power dynamics, deliberative processes seek to create an environment conducive to compromise and collaborative decision making. As the methodologies of deliberative democracy become more established and legitimised, it is becoming more adaptable and creative and there is great scope for it to accommodate and amplify the voices of the more-than-human in decision-making. This is an emerging practice with a growing momentum behind it.^{65,66}

Deliberative practice can also be adopted outside of citizens' assemblies, and can be integrated into community groups and other forms of formal and informal local governance. Deliberation seeks to move people out of adversarial mindsets and into collaborative ones, with a focus on information gathering, collective exploration, and consensus-based decision making.

⁶³ Moral Imaginations, "Interspecies Council," *Moral Imaginations*, accessed May 18, 2025, <https://www.moralimagination.com/interspecies-council>.

⁶⁴ Joanna Macy and Molly Young Brown, *The Updated Guide to the Work That Reconnects* (Updated) (New Society Publishers, 2014).

⁶⁵ Democracy Next, "More-Than-Human Governance," *Democracy Next*, accessed May 18, 2025, <https://www.demnext.org/projects/more-than-human-governance>.

⁶⁶ Rebekah McCabe, "Who speaks for the Lough? An All-Island better Democracy Network and Involve Event," *Involve*, 2025, <https://www.involve.org.uk/news-opinion/opinion/who-speaks-lough-all-island-better-democracy-network-and-involve-event>.

Rights of Nature and Democratic Ownership Systems: Learning from Global Frameworks

Across the world, ecosystems are being recognized as rights-bearing entities, ensuring their protection and representation. From the Whanganui River in New Zealand to the Atrato River in Colombia, Rights of Nature frameworks grant ecosystems a voice, while democratic ownership models, such as community trusts, empower local communities. For Lough Neagh, these global examples offer a blueprint for a governance system that respects the Lough's intrinsic value and supports local stewardship.

This section provides a clear Q&A overview of the foundational principles of Rights of Nature, followed by case studies of successful applications worldwide. It responds directly to public input requesting an easily digestible FAQ-style explanation of the Nature Rights movement while offering context on how such a framework could benefit Lough Neagh.

The rights of natural entities, such as Lough Neagh, can be protected either through public or private legal mechanisms, which are further distinguished in the following section. Public law, meaning measures taken through government action, is the preferable approach, offering enforceable legal rights. However, if these measures prove not to be viable, we can defer to private law structures. These structures, which are discussed below, can mimic the effect of public law models established through legislation or constitutional changes.

PART 1: THE RIGHTS OF NATURE

What Are the Rights of Nature?

The Rights of Nature movement asserts that Nature itself has inherent rights, just as humans do. These rights may include rights to exist, thrive, evolve, and to legal representation, amongst others. In some jurisdictions, it takes the form of extending 'personhood' to Nature,⁶⁷ just as humans and even corporations are persons under the law.⁶⁸ Rights of Nature can be extended to entire jurisdictions, such as constitutional Rights of Nature in Ecuador,⁶⁹ or to specific ecosystems, such as the rights of Mar Menor in Spain. The movement draws from both Indigenous worldviews, which often recognize a sacred and reciprocal relationship between humans and the natural world,⁷⁰ and modern rights-based legal systems.

⁶⁷ Borràs, Susana. "New Transitions from Human Rights to the Environment to the Rights of Nature." *Transnational Environmental Law* 5, no. 1 (2016): 113–43. <https://doi.org/10.1017/S204710251500028X>.

⁶⁸ Christopher D. Stone, "Should Trees Have Standing?—Toward Legal Rights for Natural Objects," *Southern California Law Review* 45 (1972): 450.

⁶⁹ Constitution of the Republic of Ecuador, 2008, art. 71, *Political Database of the Americas*, Georgetown University, accessed May 30, 2025, <https://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>, see <https://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>

⁷⁰ Atleo, Clifford, and Jonathan Boron. 2022. "Land Is Life: Indigenous Relationships to Territory and Navigating Settler Colonial Property Regimes in Canada" *Land* 11, no. 5: 609. <https://doi.org/10.3390/land11050609>

Since the early 2000s, the Rights of Nature movement has grown rapidly, spreading from local ordinances to national constitutions and international declarations. The first (and still only) country to recognize Rights of Nature in its constitution was Ecuador in 2008. Since then, national laws (not part of the constitution) have been passed in Bolivia (national law),⁷¹ Panama (national law),⁷² Uganda (national law with Rights of Nature protections only extending to designated areas),⁷³ and Spain (national law specific to Mar Menor). Rights of Nature can be recognized through various other legal channels, including local ordinances or declarations, court rulings, and soft law declarations.

This evolving legal framework aims to transform how societies interact with the natural world, recognizing ecosystems not just as resources to be exploited but as living entities with intrinsic value and rights. Rights of Nature is also a starting point for broader legal, social, and economic structures where the natural world has agency and a voice.

Where is the Movement Recognized?

The Rights of Nature movement is gaining momentum globally, with legal recognition in over 40 countries through local, national, constitutional, or judicial mechanisms. In addition to national-level recognition on Ecuador, Bolivia, Panama, and to an extent Uganda, the rights of distinct natural entities have been recognised in jurisdictions such as Aoteroa New Zealand (Whanganui River),⁷⁴ Colombia (Atrato River),⁷⁵ England (River Ouse),⁷⁶ India (Sukhna Lake and others),⁷⁷ Peru (Marañon River),⁷⁸ and Spain (Mar Menor),⁷⁹ amongst many other examples, through legislative action and judicial decisions.

⁷¹ Mother Earth Rights Law (Ley de Derechos de la Madre Tierra), No. 071 of 2010 (Bolivia) see

[https://ampeid.org/documents/bolivia-\(plurinational-state-of\)/law-no-71---law-of-rights-of-mother-earth/](https://ampeid.org/documents/bolivia-(plurinational-state-of)/law-no-71---law-of-rights-of-mother-earth/)

⁷² Law No. 287 Which Recognizes the Rights of Nature and the Duties of the State in Relation to Said Rights, 2022 (Republic of Panama). See <https://ecojurisprudence.org/wp-content/uploads/2022/02/Panama-Rights-of-Nature-Law.pdf>

⁷³ National Environment Act, 2019, s. 4 (Uganda) see <https://faolex.fao.org/docs/pdf/uga192395.pdf>.

⁷⁴ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (New Zealand).

⁷⁵ Corte Constitucional [C.C.] [Constitutional Court], Sala Sexta de Revisión, Nov. 10, 2016, M.P.: J. Palacio Expendiente T-5.016.242 (Colom.).

⁷⁶ See Charter Rights for the River Ouse, at:

https://www.ftbchambers.co.uk/images/uploads/documents/Lead_Member_Report_-_Rights_of_Rivers_A_Charter_for_the_River_Ouse_-_Appendix_1.pdf.

⁷⁷ See CWP No. 18253 of 2009 & connected petitions v. State of Punjab and Others, March 2, 2020 (India) [Eco Jurisprudence Monitor](https://www.ecojurisprudence.org/monitor), Mohd. Salim v. State of Uttarakhand & Others, Writ Petition (PIL) No. 126 of 2014 (Uttarakhand H.C. 2017), <https://www.nonhumanrights.org/content/uploads/WPPIL-126-14.pdf>;

⁷⁸ Fasabi Pizango v Ministerio del Ambiente, Juzgado Mixto - Nauta I, Corte Superior de Justicia de Loreto, Expediente No. 00010-2022-0-1901-JM-CI-01, Sentencia No. 14, 15 March 2024. See the ruling (in Spanish) at <https://drive.google.com/file/d/1hYiXLZxDsDAdUR-jwqD3GNwfNzGvDUrC/view>

⁷⁹ Law 19/2022, for the recognition of legal personality of the Mar Menor lagoon and its basin (Spain), see <https://www.boe.es/eli/es/l/2022/09/30/19> (Additional references in this section drawn from this same source.)

Legal recognition takes many forms, including constitutional provisions, national statutory laws, local ordinances (e.g. Santa Monica in USA,⁸⁰ Alto Paraguai in Brazil⁸¹), Indigenous laws (e.g. Nez Perce Tribe and Rappahannock Tribe),⁸² judicial rulings (e.g. High Court of Bangladesh⁸³ for rivers as legal persons), and soft law declarations (e.g. Universal Declaration of the Rights of Rivers, 2017).⁸⁴ This growing diversity reflects a global shift toward recognizing Nature's intrinsic rights and ensuring its protection through multiple legal avenues.

For a complete picture of current developments, visit the Eco Jurisprudence Monitor at <https://ecojurisprudence.org>.

What is Ecocentric Law?

Rights of Nature is a central aspect of a broader movement advocating for ecocentric, or 'Earth-centered,' laws worldwide. Ecocentric law seeks to protect the environment by recognizing the intrinsic value of nature, rather than solely its utility to humans.⁸⁵ Traditionally, law has been anthropocentric, prioritizing human needs above all else. In contrast, ecocentric law shifts the focus toward valuing nature as a whole, rather than treating it as part of a hierarchy dominated by human interests.

In addition to the Rights of Nature movement, examples of ecocentric legal models include criminalizing ecocide, establishing legal guardianship for Nature (discussed below), implementing bioregional governance, and recognizing the rights of future generations. The United Nations promotes these initiatives and others under the banner of 'Harmony with Nature.'⁸⁶

What is a Guardian or Guardianship Body for Nature?

Legal guardianship bodies are established when a river or ecosystem is granted legal 'personhood' or rights, allowing one or more individuals to serve as the ecosystem's "human

⁸⁰ Sustainability Rights Ordinance, 2013, art 12.02.030(b) (Santa Monica, California, USA) See <https://ecode360.com/42743262#42743274>

⁸¹ Proposta de Projeto de Emenda à Legislação Municipal- Emenda à Lei Orgânica do município de Alto Paraguai-MT, 2023 (Brazil) see <https://mapas.org.br/wp-content/uploads/2024/07/upload1448.pdf>

⁸² Resolution Recognizing the Rights of Snake River, Nez Perce Tribe General Council Meeting in June 2020, see https://ecojurisprudence.org/wp-content/uploads/2022/02/US_Nez-Perce_Snake-River-Resolution_203.pdf and The Rappahannock Constitution recognising the rights of the Rappahannock River, 2024 (Virginia), see <https://ecojurisprudence.org/initiatives/rappahannock-tribal-constitution-recognizes-the-rights-of-the-rappahannock-river/>

⁸³ Human Rights and Peace for Bangladesh v. Government of Bangladesh and Others, Writ Petition No. 13989/2016 (Supreme Court of Bangladesh, High Court Division), see <https://ecojurisprudence.org/initiatives/rights-of-rivers-in-bangladesh/>

⁸⁴ Universal Declaration of River Rights, Earth Law Center (2017), see https://static1.squarespace.com/static/55914fd1e4b01fb0b851a814/t/5c93e932ec212d197abf81bd/1553197367064/Universal+Declaration+of+the+Rights+of+Rivers_Final.pdf

⁸⁵ Manjeri Subin Sunder Raj, "Earth Law: Emerging Ecocentric Law," *Christ University Law Journal* 11, no. 1 (2022): 103–18.

⁸⁶ UN Harmony with Nature Initiative, <http://www.harmonywithnatureun.org>.

face” in legal matters. Just as children and other individuals have guardians to speak on their behalf, so too can Nature.

Legal guardians for Nature are typically chosen through a nomination process based on their skills, knowledge, cultural ties, and commitment to upholding their responsibilities as legal representatives of Nature. These guardians are often individuals or groups with a vested interest in the natural site they protect. For example, the Whanganui River in Aotearoa, New Zealand, is safeguarded by a guardianship body consisting of a member of the Whanganui iwi (Māori), for whom the river is sacred, alongside a representative of the Crown.⁸⁷ This model ensures that the river's cultural and ecological significance is respected.

In other cases, a larger guardianship body may be established to ensure diverse and well-informed representation. A notable example is the Mar Menor Lagoon in Spain, where the guardianship structure includes local citizens, scientists, environmental organizations, and legal experts, creating a comprehensive and multi-stakeholder approach to ecosystem protection.⁸⁸

Who Speaks for Nature? How Do You Ensure They Act in Its Best Interest?

If the rights of a natural entity are legally recognized, a guardianship model may be established, as described above. To ensure that legal guardians act in the best interests of natural entities, clear legal standards must be established. One common approach is to apply the "best interest of the child" standard, which is frequently used for legal representatives of children. Similarly, courts and other decision-making bodies can provide oversight, ensuring that guardians of natural entities genuinely represent the ecosystem's interests without undue conflicts of interest.

In other cases, such as in Ecuador, any citizen can take legal or administrative action on behalf of nature, similar to a citizens' suit provision for nature's rights. At least 55 cases in Ecuador have relied upon the Rights of Nature since recognized in 2008, including many landmark cases upholding Nature's rights in Ecuador's Constitutional Court.⁸⁹

In Northern Ireland, the local community has shown strong interest in protecting the Lough, evidenced by initiatives like Save Lough Neagh (a coalition of environmental activists) and actions by Involve, a UK-based charity promoting public participation in democracy. Recognizing the rights of the Lough could potentially empower members of community groups to serve as her formal voice. The specifics of a guardianship body for Lough Neagh, if developed, could be explored vis-à-vis citizens' assemblies, Interspecies Councils, or otherwise.

⁸⁷ Known collectively as Te Pou Tupua.

⁸⁸ n.79.

⁸⁹ Craig M. Kauffman & Pamela L. Martin, *How Ecuador's Courts Are Giving Form and Force to Rights of Nature Norms*, 12 *Transnat'l Env'tl. L.* 366 (2023), <https://doi.org/10.1017/S2047102523000080>.

Why is the Rights of Nature Movement Important?

Affording legal personhood or rights to a natural entity is significant because it grants enforceable rights.⁹⁰ As a rights holder, a natural entity can have actions taken on its behalf if those rights are violated. This approach offers stronger protection against relentless extractivism and pollution by establishing a legal duty to respect the entity's rights, rather than merely treating sacred, living natural entities as resources or 'things' subject to minimal environmental safeguards - typically 'emergency-room' laws that only activate when a species or ecosystem is on the brink of collapse. As long as society treats humans as separate from or superior to nature, our legal system may remain ill-equipped to address the interconnected well-being of all life.⁹¹

Recognizing the rights of nature encourages an eco-conscious approach to policy and decision-making, contributing to the broader goal of mitigating climate change by promoting the long-term restoration of biodiversity and integral as a rights-based goal. Unlike existing environmental policies, which are often reactive - responding to harm after it occurs - this approach shifts the focus toward preventing degradation in the first place.

This movement also empowers communities with diverse worldviews to align their legal frameworks with their values. Historically, Indigenous communities and other traditional stewards of the natural world have maintained reciprocal relationships with nature, treating it as a relative rather than a resource to be controlled. Many Indigenous cultures have long recognized nature as possessing some form of personhood (even if not in a euro-centric legal sense),⁹² inspiring the broader Rights of Nature movement. In our meetings with stakeholders, we observed a similar spiritual connection between local communities and the Lough, reflecting deep respect and kinship with the natural environment.

How Can Rights of Nature be Implemented in Practice?

Of course, litigation to enforce these rights is a common way to ensure rule of law for the natural world. Additionally, being a rights holder means that others have a duty not to violate those rights, including state authorities and institutions. As a result, decision-making and policy choices must respect and promote the Rights of Nature. In practice, this requires reinterpreting governance around principles of care, reciprocal responsibility, and stewardship.

Laws and institutions must adapt to uphold these rights, ensuring that actions taken under regulatory frameworks do not unduly harm nature and, conversely, allow for its regeneration. For Lough Neagh, achieving this may require a 'harmonization period' during which laws and governance structures are updated to reflect the Lough's new status as a rights holder.

⁹⁰ Bryant Smith, "Legal Personality," *Yale Law Journal* 37 (1928): 283.

⁹¹ See e.g. Zelle, Wilson, Greene, Adam, *Earth Law: Emerging Ecocentric Law—A Guide for Practitioners*. New York: Wolters Kluwer, 2021.

⁹² Emily Cousins, "Mountains Made Alive: Native American Relationships with Sacred Land," *CrossCurrents* 46, no. 4 (1996): 497, <http://www.jstor.org/stable/24460296>.

Recognizing the Rights of Nature can also reshape societal values and discourse around conservation and human relationships with the natural world.

In What Other Ways Can Nature Be Represented in Decision-Making?

Nature can be given a voice in various contexts even beyond legal guardianship. For example, in corporate governance, both for-profit and non-profit entities have established board seats representing Nature, ensuring ecological interests are considered in decision-making. Bolivia has introduced the “Defensora de la Madre Tierra,” an ombudsperson for Nature.⁹³ The concept of “ecological institutions” envisions sophisticated bodies where Nature has agency in various legal and sociopolitical contexts.⁹⁴ Proposals have also been made for Nature to have its own delegation within international law or even a seat at the United Nations.

These approaches reflect a broader movement for Nature’s procedural rights, allowing it not only to exist but to actively participate in society and decision-making. While legal guardianship provides Nature with a voice in the legal system, other mechanisms can further expand its influence, suggesting Nature deserves a voice alongside humans in all facets of society. (Some of these corporate law tools are explored in more detail in the next section of this paper.)

What are Examples of Nature Having Rights and Guardians In Practice?

Below are four prominent examples highly relevant to Lough Neagh. Each offers valuable lessons to consider when establishing a new rights-based framework for a natural entity.

1) Case Study: Mar Menor Lagoon, Spain

In September 2022, by way of Law 19/2022, Spain granted legal personhood to the Mar Menor lagoon and its entire watershed. This law recognises Mar Menor and its basin as a subject of rights (Article 1) having the “rights to protection, conservation, maintenance, and, where applicable, restoration, which are the responsibility of the governments and the riparian inhabitants” (Article 2). This legislation was the result of a popular legislative initiative, supported by over 600,000 signatures and was the first instance in Europe where a natural ecosystem received legal rights.

The governance framework for the Mar Menor under this new legal framework is based on a multi-actor and participatory structure. The lagoon has a guardianship body with three key committees to represent and protect the lagoon’s interests:

⁹³ Law N° 300, Framework Law of Mother Earth and Integral Development for Living Well (2012), article 39, see https://ecojurisprudence.org/wp-content/uploads/2022/02/Bolivia_Law-No.-300-the-Framework-Law-of-Mother-Earth-and-Integral-Development-to-Live-Well_70.pdf

⁹⁴ Ecological Institutions, Regen Foundation, at: https://mirror.xyz/austinwadesmith.eth/tv9z1XXrtqQxDIx8FygZ_W39NpkQJkVftrjCtdbzA8.

1. A Committee of Representatives, which includes members from regional and national governments, municipalities, and local institutions with jurisdiction over the lagoon.
2. A Scientific Committee, responsible for advising on environmental and technical matters relating to the ecosystem's health.
3. A Citizen Participation Committee, composed of residents, civil society organizations, and environmental groups, ensuring grassroots involvement in governance.

The guardianship body also has the authority to take legal action, make policy recommendations, and represent the lagoon in administrative matters, effectively empowering the lagoon to defend its ecological health proactively. Spain's Constitutional Court upheld the constitutionality of this law in 2024.⁹⁵

The law also allows any individual or legal entity to act in defense of the Mar Menor's rights, granting **legal standing** to citizens in courts when the lagoon's health is at risk. This democratizes environmental protection and shifts the legal paradigm from anthropocentric environmental regulation to an ecocentric rights-based approach. Moreover, public institutions are mandated to review and adapt their policies, such as agricultural, urban, and water management, to align with the rights and protection of the Mar Menor. The law also encourages cooperation between state, regional, and local authorities for integrated environmental stewardship.

In practice, this rights-based governance means environmental degradation (such as the discharge of agricultural nitrates leading to eutrophication events) can now be challenged as violations of the Mar Menor's rights, rather than just breaches of regulatory limits. The law represents not just a legal innovation, but a shift in cultural and political values surrounding ecological governance.

2) Case Study: Atrato River, Colombia

In 2016, Colombia's Constitutional Court made a landmark decision by recognizing the Atrato River Basin as a legal person, granting it rights to 'protection, conservation, maintenance, and restoration'.⁹⁶ The case was brought by the Center of Studies for Social Justice (Tierra Digna) on behalf of several Afro-Colombian and Indigenous communities who were suffering the severe impacts of illegal mining and pollution in the Chocó region, where the Atrato River is located. These communities argued that their fundamental rights were being violated by the government's failure to address severe environmental harms from mining (both legal and illegal), which led to mercury and other contamination of the river and severe health issues among residents.

At the heart of the court's decision was the concept of "biocultural rights". These rights recognize the deep, inseparable relationship between Indigenous and Afro-Colombian communities and

⁹⁵ Spanish Constitutional Court, November 2024, see original document: https://ecojurisprudence.org/wp-content/uploads/2025/02/Mar-Menor_Sentencia-Constitucional.pdf

⁹⁶ See generally, *Tierra Digna v. Presidency of Colombia*, Judgment T-622/16 (The Atrato River Case), Constitutional Court of Colombia (2016). (Additional references in this section drawn from this same source.)

their landscapes.⁹⁷ In other words, the way of life and cultural identity of the plaintiffs was inseparable from the existence and well-being of the Atrato River itself. The court emphasized that the protection of cultural heritage is inherently tied to environmental protection.

In addition to recognizing the river's rights, the court gave the Atrato River a formal voice by establishing a guardianship body. Two primary guardians were appointed: one representing the Afro-Colombian and Indigenous communities who live alongside the river, and one representing the Colombian government. This dual-guardian structure acknowledges the cultural stewardship of local communities while also involving the government in protecting environmental health. However, the inclusion of a government representative can be seen as a political compromise, reflecting the court's hesitation to grant the river a fully independent, nongovernmental voice.

To support the guardianship body, the court also ordered the creation of an advisory commission with representatives from academic institutions, environmental organizations (such as WWF Colombia), and other stakeholders with expertise in river protection. One of the commission's responsibilities was to design a comprehensive plan to restore and maintain the health of the Atrato River, addressing both ecological restoration and the cultural rights of communities, including rights to clean water, food, and traditional livelihoods.

Despite these legal advancements, the Atrato River continues to face significant challenges. Illegal gold mining, driven by both criminal organizations and local community members lacking resources, remains widespread in the region. River guardians, tasked with speaking on behalf of the Atrato, have reported facing threats and violence from armed groups, highlighting the personal risks they endure. Colombia's human rights ombudsman has criticized the government for failing to fully enforce the landmark Rights of Nature ruling.⁹⁸ These challenges underscore that the Atrato River itself remains a victim of violence and exploitation. Nevertheless, the Rights of Nature model offers a pathway to long-term restoration, though achieving systemic change will require patience and sustained advocacy.

3) Case Study: Whanganui River, Aotearoa/New Zealand

In 2017, as part of the process of peace and reconciliation, there was a treaty settlement between the Whanganui iwi (Māori) and the Crown and Government of New Zealand.⁹⁹ A key part of this settlement concerned the Whanganui River, which was owned by the Crown as a result of the British colonisation of New Zealand, but which the Whanganui iwi considered a sacred ancestor. As neither side could agree to the other owning the river during negotiations, it became clear that a form of self-ownership and self-governance for the river was a way to break the impasse.

⁹⁷ Anna Grear, "The Discourse of 'Biocultural' Rights and the Search for New Epistemic Parameters: Moving beyond Essentialisms and Old Certainties in an Age of Anthropocene Complexity?," *Journal of Human Rights and the Environment* 6, no. 1 (2015): 1.

⁹⁸ Yessenia Gonzalez, Lost Paradise: Colombia's Failed Promise to Protect Human Rights Defenders, 48 Brook. J. Int'l L. 243 (2022), <https://brooklynworks.brooklaw.edu/bjil/vol48/iss1/4>.

⁹⁹ See generally, New Zealand Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. (Additional references in this section drawn from this same source.)

The subsequent Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 established a groundbreaking guardianship arrangement for the Whanganui River, recognizing it as a legal person with its own rights and interests. This legal status acknowledges the river as an indivisible and living whole, encompassing all its physical and metaphysical elements from the mountains to the sea. The act reflects the deep spiritual connection and longstanding relationship between the Whanganui iwi and the river, aiming to protect its health and well-being for future generations.

Central to this framework is the establishment of Te Pou Tupua, the human face and voice of Te Awa Tupua. Te Pou Tupua comprises two individuals: one appointed by the Crown and the other by the Whanganui iwi. Together, they act on behalf of the river, upholding its status and advocating for its interests. Their responsibilities include promoting and protecting the river's health and well-being, exercising landowner functions for any land vested in Te Awa Tupua, and administering Te Korotete o Te Awa Tupua, a fund dedicated to supporting initiatives related to the river's health and well-being.

To support Te Pou Tupua in its duties, an advisory group named Te Karewao was established. This group consists of three members: one appointed by the Whanganui iwi, one by other iwi with interests in the river, and one by local authorities. Te Karewao provides advice and support to Te Pou Tupua, ensuring that decisions and actions taken are in the best interests of Te Awa Tupua and align with Tupua te Kawa, the intrinsic values that guide the river's governance.

The guardianship arrangement under the 2017 Act represents a significant shift in environmental governance, moving away from traditional ownership models to a framework that emphasizes responsibility and stewardship. By granting the river legal personhood, self-ownership and establishing a collaborative guardianship structure, the act ensures that the river's voice is heard and its well-being prioritized.

4) Case Study: River Ouse, England

The River Ouse Charter is the first time that a river's rights have been recognised by a local authority in the UK.¹⁰⁰ It is a community-led initiative that outlines a shared vision for the stewardship and celebration of the River Ouse in East Sussex. It brings together individuals, organizations, and local authorities who recognize the river's ecological, cultural, and spiritual significance. The charter emphasizes the importance of restoring the river's health, ensuring access for all, and protecting its biodiversity, while also fostering a deeper connection between people and the natural world. It serves as a declaration of collective responsibility and care, rooted in values such as inclusivity, sustainability, and respect for nature.

Key aims of the charter include improving water quality, supporting natural river processes, restoring habitats, and enhancing flood resilience through nature-based solutions. By articulating a shared commitment to the Ouse, the charter seeks to inspire collective action, influence policy,

¹⁰⁰ See Charter Rights for the River Ouse, at: https://www.ftbchambers.co.uk/images/uploads/documents/Lead_Member_Report_-_Rights_of_Rivers_A_Charter_for_the_River_Ouse_-_Appendix_1.pdf.

and guide future projects that align with its vision. Although it is a useful example of the Rights of Nature gaining increased acceptance in the UK, the River Ouse Charter does not establish any guardianship body as such, so cannot be directly used as an example institution for Lough Neagh.

5) Case Study: Te Urewera National Park, Aotearoa New Zealand

In 2014, the Tūhoe people and the New Zealand government agreed on the Te Urewera Act, giving the Te Urewera National Park "all the rights, powers, duties and liabilities of a legal person." A Board was then established to serve as guardians of Te Urewera and to protect its interests. The stated purpose of the Act was to protect Te Urewera "for its intrinsic worth", including its biodiversity and indigenous ecological systems. As a result, the government gave up ownership of Te Urewera, with the park now "owning itself."¹⁰¹

Examples of Rights of Nature initiatives applied specifically to lakes.

Given the criticality of water to sustain all life, there are an increasing number of Rights of Nature initiatives focusing on freshwater ecosystems, including lakes, rivers, streams, wetlands and aquifers. These can provide helpful context to proponents of legal rights for Lough Neagh. Specific to lakes, examples include:

1) Lake Titicaca, Bolivia and Peru

On 28 October 2021, the Vice Presidency of the Plurinational State of Bolivia participated in a summit that declared Lake Titicaca as 'subject of rights', though it was only symbolic with persuasive authority.¹⁰² In 2024, Earth Law Center, Instituto de Defensa Legal, Derechos Humanos y Medio Ambiente (DHUMA), and International Rivers hosted a workshop for environmental defenders of Puno, Peru, on the Rights of Nature for the protection of Lake Titicaca.¹⁰³ This is ongoing.

2) Lake Sukhna, India

A resident of Chandigarh, India, sent a letter to the High Court of Punjab and Haryana, drawing its attention to Sukhna Lake's depleting water levels. The court declared in 2020 that Sukhna Lake has a "distinct persona with corresponding rights, duties, and liabilities of a living person."¹⁰⁴

¹⁰¹ Te Urewera Act 2014, No. 51, s. 11 (New Zealand). [See Earth Law Center - New Zealand](#)

¹⁰² Qutamama Summit, the Geopolitics of Living Well and Foreign Policy Main Direction, 2021, see [UN, Harmony with Nature Law List](#). Official Document (English): <http://files.harmonywithnatureun.org/uploads/upload1171.pdf>

¹⁰³ Earth Law Center, [LinkedIn Post](#), December 2024.

¹⁰⁴ n.77. See original document: https://ecojurisprudence.org/wp-content/uploads/2022/02/India_Sukhna-Lake-Case_270.pdf

3) Lake Erie, USA

The Lake Erie Bill of Rights (LEBOR) gave legal rights to Lake Erie and its ecosystem. It was created in response to a harmful algal bloom on Lake Erie in 2014 that left residents of Toledo, Ohio without drinking water for three days. It was passed by Toledo voters in 2019 but was struck down by a federal court in 2020 as unconstitutionally vague.¹⁰⁵

Community members surrounding Lough Neagh have emphasized the symbolic significance of the Rights of Nature movement while expressing curiosity about its practical application. Some raised concerns that existing legally enforceable agreements - particularly those related to extractive activities - may initially carry more weight than the newly established rights of the Lough. There were also calls for increased transparency regarding the sand dredging agreements and clarity on how this proposal may impact the community.

One stakeholder expressed interest in ensuring that the Rights of Nature proposal includes practical guidance on governance structures. The concept of a charitable trust pursuing a long-term Rights of Nature approach was particularly appealing to him. He also emphasized that any governing body should be adaptable, capable of evolving over time.

PART 2: SUPPORT FROM PRIVATE LAW TOOLS

While UK law does not yet recognize the Rights of Nature or allow land to legally “own itself,” there are innovative legal pathways that can begin to reflect ecocentric principles within existing frameworks. In particular, private law tools, such as trusts, contracts, and corporate governance models, offer flexible and adaptive ways to give Nature a voice and presence in legal arrangements. These tools are by no means a substitute for full legal rights, but they can serve as transitional mechanisms that help shift relationships with land and ecosystems away from ownership and control, and toward guardianship, care, and interdependence.

We are exploring these tools in direct response to community members and prospective land stewards who have expressed strong interest in models like community development trusts and other private ownership frameworks. While these models do not constitute full recognition of Nature’s rights, they may offer practical interim solutions, such as fiduciary duties to Nature or quasi-guardianship roles, that begin to embed Earth-centered values into private land governance. This section provides a brief background on public versus private law, and explores how private legal tools can be reimaged to support ecocentric principles and more reciprocal human–Nature relationships.

¹⁰⁵ See e.g. James Proffitt, Great Lakes Now, [Struck Down: Federal court rules Lake Erie Bill of Rights unconstitutional](#) (2020).

What Are Public and Private Law Mechanisms?

Public law involves governmental action, such as legislation, constitutional amendments, or statutory frameworks, that grant and protect rights through government recognition. These rights are directly enforceable in courts and apply broadly across society. An example is a Rights of Nature law adopted by a national or subnational government.

Private law, by contrast, involves legal arrangements between individuals, organizations, or groups without direct government involvement. This includes private contracts, corporate governance, **company law**, and **trusts**. These mechanisms offer speed and flexibility and are created through voluntary agreement. For example, a trust could be formed to represent the interests of a river or forest, with trustees acting as stewards on its behalf. See **Table A** in the Appendix for a comparative overview.

How Can Private Law Help?

While public law provides the strongest and most enduring form of protection by granting enforceable legal rights, private law tools can play an important supporting role—especially in contexts where immediate legislative change is unlikely.

Private law structures, such as purpose-driven companies and ecological trusts, allow communities to begin embodying ecocentric values in practice. They can help build legal and social precedents, foster local stewardship, and lay the groundwork for future public law reforms. Critically, private legal arrangements can be tailored creatively—so long as they respect existing laws and public policy—and can embed commitments to ecological integrity, mutual care, and intergenerational responsibility.

We emphasize that these tools do not and cannot replace the need for formal public recognition of Nature’s rights, including at the constitutional level. However, they can serve as experimental governance models and transitional steps that reflect the spirit of Earth-centered law and provide meaningful influence and advocacy in the meantime.

How Does a Nature Guardianship Company Give a Voice to Ecological Entities?

If a private law pathway is chosen, one innovative model to consider is the creation of a “Nature Guardianship Company”—which would be a private legal entity that explicitly centers a natural entity, such as Lough Neagh, as a primary stakeholder in its governance. While this model is not yet established in law, it represents a novel application of existing corporate and trust law principles to reflect ecocentric values.

Through its foundational documents (e.g., Articles of Association), such a company could legally commit to representing and protecting the interests of the ecosystem it serves. Key design features might include:

- **Clearly Defined Rights:** The company could articulate specific ecological rights—such as the right to regenerate, flourish, and be protected from harm—and align its operations with these rights as guiding principles.
- **Explicit Legal Identity:** The natural entity (e.g., Lough Neagh) could be identified as the central beneficiary or core purpose of the company, granting it a form of private legal identity. To avoid reinforcing the property paradigm, language around “ownership” would be consciously avoided.
- **Legal Standing and Representation:** A board or group of designated legal representatives could be tasked with speaking for the Lough in internal decisions and, where appropriate, in external legal proceedings. This would parallel guardianship roles used in family or capacity law.
- **Binding Fiduciary Duties:** Directors could be held to fiduciary obligations to act in the Lough’s best interests. These duties could include protecting biodiversity, respecting ecological thresholds, and avoiding contracts or partnerships that might result in environmental harm.

Question: What happens when these fiduciary duties or responsibilities are not fulfilled?

If representatives fail, intentionally or negligently, to act in the Lough’s best interests, they could be held accountable under existing company law mechanisms for breaching fiduciary duty. This could include internal consequences or potential legal challenges.

Exploring Pathways Towards a Voice for Lough Neagh

This section outlines potential pathways for giving Lough Neagh a formal voice, offering a range of options without being overly prescriptive. Our approach here is intentionally light-touch, reflecting our belief that any decision on how to best recognize Lough Neagh as a rights-holder or give it a voice should be led by the community itself. Our role is to provide information, inspiration, and legal expertise, ensuring that local stakeholders can make informed choices.

We present several **public** and **private law mechanisms**, each with its own advantages and limitations, empowering the community to consider which approach aligns best with their values and aspirations. The starting point for the private law analysis in this document is based on the Lough Neagh Development Trust/Development Trusts Northern Ireland (DTNI) work, which was shared with the writers of this memo.¹⁰⁶

Building on these components, this memorandum also explores several other Rights of Nature frameworks with the overarching goal of upholding the rights and voice of Lough Neagh as informed by the community's cultural connection to the lough and stewardship interests that include but go beyond transactional interests.

OVERVIEW OF THE DIFFERENT OPTIONS

1) Strongest: National Legal Recognition of the Rights of Lough Neagh

The most robust and enduring option is national legislation or constitutional reform that formally recognizes the Rights of Nature for Lough Neagh. This would grant the Lough legal personhood or equivalent rights—such as the rights to exist, regenerate, and be restored—and would establish a legal guardianship body with the authority to represent its interests in law and policy. This approach offers enforceability, institutional legitimacy, and the clearest break from the property-based paradigm.

2) Intermediate: Nature Guardianship Company or Trust (Private Law Innovation)

A middle-ground approach involves the creation of a Nature Guardianship Company or Ecological Trust, grounded in private law. While this model does not grant formal legal rights to the Lough, it can incorporate many ecocentric law principles—such as fiduciary duties to Nature, formal ecological representation in decision-making, and governance structures that prioritize the health and well-being of the ecosystem. These private legal tools can act as a form of legal voice for the Lough within existing frameworks, serving as a transitional and strategic model while

¹⁰⁶ Peter Doran, “Lough Neagh - Integrating community ownership and rights of nature,” August 2024; [Lough Neagh Consultation Webinar 30th July 2024](#), personal communications with Peter Doran and ELC team members. We understand that proposals for the future management and ownership of the Lough are under active consideration and hope that our modest contribution can support this process.

working toward stronger public law recognition. This option could eventually transition into a public law model, although there is no guarantee.

3) Symbolic: Non-Binding Declarations and Initiatives

The least formal, but still meaningful, option involves subnational resolutions, declarations, or community-driven campaigns that affirm the inherent rights of Lough Neagh without a formal legal status. While not legally binding, these efforts can generate public awareness, foster cultural change, and build momentum toward future legal reforms. Symbolic actions can play a critical role in shifting narratives and uniting stakeholders behind a shared vision of guardianship and care.

PUBLIC LAW MECHANISMS

How Would a Rights of Lough Neagh Law Work?

A public law mechanism would most likely involve legislation at one of three levels: national (e.g., an Act of the United Kingdom Parliament), devolved (e.g., an Act of the Northern Ireland Assembly), and/or local (e.g., local authority bylaws). The most practical option is an Act of the Northern Ireland Assembly, which offers a higher chance of passage than UK Parliament legislation and a broader legal impact than local bylaws. However we recognise the likely interest and importance of continuing to engage the local councils with interests in the Lough.

Such legislation could formally recognize the rights of Lough Neagh, establish ownership and management rights, and empower (and obligate) public agencies to regulate activities affecting the Lough in order to uphold her rights. It would allow clear guidelines on which activities are consistent with the lake's right to ecological health and create statutory responsibilities and liabilities for those who cause harm. This approach, similar to the Mar Menor case in Spain, would support legal action to protect the Lough.

An example in relation to Lough Neagh would be an Act of the Northern Ireland Assembly giving rights to the Lough and establishing a statutory guardianship body. This would allow the creation of new environmental rights and standards for the Lough which could be enforceable against all, while also giving Lough Neagh a voice through her guardians. Ideally, such legislation would be introduced within the context of the delivery of wider initiatives on environmental governance, including an independent environmental protection agency.

How Would a Guardianship Body Work?

A guardianship body for Lough Neagh would serve as its legal representative - the “human face of the Lough” - advocating for its ecological health and ensuring its rights are respected. While drawing inspiration from successful global examples noted earlier in this memorandum, this guardianship body would be uniquely rooted in the region’s history, culture, and stewardship traditions.

The guardianship body could comprise a diverse group of representatives who directly reflect the Lough’s ecological, cultural, and social connections. This may include local community

members (such as stewards, youth, and poets), scientific experts (like ecologists and hydrologists), ecological law specialists, and cultural representatives who preserve the Lough's heritage. Local government representatives could also participate to ensure alignment with regional policies. Candidates could be nominated by their communities, with final selections made through a transparent process that balances expertise and local knowledge.

This body would hold the authority to monitor the Lough's ecological health, advocate for its rights in legal and administrative proceedings, and oversee restoration efforts when necessary. It could develop a management plan consistent with the Lough's rights, organize public consultations, and provide regular reports on the Lough's health. Legal standing would empower the body to initiate legal actions on behalf of Lough Neagh, ensuring its voice is heard in decisions affecting its future.

Additional powers and duties for the guardianship body could be explored in relation to local customs and traditions, ensuring that the mechanism is deeply rooted in the region's interconnectedness between humans and nature. After all, the Rights of Nature is as much a cultural movement as a legal one, and it should genuinely reflect local belief systems and traditional stewardship practices.

Ultimately, the specific details of the guardianship structure could be determined through a legislative process with input from local communities and experts. Experienced Rights of Nature lawyers are available to help guide this process.

What Rights Would Lough Neagh Have?

Drawing from global examples, Lough Neagh's rights could include the right to exist, the right to ecological health, the right to restoration, the right to regenerate, the right to representation and others. However, the specific rights held by Lough Neagh should ultimately be determined through a community-led process.

Where a right to restoration is recognized, the Lough could demand active restoration if harmed, including through ecological rehabilitation projects. Where a right to ecological health is recognized, scientific baselines for a healthy, thriving Lough Neagh could be established, making these science-based conditions enforceable as legal rights. A right to legal representation could ensure that guardians or legal representatives are empowered to advocate for the Lough in legal and administrative proceedings.

It is important to note that all rights are relative; the rights of Lough Neagh would not be absolute. Courts and legal systems are experienced in managing conflicting rights and balancing competing interests, and the same would apply to the rights of Lough Neagh. Recognizing these rights would not mean an end to all extractive activities but rather a shift in how we balance our treatment of nature, fostering a shared commitment to listen to nature in a legal sense, as well as to transition toward new economic frameworks that are in harmony with nature.

The critical change is that Lough Neagh would be formally recognized as a rights holder, establishing a new framework for how humans and nature can coexist in balance.

How Can Private Law Support the Voice of Lough Neagh

As discussed above, private law tools can be adapted to reflect ecocentric principles by reimagining ownership, governance, and fiduciary duties through an Earth-centered lens. While these mechanisms do not establish formal legal rights for Nature, they can offer interim pathways to elevate the voice of ecosystems within existing legal structures. In particular, private trusts, contracts, or guardianship-style entities can be designed to prioritize the well-being of an ecosystem and ensure its interests are represented in governance decisions. These structures are potentially complementary and may serve as pragmatic stepping stones toward fuller recognition of Nature's rights in public law. Notably, even public guardianship models often draw on governance principles familiar in corporate and nonprofit contexts, areas traditionally governed by private law, highlighting the continuity and adaptability of these legal frameworks.

Enforcing rights as the owner of the Lough - land law. A potential application of this approach to Lough Neagh would involve transferring ownership of the Lough's soil-bed and associated rights from the current owner to a dedicated guardianship body. This body would be constituted as a separate legal entity tasked with holding the Lough in trust and representing its interests. While legal personhood for the Lough under private law does not require a formal transfer of ownership, doing so would be significant to mobilise the community to collectively protect and defend the rights of the Lough. Practically, it would empower the guardianship entity with the legal rights of a landowner under existing leasehold arrangements, enabling it to enforce those rights through established property law mechanisms.

Enforcing community actions - tort law. The guardianship model provides for democratic accountability. Success of this model requires broad and inclusive stakeholder involvement. The guardianship model provides a systemic and structural model to represent different voices of the Lough, including cultural, social and ecological voices of the Lough.

The guardianship body, envisioned as a collective representing diverse community interests in the form of a citizen assembly, would be well-positioned to respond to harms such as pollution. In such events, the Lough could effectively "speak" for itself, whether by initiating nuisance claims against polluters or collaborating with public authorities during environmental investigations.

Enforcing stakeholder rights - company law. Moreover, the legal structure of the guardianship body would embed enforceable duties through its constitutional documents. Members, as parties to the company's governing instruments, would be contractually bound to act in the best interests of the Lough. This creates an additional layer of accountability: in cases of misconduct or neglect, other members could enforce those obligations to safeguard the Lough's interests.

Question: Given that company law is typically associated with businesses that exploit natural resources, is it appropriate to use company structures for protecting ecosystems such as Lough Neagh?

It is true that company structures are commonly used by profit-making entities engaged in economic activities, including those that exploit natural resources. However, being a 'company' does not inherently mean an entity must pursue profit.

Many charities, non-profits, and community interest groups also operate as companies, specifically structured to advance social, ecological, or community purposes without a profit motive. Company law itself is neutral and adaptable, allowing for diverse organizational objectives. When clearly embedded in their corporate documents, ecological protection and stewardship can be effectively pursued within a company framework.

In essence, a company (or corporation) does whatever its legal structure establishes it to do. Being a legal entity is neither good nor bad—it depends on the structures you build in, which can, if chosen, embody the voice of nature in new and innovative ways.

How Would it Work to Give Lough Neagh a Voice through Private Law?

In light of the recent environmental challenges facing Lough Neagh, including significant algal blooms and water quality degradation, there is an urgent need to explore effective legal frameworks for her protection. While public law mechanisms offer robust, systemic solutions, private law structures can provide immediate, flexible, and community-driven approaches. Since the community may wish to consider both pathways, this memorandum provides guidance on each.

Although private law mechanisms are rooted in corporate structures rather than in formal rights, they can still offer a practical means of protecting Lough Neagh and giving it a voice. For example, a private company structure, such as a "Nature Guardianship Company," represents a feasible adaptation of the public law model. While this approach does not grant Lough Neagh formal legal rights as a public law model would, it enables stakeholders to establish clear stewardship responsibilities and decision-making authority, ensuring that the Lough's interests are actively represented.

Lough Neagh Development Trust

The Development Trusts Northern Ireland's proposals for a community development trust are presented as a thorough and legitimate pathway to holding protected title for Lough Neagh, encompassing the following components:

- A trust that holds title to relevant property (the "Property Trust")
- A management trust in the form of a Community Development Trust (CDT).
- A contract between the CDT and Property Trust for management of the relevant property.

- Use of the CDT as a vehicle through which to manage Lough Neagh as a commons.
- The notional “ingredients” of the CDT are envisioned to include:
 - A board
 - A membership body
 - A guardianship role (somewhere)
 - A consultative mechanism across all stakeholder groups.

It is important to note that this approach would represent a broad range of community interests, not just the interests of Lough Neagh. However, there are still opportunities for ecocentric law innovations within this structure, enabling the Lough to have a voice through specified mechanisms. These could include the appointment of legal guardians (albeit amidst other interests), the creation of a management plan that centers ecological well-being, and a clear process for resolving conflicts where the Lough's rights are at stake.

Nature Guardianship Company

As outlined above, a Nature Guardianship Company is an innovative private law structure that could be created to center Lough Neagh as the primary beneficiary of its governance. This company would not “own” the Lough in a traditional sense, but would instead hold it in stewardship, with formal commitments in its founding documents to act in the Lough’s best interests.

How Does Governance and Decision Making Work in the Nature Guardianship Body Model?

Although this model operates within private law, it draws inspiration from public guardianship structures—such as those used to represent children or incapacitated persons. The idea is to adapt these familiar governance principles to serve ecological entities like Lough Neagh, even without formal public recognition of Nature’s rights. While not a replacement for a publicly mandated legal guardian, this model aims to simulate many of the same functions using the flexibility of private legal tools.

Effective governance and clear decision-making processes are essential to operationalizing the legal structure for ecological representation of natural entities under the Nature Guardianship Body structure. A legally convoluted governance structure that relies too heavily on expert input risks alienating local communities. **Table B** in the *Appendix* outlines an NGB governance structure and a step by step structural decision making process. The governance process empowers Lough Neagh with explicit ecological rights, as well as structured, transparent, and enforceable mechanisms to advocate for those rights. The centering of Nature’s voice within this governance model distinguishes it from more traditional community benefit structures.

The following hypothetical scenario - Lough Neagh enforcing her rights against polluters - illustrates how this governance model can function in practice.

Hypothetical Scenario: Enforcing Lough Neagh's Rights in Response to Pollution from Commercial Activities

Consider a situation where intensive agricultural runoff and industrial wastewater discharge lead to a severe algal bloom at Lough Neagh, endangering wildlife, public health, and local economies dependent on tourism and fisheries.

Step 1: Identification and Assertion of Rights

- NGB conducts a thorough ecological monitoring of the environmental harm on the Lough.
- Acting explicitly on behalf of Lough Neagh's legally recognized ecological rights (such as the right to clean water and ecological integrity embedded in the company's governing documents), the NGB formally declares that the Lough's rights have been infringed.

Step 2: Centralized Representation and Stakeholder Consultation

- The NGB acts as a unified voice for Lough Neagh, convening meetings with affected stakeholders - local communities, agricultural operators, the implicated industry, and relevant government agencies such as the Northern Ireland Environment Agency (NIEA), Department of Agriculture, Environment and Rural Affairs (DAERA), and local councils.
- The Lough's ecological interests are clearly and consistently represented by a designated NGB spokesperson, instead of by fragmental individual complaints.

Step 3: Formal Legal and Governance Action

- The NGB Board, guided by scientific and advisory committee recommendations, determines that direct enforcement of the Lough's rights is necessary.
- The NGB initiates civil litigation or administrative proceedings directly against polluters, asserting that the Lough herself is a legally recognized ecological entity that has suffered actionable harm.
- This shifts the paradigm from Lough Neagh merely as an affected resource to a legal entity enforcing her own rights, strengthening both legal and symbolic accountability.

Step 4: Interaction and Coordination with Government Agencies

- The centralized governance structure allows the NGB to interact with multiple government agencies through a single channel, enhancing clarity, transparency and effectiveness.
- The NGB can coordinate remediation plans with DAERA, discuss enforcement measures with the NIEA, and participate in local government planning discussions, all while advocating directly for Lough Neagh's ecological interests.

Step 4: Outcome and Ongoing Accountability

- Enforceable agreements are reached through negotiations or legal proceedings, requiring polluters to cease harmful activities, undertake restoration, and implement long-term pollution prevention measures.
- The NGB continuously monitors compliance and publicly reports progress. If non-compliance occurs, the company initiates enforcement proceedings on behalf of the Lough.

How would Membership and Stakeholder Representation Work?

Effective representation of nature's rights within a Nature Guardianship Body requires broad and inclusive stakeholder involvement. The central goal of this diverse membership is to collectively embody the ecosystem's interests and rights, ensuring that the ecological entity is represented comprehensively across ecological, cultural, social and economic dimensions.

Advocates for Lough Neagh have made it clear that individuals must have a strong connection with the Lough in order to speak for her as guardians. They have identified environmentalists, storytellers, and fishermen as the kind of people who have the capacity to hear and speak for her.

Question: What would be meaningfully different from the existing mechanism?

Diverse stakeholder representation can be grouped into four broad categories, each contributing a vital perspective for the Lough's representation and protection:

- **Ecological Voice:** Ecological stakeholders emphasize science-driven decisions that support the Lough's ecological health and sustainability, actively safeguarding ecological rights.
- **Cultural and Social Voice:** Cultural and social stakeholders amplify community relationships with the Lough. This ensures governance decisions respect and incorporate local traditions, cultural values, and historical significance, thus fostering stewardship

deeply rooted in local identity and heritage.

- **Economic Voice:** Economic stakeholders advocate for sustainable economic activities that align with ecological preservation and ensure that any promotion of economic interests supports rather than degrades ecosystem health.
- **Governmental and Administrative Voice:** Governmental and administrative stakeholders facilitate seamless integration between private law governance and public law frameworks, ensuring clear communication, consistent regulatory compliance, and supportive policy environments.

Hypothetical Scenario: Using Integrated Stakeholder Decision-Making to Assess a Proposed Development Project near Lough Neagh

Imagine a scenario in which a proposed development project seeks permission to expand tourist accommodations along the shoreline of Lough Neagh.

The stakeholder representation within the Nature Guardianship Body would collaborate to ensure balanced consideration of ecological, cultural, economic, and legal factors. **Ecological stakeholders** would assess potential environmental impacts, oppose construction that threatens critical habitats, and recommend mitigation or restoration measures. **Cultural stakeholders** would advocate for the protection of culturally significant sites, uphold local historical traditions, and ensure community access. **Economic stakeholders** would advocate for ecological economic frameworks rooted in long-term sustainability that meets community needs and preserves the Lough's health. **Administrative stakeholders** would ensure compliance with planning laws and environmental regulations, while facilitating transparent public consultation processes in coordination with relevant regulatory bodies.

How can Transparency, Accountability, and Community Involvement be Built into the NGB Model?

Transparency, accountability, and meaningful community engagement are core features of ethical and effective ecological governance. In the NGB model, these features also empower the Lough to assert and protect her rights effectively. Through annual reporting, inclusive engagement processes, and a legal structure centred on ecological personhood, an NGB can create a framework for transparent decision-making, enforceable accountability, and meaningful community involvement.

An NGB does not represent a complete solution to all ecological challenges presently facing Lough Neagh. Rather, it serves as a platform for ongoing stakeholder deliberation, collaboration, and dialogue. Its constitutional documents should be regarded as living instruments, capable of adaptation and evolution based on input from stakeholders, emerging scientific insights, and changing ecological circumstances. The establishment of an NGB should be seen as a starting point for the pursuit of Lough Neagh's long-term wellbeing. Specific terms could also be established within the NGB to potentially operate as an interim body, automatically terminating upon the creation of a legally recognized guardianship body with formal rights for Lough Neagh under national law or another predetermined framework.

Regarding the hypothetical recognition of the rights of Lough Neagh, a legal advisor with experience in Earth Law favours a straightforward approach, stating that “the simpler, the better.” A legally convoluted governance structure risks alienating locals, and he warns against relying too heavily on the knowledge of experts. Additionally, he raised the issue of placing those with commercial interest in the Lough in the governing structure, emphasising that the compromises regarding commercial activity should not be so prevalent that they overshadow the true purpose of recognising the rights of the Lough.

A lecturer and environmentalist, suggests avoiding language and framework centred on the idea of “ownership”, for example, self-ownership of the Lough. This is coming from a standpoint opposed to any prospect that the Lough remain enclosed within the paradigms of property rights.

What's Next & Conclusion

This memorandum has outlined a range of pathways for giving Lough Neagh a formal voice, from public law recognition of rights to private law mechanisms that offer immediate, community-driven stewardship. We trust that our discussion paper can support emergent consultations and conversations designed to bring about inclusive and far reaching changes in the governance, guardianship and protection of Lough Neagh, using innovative mechanisms such as a citizens assembly, to ensure maximum legitimacy and real participation grounded in peace.

We believe a well-designed transparent, inclusive, and collaborative process that honors both the inestimable social and ecological value of Lough Neagh and her deep cultural meaning can be a prefigurative experience of building the relationality and kinship to which all aspire, and extend reconciliation and peace to the landscapes of the island Ireland.

Convening a Citizen's Assembly is a step worth considering. This process would ensure that the community is involved in decision-making and transparency regarding the Lough. A group of people who reflect the wider community would come together to discuss the relevant issues and the action that should be taken with the guidance of experienced facilitators holding the space. This initiative has been instrumental in tackling major policy changes across several countries, including marriage equality and reproductive care in the Republic of Ireland.¹⁰⁷ We believe that this could be a useful tool, establishing a more democratic process and drawing the attention of the wider public.

If a public law approach is favored, local advocates could work with the Northern Ireland Executive to draft and advocate for a Rights of Nature Act for Lough Neagh, potentially including a statutory guardianship body. This would provide the strongest legal protection, ensuring that the Lough enjoys enforceable rights and a recognized voice in legal and administrative decisions. There is a powerful precedent for civil society leadership in driving legislative change in the run-up to the adoption of Northern Ireland's Climate Change (NI) Act 2022. Further, a public law approach supports a deeper recognition and acknowledgment of using the Rights of Nature framework for environmental peacebuilding.

If a private law approach is used, whether on an interim or long-term basis, local stakeholders could establish a Nature Guardianship Company or a community-led trust to oversee the Lough's protection. This would enable immediate action, including enhanced ecological monitoring, community decision-making, and legal advocacy, while building momentum for eventual public recognition. Any private law initiatives will always draw greater legitimacy and sustainability

¹⁰⁷ Involve, "Citizens' Assembly," *Involve*, accessed June 4, 2025, <https://www.involve.org.uk/resource/citizens-assembly>.

from a parallel or phased recognition and support within a wider legislative approach, with public law initiatives at regional, local government and even all-island levels.

No matter which pathway is chosen, the success of this initiative will depend on continued community engagement, clear legal frameworks, and a shared commitment to protecting Lough Neagh as a living, thriving ecosystem. Our team is available to provide further guidance, including legal drafting support, community consultation planning, and educational workshops. Above all, we stand ready to extend continued solidarity with the community pioneers of the Rights of Nature across the island of Ireland.



APPENDIX

1. Tables and Figures.

- a. **Table A.** A comparative table highlighting key differences between public law and private law in a tool giving rights to Nature.

Aspect	Public Law	Private Law
Source of Legal Protections	Constitutional amendments, national or regional legislation, international treaties	Mutually agreed documents, e.g. Company's constitutional documents, trust deeds, contracts
Enforceability	Direct enforceability by responsible government agencies or statutory bodies Can also include rights of private prosecution	Indirect enforceability, relies on private litigation to enforce the mutually agreed terms
Implementation Speed	Typically slower, subject to political processes and legislative approval	Faster, leveraging existing legal mechanisms via legal innovations
Scope of Protection	Broad systemic protections with general applicability	Specific, tailored protections limited to defined purposes
Community Engagement	Top-down approach, though usually requires public consultation and democratic processes	Democratic process with direct community participation via membership structures
Legal Standing	Clear legal standing explicitly recognized by courts	Standing typically indirect, via corporate representatives

Funding and Resources	Potentially greater access to public funding and resources	Funding typically from diverse, including private sources
Symbolic Value	Stronger symbolic and societal recognition	Practical and flexible, but lower symbolic impact unless it is with sufficient democratic mandate / support
Legal Precedent and Influence	Potentially influential and precedent-setting at national and international levels	Influence primarily at local or regional levels; can inspire future public law actions

Understanding these distinctions will guide stakeholders in determining the most suitable legal framework or combination of frameworks to effectively safeguard Lough Neagh’s ecological integrity and foster sustainable community governance.

- b. **Table B.** A table outlining typical governance roles and decision-making procedures utilized by an NGB, emphasizing transparency, accountability, and community involvement.

Board of Directors	- Comprised of diverse stakeholders including community representatives, local government officials, scientific experts, environmental advocates, and relevant economic interests such as agriculture and fisheries. - Responsible for making strategic decisions that prioritize ecological health and sustainability, upholding fiduciary duties explicitly tied to the wellbeing of the ecosystem.
	Composed of independent scientific and ecological experts who provide objective assessments on environmental conditions,

Advisory Committee	recommend restoration measures, and guide ecological management decisions. • Members typically serve voluntarily, ensuring independence and unbiased advice.
Membership Body	• Open to broader community participation, allowing local residents, businesses, and interest groups to influence decision-making processes, enhancing accountability and community support. • Broadly inclusive membership comprising local governments, community representatives, environmental NGOs, scientists, and stakeholders from agriculture and fisheries sectors. • Governance provided by a board of directors reflecting diverse stakeholder interests, including ecological, economic, and cultural perspectives.
Scientific and Advisory Committee	• Comprising independent experts who advise on the ecological condition and appropriate restoration strategies. • Members serve voluntarily, without remuneration, to maintain independence and objectivity.

NGB Decision Making process

Step 1: Identify the Issue

Environmental concerns (e.g. pollution, habitat loss) are detected through monitoring or community input. An advisory committee provides scientific analysis and suggested responses.

Step 2: Get Expert Input

Advisory committee submits findings to inform next steps.

Step 3: Consult Stakeholders

Engage local communities, authorities, and industry in dialogue to explore solutions.

Step 4: Board Decision

The Board reviews scientific and community input. Decisions are made by consensus or vote and communicated publicly.

Step 5: Implement & Monitor

Assigned teams carry out decisions with timelines and roles. Progress is monitored and reported to ensure transparency.

2. Glossary of Terms

TERM	DEFINITION
Bioregionalism	A bioregion can offer a very relevant, and regenerative business case for communities, farmers, funders, investors and corporations. It has the potential to leverage specific liabilities in the region - like drought, fire, and flooding risk - with systemic innovations, Nature-based Solutions and regenerative practices that can be managed and monitored by local communities and financed through innovative, collective, blended financing models, on a bioregional landscape scale. ¹⁰⁸ These opportunities pave the path for ecologies and economies to nurture a shared bioregional narrative, stewarded with history, intention and love of place.
Company Law	Law that governs how companies are formed, run, and dissolved, including rules about directors, shareholders, and company responsibilities.
Contract/Commercial Law	Law that deals with agreements between people or businesses, and the rules for buying and selling goods and services.
Enforceability	The ability of a legal agreement or rule to be upheld in court and made to be followed.
Fiduciary Responsibility	A legal duty to act in the best interest, usually involving trust, loyalty, and care—common for company directors or trustees.
Legal Standing	The right to bring a legal case to court, usually requiring a person or entity to be directly affected by the issue.
Private Law Mechanisms	Legal tools or processes (like company law, contracts or trusts) used by individuals or businesses to manage their own rights and duties without government involvement.

¹⁰⁸ <https://www.ashoka.org/en-nl/program/bioregional-weaving-labs-collective>

Relationalized Property	Relationalized property is about ‘other ways of having’ that are aligned with commoning and go beyond the exclusion, extraction, and marketisation associated with conventional property ownership. An organisation or community built around property ownership tends to produce haves and have-nots and abusive concentrations of capital and power. Relationalized property is a novel class of socio-legal governance and provisioning that partially or completely neutralizes exclusive ownership rights over things regarded as property. People decide to adopt a relationalized property regime and manage shared resources through peer governance: the regime is not imposed on them. It enables forms of interrelated possession of property that is life-enhancing and strengthens relationships - with each other, the more-than-human world (Nature), past and future generations, and the common good. See David Bollier and Silke Helfrich, <i>The Wealth of the Commons: A World Beyond Market and State</i> (Amherst, MA: The Commons Strategies Group in cooperation with Levellers Press, 2012).⁸⁸)
Trust Law	Law that covers arrangements where one person (a trustee) holds property or assets for the benefit of another person (a beneficiary).
Trust Deeds	Legal documents that set out the rules and terms of a trust, including what the trust is for, who the beneficiaries are, and the duties of the trustee.