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Submission by the Woodland League to the Citizens Assembly on Biodiversity Loss 2022

Firstly, we would like to thank the Convention for taking on this very important and timely task and for the opportunity to make this submission.

Beir Bua Agaibh.

"Native woodlands are the Highest expression of Natural Vegetation with the greatest amount of Biodiversity on this Island" Dr. John Cross, ex Senior Native Woodland Specialist, NPWS.

The authentic original landscape of Ireland is hyper-oceanic Western Atlantic Temperate Rainforest, dominated by Oaks, rich in ferns, mosses and liverworts, all being abundant in the Oakwood remnants of 0.2% area. Hyper oceanic refers to the luxurious growth of mosses, lichens and polypody ferns on the trunks and branches of the trees with lichen encrusted birch trees. <https://www.wordaz.com/hyeroceanic.html> This is one of the most important and threatened terrestrial habitats in Ireland and the UK.

One of the oldest names for Ireland is "Inis na Bhfeodhadha" island of the Sacred trees, or Insula Nemorosa in Latin.

We would like to focus our Submission on the following Four areas that we believe can make an immediate impact on addressing the shocking Status of and rate of Biodiversity Loss that we are currently all witnessing.

Restore, Conserve, Expand and Connect Ancient Rainforest Remnants.

Our Ancient Native Rainforest Remnants are the Most valuable Land based Habitat for Native, in situ Biodiversity, however only occupying 0,2% of land area, leaves them vulnerable and threatened and therefore unable to support the huge amount of potential Biodiversity we know they are capable of. It is obvious they need immediate protection, enhancement and most critically, connection in the landscape to expand.

Our Current Forestry Policy and Model

This policy and model have failed Biodiversity and Communities and are not operating or functioning in the most sustainable way to deliver the promise of balancing, the three legged stool of Sustainable Forestry Management, these legs are Biodiversity=Environmental, Social=Community and Economic. The Industrial Forestry model we have is not fit for purpose and belongs in the 19th century exploitative category, it is like trying to create a symphony with only one instrument or play a guitar with one string, It is a one trick pony designed to produce cheap timber quickly by exploiting natural resources of soil, air, and water.

Reform of Coillte

Our state Forestry company Coillte is a big part of the problem due to its outdated 1988 Forestry Act mandate, an Act which predates 1992 UN Rio conference and the Principles of Sustainable Development with its accompanying 1993 Legally binding Convention on Biological Diversity, both of which inform and underpin EU Environmental/Sustainable Development Laws. Coillte manage an area of public forest occupying 7% of Ireland and are therefore ideally placed to make a much bigger contribution to addressing Biodiversity loss than any other state agency and must be realigned to do so.

Article 10a Constitutional Amendment.

To consider amending Article 10a of our Constitution to ensure the full benefits

and Sustainable Development of all our Natural Resources/Biodiversity for the Common Good, in line with the Legally binding Convention on Biological Diversity, <https://www.cbd.int/> so that Biodiversity Protection and Enhancement can be Prioritised and that these Natural Resources are vested in the People. This will also protect our Natural Resources/Biodiversity from the threat of Privatisation for Corporate shareholders benefits.

1. Restore, Conserve, Expand and Connect Ancient Rainforest Remnants. (Seeing the Forest before the Trees, Change Climate, Halt Biodiversity Loss)

In this time when we need to Re -Imagine society/economy there is now a wonderful opportunity to Re- Imagine Biodiversity, with a vision to manifest a Native Forestry Model that actually sees the whole Forest as an Ecosystem before seeing the Trees as Timber and Profit.

During the recent Covid 19 Lockdown many people have repeatedly said they found solace in Nature and Biodiversity which protected their mental health during this extremely stressful period, highlighting the importance of Biodiversity.

As a matter of urgency, The Woodland League are calling for three immediate Government Actions to Conserve, Restore, and Expand our Native woodlands.

A. The expansion of our most Biodiversity rich Ancient Native Rainforests, only occupying 0.2% area, using assisted natural regeneration, by land purchase and or use of adjacent Coillte and other Public lands, with fencing protection as well as the drafting of long term management plans for each site, and adequate multi annual funding. With a target of 5% ancient woodland cover by 2032 with trained community teams as managers.

B. The Creation of linear native woodland corridors, using the EPA mapped water catchments, rivers and streams between the pockets of Ancient Native Rainforests, for connectivity to allow for the complex biodiversity to move across the land, aiding wildlife, water and soil protection, flood and climate mitigation, landscape enhancement, with multiple benefits for local communities and nature. This would create a matrix of ecological interconnectivity across the land with Biodiversity Hotspots such as Ancient woodland, other woodland valuable habitats

joined by rivers streams and hedgerows. Involving a partnership of farmers, local community groups, GAA, NGO's, Councils, and relevant state bodies, a Public - Public partnership using EU CAP/RDP, Community woodland, Forest Conservation, and other funds

C. Reform of Coillte, the Irish Forestry Board, who are in charge of 7% of Ireland's Public forest land, changing their narrow failed forestry remit, to ensure they are compelled to participate and fully support the first two actions. Starting with transitioning the 29000 ha, old woodland sites on the forest lands, these sites still have Ancient woodland habitat/species but were converted to conifer sites in the past and targeting the 250,000 acres of failed Coillte conifer plantations identified in the Colm McCarthy report on state assets in 2010.

<https://thewoodlandleagueforestinabox.ie/media/>

These aims are consistent with the new EU Biodiversity strategy,

<https://www.fern.org/news-resources/biodiversity-strategy-the-european-commission-lays-the-path-for-a-greener-future-in-the-wake-of-covid-19-2144/> which includes close to nature forest

management and 30% protected areas for Biodiversity **and the Irish states, CBD (Convention on Biological Diversity) UN and EU Legal commitments. A new 10 year biodiversity restoration strategy will have to be implemented during the period 2021 - 2030.**

<https://india.mongabay.com/2020/04/commentary-ecological-civilisation-and-the-new-global-biodiversity-framework/>

Community woodland legislation can be enacted to support these aims similar to the UK model, to transfer poorly performing Coillte sites to communities to transform and manage as native woodlands.

Ref: <https://forestryandland.gov.scot/what-we-do/communities/community-asset-transfer-scheme>

Less than 2% of Ireland's land mass consists of semi-natural and native woodland cover, most of it recently planted or naturally regenerated, much of it isolated, fragmented and in far from a satisfactory condition.

It is also mostly young woodland and has not achieved the complexity of relationships or highest nature value of our remnant Ancient Native Rainforests, which occur on less than 0.2% of the land mass, approximately 20,000 hectares. This is a National scandal and a Biodiversity crisis.

Our Native Woodlands are part of the very fabric of our collective Cultural and Natural Heritage, their protection and restoration are fundamental to our collective future on this Island. To put this into perspective in terms of **native Irish Biodiversity, 20% of plant life, 28% breeding birds, 50% invertebrates are native woodland species (Dr. John Cross, NPWS, 2012)**

An oak tree can live for one thousand years, is a host to 287 different insects and 2,013 other species, 326 of these species are endemic, meaning they only occur on oak trees. Oak trees have co evolved with our native wildlife.

What value then for Biodiversity is an oak forest ? Providing Biodiversity Apartment blocks for Nature, all built from carbon removed from the air, whilst providing clean air and water in exchange, it makes so much ABSOLUTE sense to increase our Ancient and other Native forests.

This will not involve huge financial commitment but will require political will and commitment to focus existing forestry and farming funds towards this end.

Ref: <https://naturescalendar.woodlandtrust.org.uk/blog/2021/oak-masting-2021/>

The Woodland League have a draft plan/model for the aims and objectives of the above and have embarked on its implementation, it is called, “The Great Forest of Aughty” in East Clare and South Galway, this can be replicated nationwide. It is linked to a project called, “Forest in a Box” to engage national schools, to feed native trees into the project as well as to revive the lost Gaelic forest culture. This is vital in order to ensure community buy in and can be linked to the GAA and other existing community organisations, such as Credit Unions.

<http://www.woodlandleague.org/category/projects/>

Threats to this Native Tree Treasure include, Agriculture, Development, Wind farms and invasive species eg Rhododendron.

Ref, EPA 21st Century Deforestation, 2017

http://www.epa.ie/pubs/reports/research/climate/EPA%20RR%20221%20essentra_web.pdf

<https://www.irishtimes.com/news/environment/rhododendron-an-ecological-disaster-in-killarney-national-park-1.3894358>

Ireland’s Biodiversity reporting to the UN to comply with the Convention on Biological Diversity shows a continuous decline in species and habitats including rare ancient woodlands.

<https://www.cbd.int/doc/world/ie/ie-nr-05-en.pdf>

We are currently running a campaign for the above aims and objectives with a petition signed by over 3,500 people.

The Petition and more information can be found here thewoodlandleagueforestinabox.ie

DAFM are about to announce a new Forestry Strategy and Programme after two years of consultations etc, we fear there will not be sufficient necessary change and therefore urge this Convention to apply pressure to ensure that some of the aims described above are Prioritised. More so when 100 million Euros per year of tax payers money is being spent on a failing Forestry sector.

2. Our Current Forestry Policy and Model

The Convention on Biological Diversity is chiefly concerned with protection of in situ, biodiversity, meaning, Native Species that have evolved here since the retreat of the Ice after the last Ice Age, 20,000 years ago. We have a forestry model and area dominated by 60% exotic non native tree species mainly sitka spruce. The area under forestry is one of the lowest in EU at approx 11%, with Native species only making up approx 2% and our most important Ancient Rainforest remnants only at 0.2%, these are the most important habitats for terrestrial biodiversity.

Afforestation (New Planting) and Creation of new Woodland for Biodiversity.

It is clear the afforestation figures and creation of woodland results are too low and cannot deliver on the 18% treecover target now pushed back to 2045.

Each year the wake up calls are becoming louder, to diversify our forest tree species and prioritise our native species and woodlands. To adopt close to nature continuous cover selective felling sustainable management of our forests for multiple benefits and Climate/Biodiversity resilience.

Ash dieback, Chalara Fraxinea and sudden oak death, Phytophthora Ramorum are now firmly established in the country affecting mainly non native tree species. The recent storms caused havoc for trees, mostly impacting on non native trees, we understand up to 8 million commercial conifers, more than 7000 ha, crashed down with more to follow due to the exposed nature of the blocks of trees left standing and exposed in many cases.

It is also extremely worrying to observe that the target of 17% tree cover by 2030 attached to the last forestry plan, “Growing for the future” has now been adjusted to 18% tree cover by 2045. This highlights the failure of the current forestry programme which has absorbed substantial amounts of public funding over many years and remains unable to meet its intended goal. The most recent National Forestry Inventory report shows a 0.5% increase in forest cover between 2006 and 2013, at that rate it will take 52 years to reach 18% tree cover.

That will be the year 2066, a long way off, can we afford to wait that long to only reach approximately half the EU average tree cover of 44%. There is also the disturbing factor relating to the afforestation targets of 15000 ha to 20000 ha per annum were not achieved, instead low figures of approx, 2,800 ha per annum have become the norm. When this is matched to the allowable annual harvesting figures for this plan under the principle of sustained yield, we are fearful that the growing stock accumulation each year has fallen far short of what has been allowed to be harvested. This may actually lead to deforestation in the near future. Basically when you combine higher harvesting with lower restocking/replanting you will start to have Forestry become a net Carbon emitter due to deforestation.

One final major obstacle to increasing our low forest cover is the competition for land created by the government’s plan to increase food production by 50%, under Food Harvest 2020, with desirable financial incentives for farmers to engage. This effectively removes large swathes of suitable land for afforestation immediately. We ask where will the extra 7% forest cover come from in this new plan, when we are only at 11% now.

Taking all of the above into consideration we cannot see how this plan for forestry in Ireland will ever achieve its objectives and justify the spending of more public money. No cost benefit analysis that takes into account the pressures on the plan which includes the real costs on soil, water, local communities and biodiversity of the negative side of the main Industrial tree farming model has ever been conducted. We feel the time for such an action is now before embarking on another twenty years of negative coniferisation of our precious and vulnerable environment.

Recommendations :

The Forestry strategy needs to be separated out, into two arms, as the current commercial timber objectives cannot deliver the multiple benefits, environmental and social that SFM requires. We need to phase out the old model dependence on Clearcutting and Replant, as Industrial Clearcutting is too damaging to soil, water and Biodiversity.

 [Ecological effects of clearcutting](#)

We need a new well funded task force to focus on the social and Biodiversity/environmental public benefits (Some of the funding can come from the underspend of existing forestry budgets that are underachieving) It must be Independent of the Forest Service and DAFM, with whom it will liaise and co-operate.

This new body will co-ordinate Public/Community beneficial long term forestry projects nationwide, leaving the Forest Service and Coford to oversee the commercial forestry agenda. A new National Forest, can be created on the lines of the UK model, <http://www.nationalforest.org/forest/whatis/where.php>, and The New Forest model, a breathing space for England, <http://www.newforestnpa.gov.uk/>.

This Irish “Coill Nua” made up of Community Native Woodlands, riparian ecological linear native forests along rivers, streams, motorways, railways, and canals, linking the vulnerable remnant shreds of ancient woodlands comprising of a meagre 0.2% of our landscape. This would be linked with incentives to farmers and other land owners participating to integrate agriculture and Forestry under Sustainable Forest Management criteria.

Public Community Forest model with Benefits.

In light of the failed broadleaf targets, low planting rates, negative biodiversity impacts, pine weevil and other threats to non native trees, with higher harvesting demands which will jeopardise our Carbon projections now and going forward. We are proposing that a new Public Forest tree bank be established made up of community woodlands, focused on native species using CCF, Coppicing and natural regeneration methodology. This would target council lands, abandoned Coillte plantations in the uplands, and also look at the Church land bank in lieu of the known failure to provide their share of the compensation burden for victims of clerical abuse etc.

The objectives would be Carbon, Biodiversity, Recreation, Education, Public Health, Well being, Eco-Tourism, Flooding, Groundwater and Soil protection, Ecological corridors to join up existing isolated woodland pockets and small scale community CHP energy generation from thinnings provided locally.

This native tree focused proposal would be in keeping with the Heritage Council recommendations from 1997, when they expressed concern at the increasing blanket conifer - isation of our delicate uplands. This should be done using a Public Works Programme, to create a new Public Forest using trained community co –operative teams, targeting local fuel-wood production, soil erosion and flood alleviation to start with. A close to nature system of sustainable forest management is the preferred option, using natural regeneration of native species, with some planting and continuous cover.

There has been a huge increase in the use of stoves for home heating, while at the same time, no planning to provide sustainable wood production is in place. We need to put measures in place immediately to ensure an orderly supply of properly dried firewood, which has reduced emissions is provided to those most vulnerable to fuel poverty. As native hardwoods provide better burning than softwoods, due to what is known as a higher calorific content, and can be managed using coppicing systems.

Coppicing is when you cut the tree close to the ground, they grow back vigorously as new shoots spring back which can be harvested every three to five years, this also prolongs the life of trees and therefore will lock up more carbon. The changing light dynamics caused by the rotational cutting allows niche light loving species to thrive which is good for Biodiversity. Suitable native species for this are , oak, birch, willow, hazel, and ash. As these new native woodlands replace the failed softwood conifers, local district heating systems could be created and supplied with thinnings from the long term management of these community woodlands.

This would provide a long term economic return for local community co-operatives and farmers to ensure resilience for rural communities against the current uncertain economic circumstance they continue to find themselves in.

Farm Forestry Opportunities for Biodiversity.

Agriculture has been identified as one of the main drivers of Biodiversity Loss. by introducing native woodlands on to farms in a targeted way, huge benefits can be achieved using existing CAP funding. Agricultural land makes up 86% of land area in Ireland, highlighting its importance for Wildlife and Biodiversity rehabilitation. If just 5% of all farmland was targeted with native trees under Agroforestry models that would bring our forestry cover from 11% up to 15%, with multiple benefits, for Biodiversity and People, something current forestry policy is struggling to achieve.

<https://www.irishagroforestry.ie/>

<http://www.independent.ie/business/farming/potential-of-agroforestry-can-no-longer-be-ignored-34334472.html>

The current single Agroforestry measure is Silvopastoral with limited species of oak, sycamore and cherry, with no emphasis that the oak and cherry must be native species, there is also provision for sitka spruce which is not a valuable agroforestry species at all. The grant is for 5 years, and should be increased to ten years.

The replanting obligation of the Forestry Act, needs to be relaxed so that farmers can be encouraged to try Agroforestry without being locked into trees forever on their land. The area being funded is only 36ha, a derisory amount of land and indicative of the low priority given to this valuable land use measure, the take up has been very low. So low that only 0.6ha has been established.

Other Agroforestry systems need to be offered as well that include Alley cropping and Forest farming which involves growing crops of food between trees or under the canopy of trees either in lines or spread out in the fields, the trees provide shelter, retain moisture, add to flood protection, catch pollution run off, etc etc. stabilising of river banks, filtering of water and benefits for aquatic life, creation of coupes/copses on open land as well as marginal areas of farms using only native species. Imagination and flexibility to ensure that this measure maximises its appeal for farmers, especially as it is the first time to be introduced. Agroforestry systems that involve growing fruit and nuts as well as valuable furniture grade timber are also proven models. None of these proven Agroforestry options are available under this forestry programme.

Regards land suitability, recognition of natural regeneration via the plant succession process of native species should be allowable, which will improve poor land and maintain soil fertility, this should allow for scrub to be recognised as an agroforestry option which could be funded via the native woodland scheme conservation measure as well.

3. Reform of Coillte.

As already highlighted, the Forestry Act 1988, with its primacy of profit and timber production focus, that established Coillte needs to be reformed ASAP and Coillte need to be repurposed. To this end, a transformation to mixed native woodlands, of the most suitable after ecological assessment, to identify habitats that should never have been planted, of the 500,000 acres of Coillte Public forest identified by the economist, Colm Mc Carthy, as economically unviable in his assessment of Coillte's public/state assets in 2010.

This native tree focused proposal would be in keeping with the Heritage Council recommendations from 1997, when they expressed concern at the increasing blanket conifer - isation of our delicate uplands. This should be done using a Public Works Programme, to create a new Public Forest using trained community co –operative teams, targeting local fuel-wood production, soil erosion and flood alleviation to start with. A close to nature system of sustainable forest management is the preferred option, using natural regeneration of native species, with some planting and continuous cover.

If only 250,000 acres of the unviable component of the Coillte estate was utilised, 25,000 jobs could be created in this new Public – Public partnership model. If you aimed for training in basic sustainable forest management of 5000 people each year, using the 14 existing Coillte management units as venues and target the transforming of the unviable sites, this would equate to 120 people with four months training, by three times each year, giving approximately 360 jobs per region.

The funding and investment could come from existing underspent Forestry budget funds, social welfare payments on back to work and community schemes, the EU Rural Development Funding, as well as the National Strategic Investment Fund. The new Native Woodland strategy is another new source of funding which has provision for community woodlands creation.

An alternative vision for Ireland's Public Forests, is badly needed. This common sense option negates the need to sell off the harvesting rights of our Public Forest estate, which may come back on the table with Brexit looming and removes the burden from Coillte of these problematic failed plantations.

These Public forests were created using Public money and the hard toil of forest workers. It makes absolutely no sense to give private speculators, like forest pension funds, the rewards for this long term public investment, rather we should invest in its transformation and rejuvenation as a long term economic bulwark and backbone for ensuring rural Ireland's sustainable future.

<https://www.iforut.ie/>

4. Article 10a Constitutional Amendment.

“ The land is the source of all material wealth, we live on the land and from the land. The availability of land is the key to human existence and its distribution and use are of vital importance ”. Sir Charles Fortescue Brickdale, Chief land registrar, 1900 - 1923.

The Woodland League first proposed that the wording of Article 10a of the Irish Constitution should be changed, replacing the word “ State ” with “ The people ” during the Presidential election in 2011, we asked the candidates to support a referendum to do this if elected. At that time we were leading the campaign to Save Ireland's Forests, opposing the proposed sell off of our Public forests managed by Coillte. We set up a successful petition opposing the sale of Coillte, well over 55,000 signatures have been gathered online as well as on paper. This led to a

broadly supported campaign which stopped the privatisation of Coillte in 2013.

<https://www.thepetitionsite.com/2/help-save-irelands-forests/>

The petition posed two optional questions for signatories, related to support for public participation in Coillte public forest management and policy, to which there are thousands of responses in the affirmative. This Shows a Public interest, appetite and mandate for reforming Coillte to do more for Biodiversity on the Public Forest Lands of 1.2 million acres.

In recent years, we have all witnessed the giving away of the Nations, Fishing, Oil and Gas rights, amounting to the weakening of the Nations ability to sustain its people and uphold the common good. Further pressure has been applied to hand over our Natural Resources to speculators in the wake of the economic crash. This is part of an International trend whereby Commodities, which are Natural resources have become the main focus of investment companies, who have moved away from property speculation due to the spectacular global crash. The demand for Natural Resources has never been higher and this will continue, compounded by the phenomenal growth of the Chinese and Indian economies insatiable demand for natural resources.

There is an urgent need for the resources of the Nation to be secured by the people as insurance for any further erosion of the Nations wealth and well being, this is directly connected to the wise use and Sustainable Management of our Natural Resources to protect Biodiversity.

Origins and Roots of the Constitution.

Under the Indigenous law system of Ireland, the Brehon laws, the second oldest written law system after Sanskrit law, the people were stronger than a King. The question recorded from ancient manuscripts is "Why are the people stronger than a King, because only the people can elect a King, the king cannot elect the people". Gaelic Kings were elected under a community based system called Tanistry.

<https://www.merriam-webster.com/dictionary/tanistry>

According to Eoin Neeson in his book "A History of Irish Forestry", Woodlands were generally common land, there were rights in common in each tuath (the people/territory ruled by a minor King) - 'the full property of every tuath belonging in equal right to every condition of (person's). The eighth - century Bretha Comaithchesa, that portion of the Brehon law translated as 'The laws of Neighbourhood', (or the Community), lists twenty eight trees and shrubs in four classes. Laws governed each class and species of tree and varied according to class.

The Brehon laws show us a traditional system of sustainable management of natural resources that respects the people and their environment, this precedent should be reflected in our Constitution and governance systems. The first Dail 1919 -1922, introduced a mixture of Brehon law and common law into what were known as the Dail Revolutionary Courts, which operated very successfully during the war of Independence.

The **Constitution of 1782** is a collective term given to a series of legal changes which freed the Parliament of Ireland, a Medieval parliament consisting of the Irish House of Commons and the Irish House of Lords, of legal restrictions that had been imposed by successive Norman, English, and later, British governments on the scope of its jurisdiction. These restrictions had, in effect, allowed the Irish executive of the Lord Lieutenant of Ireland to control the parliamentary agenda and to restrict its ability to legislate rather than promote the objectives of the monarchy. This became known as Henry Grattan's Parliament and is the forerunner of parliamentary democracy in Ireland, this Parliament was dissolved by the Act of Union in 1801, transferring governance to London.

http://www.princeton.edu/~achaney/tmve/wiki100k/docs/Constitution_of_1782.html

The first Dail Constitution/Democratic Programme was written between 1917 -1919 in Vaughans hotel, this was ratified on the 21 January 1919 in the Mansion House, it followed on from the 1916 Proclamation. **The Sovereignty of the nation was vested in the People.**

Dáil Éireann - Volume 1 - 21 January, 1919 DEMOCRATIC PROGRAMME.

We declare in the words of the Irish Republican Proclamation the right of the people of Ireland to the ownership of Ireland, and to the unfettered control of Irish destinies to be indefeasible, and in the language of our first President. Pádraig Mac Phiarais, we declare that the Nation's sovereignty extends not only to all men and women of the Nation, but to all its material possessions, the Nation's soil and all its resources, all the wealth and all the wealth-producing processes within the Nation, and with him we reaffirm that all right to private property must be subordinated to the public right and welfare.

We declare that we desire our country to be ruled in accordance with the principles of Liberty, Equality, and Justice for all, which alone can secure permanence of Government in the willing adherence of the people.

We affirm the duty of every man and woman to give allegiance and service to the Commonwealth, and declare it is the duty of the Nation to assure that every citizen shall have opportunity to spend [23] his or her strength and faculties in the service of the people. In return for willing service, we, in the name of the Republic, declare the right of every citizen to an adequate share of the produce of the Nation's labour

DRAFT CONSTITUTION OF THE IRISH FREE STATE

SECTION I.—FUNDAMENTAL RIGHTS

Article 11

From [The Irish Constitution Explained by Darrell Figgis](#) 1922

The rights of the State in and to natural resources, the use of which is of national importance, shall not be alienated. Their exploitation by private individuals or associations shall be permitted only under State supervision and in accordance with conditions and regulations approved by legislation.

Extract below from Darrell Figgis, "What is a Constitution "

How different the power of kings such as these from the power of the French monarch who in the 18th century declared, "L'Etat, c'est moi"—"I am the State." He was right. He was sovereign. Sovereignty had to reside somewhere; and until the people arose and declared that it resided in them, and expressed that declaration in a formal Constitution, it continued to reside in the ruler who claimed it.

When, however, in 1787, the thirteen American States "ordained and established a Constitution" for their Union, then in the modern world the people came by their own. France quickly followed the example, but as a result of the wars which followed the world was thrown back into reaction. Throughout the 19th century, however, the statement of democratic sovereignty as a fundamental law of the State found expression in Constitution after Constitution; with the result that now, in modern practice, the existence of a Constitution is practically identical with a statement of national sovereignty.

<http://www.libraryireland.com/irishconstitution/what-is-a-constitution.php>

Actual agreed wording of the 1922 Irish Free State Constitution

Article

11.

All the lands and waters, mines and minerals, within the territory of the Irish Free State (Saorstát Eireann) hitherto vested in the State, or any department thereof, or held for the public use or benefit, and also all the natural resources of the same territory (including the air and all forms of potential energy), and also all royalties and franchises within that territory shall, from and after the date of the coming into operation of this Constitution, belong to the Irish Free State (Saorstát Eireann), subject to any trusts, grants, leases or concessions then existing in respect thereof, or any valid private interest therein, and shall be controlled and administered by the Oireachtas, in accordance with such regulations and provisions as shall be from time to time approved by legislation, but the same shall not, nor shall any part thereof, be alienated, but may in the public interest be from time to time granted by way of lease or licence to be worked or enjoyed under the authority and subject to the control of the Oireachtas: Provided that no such lease or licence may be made for a term exceeding ninety-nine years, beginning from the date thereof, and no such lease or licence may be renewable by the terms thereof.

Articles 47 and 48 of the 1922 Free State Constitution allowed the potential for citizens to petition in respect of both ordinary legislation and amendment. This was removed in 1928.

The Irish Constitution 1937

Article 10a states

All natural resources, including the air and all forms of potential energy, within the jurisdiction of the Parliament and Government established by this Constitution and all royalties and franchises within that jurisdiction belong to the State subject to all estates and interests therein for the time being lawfully vested in any person or body.

Eamonn de Valera was the chief architect of the 1937 Constitution. De Valera was also the Head of the government, quite a powerful position to be in when drafting this Constitution. He was assisted mainly by two other senior civil servants, John Hearne legal advisor to the department of external affairs and Maurice Moynihan secretary to the Executive Council, who ran the committee drafting the constitution.

There appears to have been very little evidence of consultation during the drafting process, not an ideal situation for such an important document. When the constitution is finalised, four separate entities inhabit the text, God, the Nation, the State and the People.

Extracts below from book edited by Brian Farrell "De Valera's Constitution and Ours."

' He also established a small, four - member committee to examine and revise the draft in the light of observations that might be received from ministers or from their departments. Few ministers bothered. Even so energetic and independent - minded a cabinet colleague as Sean Lemass contented himself with some minor and anodyne comments relating to social policy.

Indeed, it well illustrated the extraordinary reluctance of Fianna Fail ministers to question de Valera's authority that the only trenchant criticism of his draft constitution came, not from a cabinet colleague but from a civil servant: J.J. Mc Elligott, the secretary of the Department of Finance.

Mc Elligott's response to the request for departmental observations on the draft constitution began by taking the line that his department ' was not called upon to praise but rather to point out possible defects and difficulties. ' He then launched a savage attack on the political core of the constitution. These Articles, dealing with the Nation as distinct from the State, (a distinction which many political scientists would not admit), seem rather to vitiate the Constitution. (To vitiate means to impair or make void, to destroy or annul, completely or partially the effect of an act or instrument.)

Implications of Article 10a

The State is granted control of the natural resources and other powers, becoming an autonomous entity, acting like a company, completely separated from the Nation and the People. This occurred at a time in history when we see the rise of the Super State in the forms of the USSR, Nazi Germany, Italy, Spain and Japan, where the lines between the Nation, the State, and the People is completely blurred, leading to disastrous consequences.

The Italian dictator Mussolini when asked by an interviewer at the height of his power to define Fascism, replied that it should actually be called Statism or Corporatism as the system involved the full marriage of the State to Corporations,

which were given full unfettered access to and use of the Nations resources, infrastructure, courts, civil service, military, police and people. This was the time of the rise of Corporations internationally, when they had been granted the rights of a person under international law.

This is part of the context by which we are seeking the changing of the wording, in regard to article 10a, in this submission. While accepting that the word Biodiversity does not occur in the original 1937 Article 10a, because the concept of Biodiversity is a relatively new one, as is Sustainable Development, we would argue that it is intricately connected to Natural Resources and can not be viewed in isolation in 2022. Bearing in mind the idea of nature or environmental protection is very new, Ireland's first Wildlife Protection Law is the 1976 Wildlife Act.

This was a prerequisite criteria for our membership of the EEC in 1972 which is now the EU whose Environmental laws are now the laws of this land, even though the state continues to turn a blind eye to the same EU Laws. The case of the Derrybrien wind farm built by the ESB in 2002, a semi state body on a massive clear cut of Coillte semi state body, public forest lands led to the largest environmental/biodiversity disaster in the history of the State when the mountain bog started to slide in 2003 causing 50,000 fish killed etc.

The European Court of Justice Judgement in 2019 lay the blame squarely at the feet of the State for failing to properly transpose EU EIA (Environmental Impact Assessment) Directive/Law. The State was fined 5m Euros with huge daily penalties which continue to be paid with public funds, with no sign of proper EIA being applied to other Developments such as Meenbog which led to another catastrophic land slide on a similar wind farm site in Donegal, not to mention all other developments since 2003 built with flawed EIA. All of these subsequent Developments using flawed EIA methodology are in effect Illegal Developments under EU Law and Highlight the States contempt for Environmental/Biodiversity Protection.

<https://www.farmersjournal.ie/watch-thousands-of-tonnes-of-peat-and-trees-slide-downstream-in-donegal-584016>

<https://curia.europa.eu/juris/liste.jsf?num=C-261/18>

<https://www.oireachtas.ie/en/debates/question/2021-11-09/313/>

 The Politics of Peat

Amending Article 10a Deriving Environmental Integrity from the People

The current wording of Article 10a devolves control of the nation's Natural Resources and Biodiversity in a way that fails to assure their protection or sustainability so that future generations may enjoy their benefits.

Article 10a permits a process which fails to recognize the various International agreements and standards to which the people of Ireland have subscribed in recent decades. This is a defect and it injures sovereign undertakings which recognize that the global environment is held in trust for future generations.

The most prominent of those International undertakings are:

- > UN Rio Earth Summit Convention, 1992
- > UN Convention on Biological Diversity
- > European Convention on Human Rights,
- > Aarhus Convention,

Therefore, our submission advocates the amending of Article 10a by the striking of the word "State" in each section and substitution with the expression "People".

In addition, it seems critical in the context of International obligations and natural justice to guarantee Constitutional recognition of environmental sustainability by endorsing Sustainable Development. This can be achieved by adding a further section to define the possession of natural resources and protection of Biodiversity under the principles of Sustainable Development. We find it justifiable therefore to add the following paragraph, or an equivalent protection into Article 10a.

Any right to possess Natural Resources cannot be exercised without the underpinning of Sustainability. The Natural Environment of the Nation and its land and sea resources/ Biodiversity are directly linked to our Sovereignty as a people. Inasmuch as this is self-evident, the primary duty of all the people is to hold in trust for future generations that Sovereignty and those Natural Resources.

The requirements of the common good can never be more prominent than when the question to be decided pertains to the Sustainability of the Natural Environment which includes Biodiversity. The Sovereign duty of the people of Ireland is to act as guardians of the Natural Resources/Biodiversity found in our lands and seas. There is an inherent Trust in place. The Nation's Natural Resources can only be exposed to development under conditions that comply with the people's authority as expressed in Article 6. The integrity of our natural resources must be held in bond for future generations.

The effect of Article 10a is to place the "State" between the people and our natural resources. Such a dynamic fails to recognize a decision-making authority reserved for the People as set down in Article 6. Subjected to false undertaking, Article 10 acts as carte blanche power for a single Oireachtas to form decisions that debase the core principle of a democratic Republic.

<http://ageconsearch.umn.edu/bitstream/16346/1/br29.pdf>

The following extract is taken from The International Food Policy Research Institute.

Poverty, Food Security and the Environment

The existence of externalities--a situation in which the costs of a decision made by a person or group of persons may have to be borne by others--is a major reason why poverty results in environmental damage. Property rights are particularly prone to externalities. Resources with open access are vulnerable to exploitation because exploiters may benefit without paying the costs associated with reduced future productive capacity. While private landownership is often most effective in achieving food security and sustainability goals, it is not always superior to common ownership. Neither does state ownership of natural resources assure their appropriate use: some of the worst cases of environmental degradation have resulted from inappropriate use of natural resources owned and operated by the state. The poor usually do not own resources or reap the benefits of conservation and thus have few incentives to conserve soil, protect groundwater, or preserve trees

Sustainable Development

From the Law of Sustainable Development, General Principles, a report produced for the European union, by Michael Decleris.

The Rio conference in 1992, (Rio Declaration on the Environment agreed by 176 Nations including Ireland) is memorable because it succeeded in offering mankind the new vision of Sustainable Development; no longer quantitative but qualitative development, in other words a balanced striving for all human values, whether material or intangible, in harmony with nature. The old vision of the “ affluent society ” had resulted in an unjust and ardent “ consumer society ”. The new vision proposes a “ sustainable society ” as the attainable model of a just and prosperous world.

In conclusion, the vision of the “ Sustainable Society ” propounds a just and stable world with the prospect not only of survival but also qualitative development of its civilisation on a secure natural basis. It is therefore opposed to the misleading vision of the “ Affluent Society ” which insists on the accumulation of wealth and on an ever increasing consumption while remaining silent about or concealing the dangers that stem from the unthinking destruction of the environment. It is also opposed, however, to the neo romantic vision of a “ return to nature ” that equates mankind with the other living systems and condemns its civilisation.

<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

Sustainable Development may therefore be defined as development and activity which seeks to improve the quality of our natural environment and Biodiversity. It embraces social, economic and environmental harmony and recognises that none should be in conflict with each other. Ultimately it is about changing the way we live as individuals and communities in order to share what there is more fairly and to take account of the needs of our children's children.

Sustainable Development places the Citizen at the heart of ensuring the protection of our environment and conservation of our Natural Resources and

Biodiversity, to do this, access to environmental information and participation in the management of Natural Resources and Biodiversity along with decision making affecting same and our environment. To this end the Aarhus Convention has been drafted and ratified at EU and UN Level, Ireland has just recently transposed the Aarhus Directive.

<http://ec.europa.eu/environment/aarhus/>

The Swiss Constitution incorporates Sustainable Development in regard to their Natural Resources, they also restrict the power of the State in contrast to our constitution. The Sovereignty is vested in the Cantons which make up the Confederation, an example of decentralised government, neutralising the power of the centralised State.

<http://www.admin.ch/ch/e/rs/1/101.en.pdf> swiss federal constitution 1999

Art 2. The swiss confederation shall protect the liberty and rights of the people and safeguard the Independence and security of the country. it shall promote the common welfare, sustainable development, internal cohesion, and cultural diversity of the country. It shall ensure the greatest possible equality of opportunity among its citizens. It is committed to the long term preservation of natural resources and to a just and peaceful international order.

Art 5. All activities of the State are based on and limited by law. state activities must be conducted in the public interest and be proportionate to the ends sought.

Ecology and Economy contain the Greek word Oikos (house). Ecology is the science that studies the relationship that living organisms have with respect to each other and their natural environment. Economics is the science that deals with the relations between finite resources and infinite human wants. Both sciences can be seen to equate to good housekeeping and common sense.

There is a deep interdependence between the Social and the Natural Environment from where Natural Resources and Biodiversity come from. The ownership and the regulation of their use is a fundamental element of how society works and this should be catered for in our Constitution. The legislation for Sustainable Development should also be prioritised in the constitution to reflect the new paradigm, whereby the old model of Development is replaced by Sustainable Development.

Signed.
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SECTION I.—FUNDAMENTAL RIGHTS 1922 draft

Article 11

From [The Irish Constitution Explained by Darrell Figgis](#) 1922

The rights of the State in and to natural resources, the use of which is of national importance, shall not be alienated. Their exploitation by private individuals or associations shall be permitted only under State supervision and in accordance with conditions and regulations approved by legislation.

Article 11.

All the lands and waters, mines and minerals, within the territory of the Irish

Free State (Saorstát Eireann) hitherto vested in the State, or any department thereof, or held for the public use or benefit, and also all the natural resources of the same territory (including the air and all forms of potential energy), and also all royalties and franchises within that territory shall, from and after the date of the coming into operation of this Constitution, belong to the Irish Free State (Saorstát Eireann), subject to any trusts, grants, leases or concessions then existing in respect thereof, or any valid private interest therein, and shall be controlled and administered by the Oireachtas, in accordance with such regulations and provisions as shall be from time to time approved by legislation, but the same shall not, nor shall any part thereof, be alienated, but may in the public interest be from time to time granted by way of lease or licence to be worked or enjoyed under the authority and subject to the control of the Oireachtas: Provided that no such lease or licence may be made for a term exceeding ninety-nine years, beginning from the date thereof, and no such lease or licence may be renewable by the terms thereof.

<http://www.irishstatutebook.ie/1922/en/act/pub/0001/print.html>

<http://www.libraryireland.com/irishconstitution/article-11.php>

http://ijls.ie/wp-content/uploads/2013/07/IJLS_Vol_2_Issue_2_Article_3_OTuama.pdf