

# Introduction

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## A legal personhood for the St. Lawrence River and other Rivers of the World

It is in the wake of the recognition of the Whanganui River in New Zealand, the Ganges and Yamuna rivers in India, and the Atrato River in Colombia that the International Observatory of Nature's Rights began to reflect on the possibility of recognizing St. Lawrence River as a legal subject and began to act, such as launching a petition to promote the adoption of a Declaration of St. Lawrence River as a subject of rights<sup>2</sup>.

The St. Lawrence River, also known as Magtogoek meaning “the big River, or the path which walks” by some First Nations, is at the heart of all expressions of life in Quebec. The province was established along the River, its estuary, and its tributaries. Most people who live in the territory of Quebec, identify themselves for the most part, culturally and historically with the St. Lawrence River.

This book is divided into three chapters, the first of which is dedicated to the St. Lawrence and Magpie River. **Part I** answers the main legal issue regarding the relevance of attributing legal personhood and, consequently, rights to the St. Lawrence River, as the Muteshekau shipu/Magpie River paved the way.

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  2. Hosted on “The Petition Site” ([www.petitionsite.com](http://www.petitionsite.com)) and accessible on the Observatory's website <https://www.observatoirenature.org> this petition has been signed, as of January, 2023, by 2481 people.

In this regard, the book begins with a text written by **Yenny Vega Cárdenas** and **Nathalia Parra**, that focuses on the fundamental point of the planetary transition from environmental justice to ecological justice. The article explains the necessary evolution imposed by the transition from an anthropocentric perspective in depth, moving towards an ecocentric perspective. Their text refers to the needed encounter between the theory of environmental justice, which considers the fundamental rights of humans to water, to life, and to a healthy environment, with the theory of ecological justice, which proposes a recognition of animals' and natural entities' rights, such as rivers, mountains, glaciers, and other ecosystems. These two types of justice are complementary. The authors analyze Christopher Stone's proposal to recognize an autonomous harm to Nature and present the main arguments used in several countries such as New Zealand, Colombia, India, Ecuador, to integrate the new paradigm in their legal systems. This contribution is important for the understanding of a new epistemology that is proposed to be incorporated into the Canadian legal system.

Laying the first stone by the first text that explains the epistemology of the Rights of Nature approach, the text written by jurists **Yenny Vega Cárdenas**, **Inès Benadda** and **Andrew Galliano**, aims to answer the following question: Are current legal framework regarding water and Quebec society ready to adopt the legal personhood of St. Lawrence River? Based on extensive research on water governance in Quebec, the chapter begins with a comprehensive portrait of the water law framework in the province and opens the door to the possibility of completing it from an ecocentric standpoint. The authors argue that recent developments in the current legal framework appear to be increasingly in line with the global trend to recognize water not only as a human right, but also as a living environment for various species.

In an appendix at the end of the book, the same authors include a model of a bill proposed by the International Observatory on Nature's Rights *Act declaring the St. Lawrence River as a legal entity*, and also the Bill 991 and C-271 that has been introduced to the National Assembly of Quebec and the House of Commons of Canada last May 2022, recognizing the legal personhood to the River. In fact, the proposed bill by the International Observatory for the Rights of

Nature has enabled the development of those parallel bills that have been introduced by two political Parties in Canada: Alexandre Boulerice from the National Democratic Party (NDP) Bill C-271 at the federal Level, and Emilise Lessard-Therrien of Quebec Solidaire, Bill 990 at the Provincial level. The main objective of granting this important legal status is to appoint legal guardians who will come from various backgrounds to protect the rights that will be recognized to the Saint-Lawrence River. Those guardians will be supported by a committee of experts; themselves able to put their scientific or ancestral knowledge to the service of this rich living environment.

A new article being completed in 2022 concerning the Magpie River/ Mutehekau shipu legal personhood, signed by **Yenny Vega Cárdenas** and **Uapukun Mestokosho** explains the Innu epistemology, context and objectives that were taken into account for the first Canadian river to be granted fundamental rights. This paper explores also how that declaration encompasses a decolonial process that advances reconciliation between Indigenous and non-Indigenous peoples. This case has created an important precedent for a similar occurrence to the St. Lawrence River. In an appendix at the end of the book, the same authors include the integral text of the resolutions adopted by the Innu Council of Ekuanitshit and the Regional County Municipality of Minganie which recognized the legal personhood to the Magpie River. It is worth noting that this important declaration won the Jury's Prize of the *Commission des droits de la Personne et de la jeunesse* of Quebec, last December 2022.

The text submitted by **Stratégies Saint-Laurent**, a non-governmental organization presents the historical contributions of Stratégies Saint-Laurent and the Quebec ZIP Committees towards the preservation and protection of the river. The text proposes more sustainable development and better integrated governance for a River under pressure. The contribution of the Stratégies Saint-Laurent text is unparalleled. Stratégies Saint-Laurent contextualizes the complexity of managing a river the size of the St. Lawrence and demonstrates the inefficiency of the current legal framework. With great clarity, the text underlines with concrete examples, the main threats to the river and the various means undertaken by governments to evaluate the difficulty of solving such problems, because we are caught in an anthropocentric paradigm. The author also notes the contradiction

in political discourse of commitments to protect the River, but also of supporting economic imperatives by validating projects that endanger the River as an ecosystem and several of its species, some already threatened or endangered, such as the Beluga and the Copper Redhorse. This text demonstrates the importance of giving the St. Lawrence River real legal status, by giving it a legal personhood and vesting it with rights to protect it. In this regard, *Stratégie Saint-Laurent* and its ZIP committees express how well positioned they are to become the River's guardians.

In the same vein, **Rébecca Pétrin**, director of Eau Secours! and **Isabelle Delayney**, a researcher with the organization, outline a significant physical and geographic portrait of the immense St. Lawrence River and its watershed. This text highlights the importance of water and of the St. Lawrence River for the Quebec community, then proceeds to describe several threats to its balance and preservation. EauSecours, recognized in the political and social domains for its victorious struggles for the protection of water in Quebec, affirms the importance of vesting the St. Lawrence River with legal personhood: “We believe that the grant of legal personhood would add further protection against activities or decisions that threaten its conservation, and we therefore support this approach. The tools for water protection must measure up to future challenges to be faced. Challenges that we know are numerous and massive.”

To conclude the first chapter of the book, **Sylvain Gaudreault**, former member of the National Assembly of Quebec for Jonquière, in his text “Post-pandemic Reconstruction and Wetlands”, presents his appreciation of the wetlands and water condition in Quebec, from a perspective of lived experience. The short text of such a political figure reflects his commitment to the protection of the environment and to the St. Lawrence River. According to the author, once the COVID-19 pandemic is over, the reconstruction plan will have to consider the River and its many tributaries as a top priority. Mr. Sylvain Gaudreault considers that raising the status of St. Lawrence River and its tributaries to that subject of rights, in order to ensure it is valued as a living environment, would be a major legal reform. He therefore recommends that the National Assembly of Quebec appoint a parliamentary commission to study this major reform project.

**Part II** of this book is dedicated to an analysis of the global movement for the recognition of the rights of Nature.

The opening text of the second chapter presents the case of Ecuador, the first country in the world to have recognized the rights of Nature in its Constitution. The challenges of implementing this new paradigm are highlighted by **David Cordero Heredia**, a research professor at the *Pontificia Universidad Católica del Ecuador*. Professor Cordero Heredia emphasizes the inability of traditional environmental laws to truly protect the environment. In his opinion, the line drawn by environmental law is so far removed from the laws of Nature that the phenomena of global environmental degradation which endangers all forms of life on Earth has not been stopped to this day. He believes that classical environmental law is only a human invention created by political, social, and economic groups, while the laws of nature can only be understood through science. The rights of Nature, which are essentially a respect for the laws of Nature, are thus seen as radical propositions by some, but serve to finally bring human laws closer to the laws of Nature. As he points out in his text, the rights of Nature give the Earth a voice, thanks to science and the wisdom of indigenous peoples.

Professor **Bianca De Marchi Moyano**'s text is distinguished by its down-to-earth reflection on the recognition of the rights of Nature in Bolivia. In her text, the author shows us the epistemological potential of this new paradigm, which goes hand in hand with objectives based on the indigenous perspective of *good living* and the recognition of a plurinational state. Her text exposes the challenges of respecting the rights of Nature when the country continues to be evaluated by imposed international objectives such as the growing importance of one's gross domestic product, an objective that ultimately pushes countries towards developmental models contrary to native ontologies.

**Danaé Espinoza**, co-founder of the *Latin American and Caribbean Youth Climate Movement* (CLIC!) and a young activist, presents a refreshing article that relies on environmental education as a means for behavior change in society. In her text, she shows the importance of sensitizing young people to climate justice and the recognition of the rights of Nature, to make the current generation aware of the

need to interact differently with their environment. Her text highlights the efforts made, especially in Mexico, to change the current paradigm.

In **Sokhna Sene**'s inspiring text, we find interesting reflections on the challenges of ecosystems preservation in Africa, from a Rights of Nature perspective. In her text, she presents different initiatives that have been put forward on the African continent in countries such as South Africa, Ethiopia, Kenya, Uganda, Tanzania, Cameroon, and Zimbabwe. As she points out in the text, all African traditional philosophy is based on an approach of the Jurisprudence of the Earth, an ancient concept that existed on the continent and that has been neglected over the years because of the pressures of modern society, due to colonization. For this reason, African countries addressing the rights of Nature today are adopting an approach that promotes the revival of traditional governance systems of indigenous peoples using their own traditions, myths and cultures.

In his innovative text, Professor **Hugo Muñoz** of the *Universidad de Costa Rica* refers to the link between the recognition of the rights of Nature and food security. He emphasizes the contribution of legal personality to a better management of the watershed, because the River, being a subject of law, would facilitate the review of environmental "externalities" largely neglected in the present time, in the form of legal obligations towards the rivers themselves. The rivers could thus become creditors of the basin's users. He also points out that this model could make it possible to identify the goods and services rendered by the river to the community and the society, that could be subject to mandatory recognition of origin. In such a context, featuring the origin of these goods and services from the specific basin will give them a character of belonging and territoriality. A label that takes into account the waters of the river will enable the strengthening of a local economy that will testify to a particular management in a determined environment. This could well include foodstuffs or products of another nature. Even if this mechanism is not necessarily opposed to international exchanges, it would allow a specific community to claim its efforts aimed at the preservation of its environment.

**Part III** of the book is dedicated to case studies related to the specific recognition of rivers or ecosystems as a legal subject.

The chapter begins with an essay by Professor **Erin O'Donnell** of the University of Melbourne, Australia. In her eloquent text, the professor talks about the benefits of such recognition. Indeed, she talks about the importance of this gesture for the imagination and the symbolism of the river in the lives of humans. She points out that the recognition of rivers as living entities also leads to a significant improvement in their management, as people become more aware of the interdependence between all living things. Professor Erin O'Donnell documents the case of the Yarra River in Australia, which was recognized as a living entity in 2017. The river already has a council that represents its voice, of which she is a member. She also emphasizes in her text the importance of recognizing the personality and rights of the St. Lawrence River, because in doing so, Quebec joins a growing international community that recognizes the rights of Nature. For her, the paradigm shift implies that Nature can be represented before the courts, which will have to consider the rights of these natural entities. However, she stresses that for the model to have a real impact, guardians need to have sufficient powers to make themselves heard. They should also have adequate funding and a structure that will allow them to properly represent the voice of the river.

The text presented by Professor **Brett Dawson**, exposes the New Zealand/Aotearoa case in which country authorities have recognized the legal personhood of a geographic region and the Whanganui River. As she explains that recognition was central to the settlement of protracted Indigenous claims against the Crown for breaches of fundamental treaty rights. The function of legal personhood in bringing an entity into legal life is overviewed in her paper. The new guardianship and governance arrangements which constitute the human face and voice of these legal beings are also beautifully explained. Several lessons relevant to legal personhood initiatives can be drawn from her text: the flexibility of the concept of legal personality, the importance of initiation with and by local communities, detailed legislative co-drafting, and reimagining the foundations of Indigenous-infused co-management as managing humans not land.

Following the study of specific cases in which rivers have been recognized as legal entities, **Shrishtee Bajpai**, a young activist in India, contributes to the understanding of this movement in Asia. In her paper, she explains the context in which the court decisions recognized legal personhood to the Ganges and Yamuna Rivers, as well as Lake Sukhna in India. It is interesting to read in her text, that after that historical decision in 2017, a series of court decisions recognizing rights to other elements of nature, including the animal kingdom, and Mother Earth are decolonizing the Indian legal framework. The author goes beyond explaining the case in India. She analyzes in her paper what it means for a river to have rights and presents her views on how these rights should be implemented. She also questions what these decisions mean, not only for rivers and riverine communities, but also for the relationship humans have with the rest of nature.

The article written by **Yenny Vega Cárdenas** and **Nathalia Parra** in this third chapter makes a decisive contribution to the understanding of the impact of the recognition of river rights in Colombia. Their text analyzes almost 15 cases of recognition of legal personhood to elements of Nature in Colombia including rivers, mountains, glaciers, parks, and the Colombian Amazon region. In fact, the Constitutional Court of Colombia declared in 2017 the Atrato River as a subject of rights, a historic decision that introduced the rights of Nature in the Colombian legal order. From that moment, the Colombian Supreme Court of Justice declared the Amazon region as a subject of rights, following the request of a large group of young people who demanded government action to ensure climate justice for present and future generations. The authors analyze the main legal arguments put forward by Colombian jurisprudence to introduce this new paradigm and consider the contribution of these decisions in the construction of a new law aimed at the realization of ecological justice.

Professor **Teresa Vicente**, director of the Chair of Human and Nature's Rights of the *Universidad de Murcia*, deeply involved in the *Mar Menor* legal personhood case, presents this example as the first one in Europe. In fact, she participated in the enactment of the Popular Legislative Initiative in Spain that recognizes the Mar Menor and its basin as a legal person with its own rights. She explains in her text



the necessity of changing the current paradigm to a new paradigm of ecological justice, which is embodied in a new generation of subjective rights: the rights of Nature.

Researcher **Victor David**'s text is an essential opening of the application of the theory of the recognition of the rights of Nature to oceans. He argues for an understanding of marine biodiversity as an interdependent whole that must be understood as such and that it should have a legal regime that protects it holistically. In fact, he points out the aberrations that have been caused by different, disparate legal regimes when talking about the territorial sea, the continental shelf, and the high seas. Migratory species show that the legal regime applicable to them fluctuates according to their position, and that by virtue of a sort of "legal anthropomorphism", they would be sometimes of one nationality, sometimes of another, or even stateless in international waters. The author pleads therefore that today, humanity has a responsibility to Nature, itself borderless, indivisible, and more than ever endangered. In his opinion, the recognition of legal status makes it possible to introduce a protection thereof, especially within the framework of the assessment and interpretation of current law, which is imprecise, fluctuating and not very dissuasive in its protection of biodiversity.

The publication concludes with an inspiring conclusion written by Professor **Daniel Turp** and **Yenny Vega Cárdenas**, which draws lessons from the texts presented in this collective work. Finally, the authors confirm that recognizing to Rivers or to other natural entities a legal personhood and rights will not mean that people will no longer be able to use the river's water or Nature. From an eco-centered perspective, humans are also part of the species in the ecosystem that depend on water and Nature for their survival. Human beings will continue to have access to rivers and enjoy beautiful landscapes, but in a way that respects both the rights of the rivers or Nature 'rights and the right to survival of other species.

We hope that this book could inspire more and more cases of rivers and natural entities having legal rights around the world. We really believed that it is fundamental to promote a necessary ecological Justice to save the world.