River Rights: Currents, Undercurrents and Planetary Vistas

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> I am the river and the river is me.'[1]
> (Maori proverb)

Introduction

River rights across the world are being shaped by a combination of features that emerge from global thinking in the wake of the Anthropocene, from a country's constitutional and legal design, and from the framings of indigenous and re-

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ligious worldviews alongside secular culture. In the attempt to repair swathes of nature, environmental lawmakers increasingly explore the local–potentially-global currents that emanate from the very diverse heritages of people across countries and continents.[1] These currents are developed within legal constitutions that can overarchingly be construed as cultural products of the Occident, such that legal decisions which underscore the sacredness of rivers and the critical urgency to reshape their rights grow in hybridised national cultures. While rivers when considered as right-holding subjects of law, or legal persons can claim the right to their natural course, existence and regeneration, the road ahead is not without bumps once the river's rights are conjoined to its obligations – such as what might happens if a river floods, for instance.[2]

In this paper we attempt to bring out and elaborate upon a double process at work in relation to the recognition of river rights in countries and cultures of the Global South. On the one hand, there is the articulation of the river as a legal person and the recognition of its rights in the country's constitution, as in the common law and continental legal systems,[3] that enables rivers and concerned citizens to appeal for their interests in court, albeit in different modes discussed below. On the other hand, the life force of this movement for the recognition of legal rights for nature in the Global South draws on ontological heritages that precede these juridical structures.[4]

[1] https://equal-partners.eu/en/news/river-legal-identity

[2] C. Stone, 'Should trees have standing? Toward legal rights for natural objects', *Southern California Law Review* **45** (1972): 450–501.

[3] The common law system governs England and the territories over which it has had influence. It is based on the idea of law as the creation of courts. Although it has been acquiring new names, the judicial precedent remains the centre of the system. For its part, the continental system, also known as the Romano-German-French system, is based mainly on the rules emanating from legislative and executive authority. While its home was originally continental Europe, the continental system underlies the formerly colonised countries of the European continent.

[4] Poetic expression in the form of personification of rivers is of course present in occidental cultures as well. For instance, these lines from Lord Tennyson's 'The Brook': 'And out again I curve and flow / To join the brimming river / For men may come and men may go / But I go on for ever'.

We show how the conception of rivers as subjects of rights in three countries (Colombia, New Zealand, India) resonates with prior spiritual beliefs, social practices and local meanings. Concurrently, the robust pursuit of the rights of rivers is finding a voice in the legal systems of the North and imparting this strategy with global relevance. River rights are now in place in Canada and Australia and are being mooted for rivers in France and Switzerland, for example.[5]

Elements of culture permeate judicial decisions. The disciplinary arsenals of law, sociology and anthropology help to make sense of such doings. By tapping into such understandings, we intend to underscore the strengths and limitations of recent, trailblazing, legal innovations that are oriented toward restoring the health of rivers. We regard the legal initiatives that are formulating the personhood and rights of rivers as a significant indicator of transformation in societal thinking, in tune with the sociologist Emile Durkheim's central insight.[6] These transformations mark a watershed moment in the development of riverine law and, in a Durkheimian vein, bring ethics into this domain. Yet, Durkheim's exposition does not venture into assemblages of colonial and indigenous enactments within legal regimes that are pertinent to an understanding of environmental ethics and personhood for rivers in the Global South today.

While issues of governance pertaining to rivers spill over into river basins, streams, watersheds and connected domains, for heuristic ends we confine our interest to theoretical, legal and cultural arguments that delimit the river as a flowing ribbon of water along with its banks and the living and non-living resources above and below its water surface. The place of non-human and indeed non-living nature is contemporarily being re-evaluated from the vantage point of

[5] The rights of the Yarra River were recognised by the Victorian Parliament in Australia in 2017. Closer in time, in 2021, the Innu Council of Ekuanitshit and the Minganie Regional County Municipality granted rights to the Magpie River in Quebec Province. There are also some other proposals under discussion as, for example, in Switzerland and in Corsica, France.

[6] É. Durkheim, *De la division du travail social* (Paris: F. Alcan, 1902).

actor–network studies,[7] 'thing theory',[8] new materialisms,[9] as well as ontological analysis in humanistic disciplines.[10] These four theoretical orientations reinvigorate our understandings of the relationship between the thing that is the river and the person. For our purposes here, it may suffice to note that despite the differences between these theoretical turns, what is being highlighted is the vitality of the continuum or spectrum that runs from thing to person and back again. Whether cast as 'actants'[11] or 'non-human persons',[12] quasi-objects or quasi-subjects,[13] the dependence of humans on non-humans and their connected agency is increasingly being underscored in ways that animate and conjoin anthropological/sociological inquiry with the legal personhood of rivers and the environment.

By granting legal personhood to rivers and treating rivers as the subject of rights in the latitudes that we are considering – Latin America, Oceania and Asia – the course of law is seeking to revive river ecologies. River pollution associated with industrial waste, mining, the lack of sanitary infrastructure, the construction of dams, and the threats to aquatic species form part of the photograph of everyday life in this region. Imaginings of a less anthropocentric future, which can rein in predatory capitalist corporations and the state, often underlie visions that show up prominently in activist literature.[14] The material on legal personhood and river rights for

[7] B. Latour, 'On actor–network theory: A few clarifications', *Soziale Welt* **47** (4) (1996): 369–381; B. Latour, 'An Attempt at a Compositionist Manifesto', *New Literary History* **41** (3) (2010): 471–490.

[8] B. Brown. 'Thing Theory', *Critical Inquiry* **28** (1) (2001): 1–22.

[9] D. Miller (ed.), *Materiality* (Durham: Duke University Press, 2005).

[10] Ibid.; J. Bennett, *Vibrant Matter. A Political Ecology of Things* (Durham: Duke University Press, 2009); H. Graham, 'An outline of object-oriented philosophy', *Science Progress* **96** (2) (2013): 187–199.

[11] B. Latour, *We Have Never Been Modern* (Harvard: University Press, 1991).

[12] M.C. Hall, *Plants as Persons: A Philosophical Botany* (New York: SUNY Press, 2011).

[13] B. Latour, 'Agency at the time of the Anthropocene', *New Literary History* **45** (1) (2014): 1–18.

[14] See for instance, SANDRP - the South Asian Network for Dams, Rivers and People, https://sandrp.in/ (accessed 15 Jan. 2021).

this paper is primarily obtained from supreme courts and provincial judicial decisions, legislation, and constitutions – but also, to bring in on-the-ground and critical perspectives, draws upon the writings of activists and environmental lawyers as well as reportage on river rights in print and visual media. The intent is to enquire into the socio-legal arena of river rights and personhood of rivers, where law attempts to shape the societal, and the societal rebounds on the law, in a back-and-forth mode.

The paper proceeds in three sections. In the first section, we outline the main currents in the formal legal doctrine concerning the grant of river rights. Here we provide a window into the legal instruments for securing the rights of rivers and the interrelations of the local, the national and the global in river jurisprudence. These rulings bring in notions of indigenous or vernacular culture in large measure as part and parcel of their formal judicial reasoning, while delineating the possibilities of ecological restoration through the grant of river rights. Our second focus brings to the surface the undercurrents which contour such legal attempts in different national cultures and perhaps predictably give rise to diverging socio-legal trajectories. The illustrative evidence reviews the trajectory of legal measures in Colombia, New Zealand and India. In the third section, we outline imaginaries that envision and recast new planetary institutions – including a parliament of rivers – in the context of emergent ecological concerns. From this perspective, rivers belong to Planet Earth, though in anthropocentric reckonings they are distributed between provinces and countries.

Section I

Legal rights of rivers encompass a dual sense: what is good for both rivers and people

Legal actions aimed at buttressing environmental and ecological interests in favour of rivers and people are being rethought and reworked in the period following what is dubbed the Great Acceleration, which fast-forwarded socio-economic changes and affected

rivers worldwide. The conception of swathes of nature envisaged as juristic persons, capable of suing for their preservation and being sued in turn, is an idea that has gained strength in the aftermath of the Great Acceleration. The recognition of rights beyond those of humans has been a recurrent theme in legal studies and has come to the forefront with the juridical delineation of rights of nature. We briefly sketch its legal genealogy below.

Originating in the Roman idea of masks, the concept of a 'person' has taken many turns, but it still works as an archetypal notion for deriving rights and legal obligations. The idea of a legal person developed from the mask which was used by Roman actors on stage to give amplitude to the voice (*personare*). It was employed in this figurative sense to express the role that an individual may come to play in the public sphere: for example, as the head of the family or the guardian. In an extended legal meaning, it became the mark of all beings susceptible to titular rights and obligations. The German jurist, Friedrich Carl von Savigny, equates the term person not just with a human person but with the bearer of a right.[15] In the context of according personhood to nature, the French jurist, René Demogue, surmised that tensions would inevitably follow every extension of the idea of rights beyond humans.[16]

Towards the end of the twentieth century, Christopher Stone argued for legal standing and personhood to be accorded to nature on par with the standing accorded in common-law legal systems to non-human legal corporations.[17] This notion was propagated following Justice William O. Douglas' dissenting note, which drew on Stone's argument for granting personhood to nature, in a United States Court decision.[18] It was carried over to transnational legal debates, since the Anglo-American legal system is based on legal prece-

[15] C-F. von Savigny, *System des Heutigen Römischen Rechts*, *2* (Berlin: Veit, 1840). [System of the Modern Roman Law, 2].

[16] R. Demogue, 'Le sujet de droit', *Revue Trimestrielle de Droit Civil* (1909): 611. [The Subject of Law].

[17] C. Stone, 'Should trees have standing? Toward legal rights for natural objects', *Southern California Law Review* **45** (1972): 450–501.

[18] *Sierra Club v. Morton*, 405 U.S. 727 (1972).

dent. Nearer in time, Godofredo Stutzin in Chile and Marie-Angèle Hermitte in France were also discussing the need to rethink the legal status of nature and biodiversity.[19] These ideas were revitalised and incorporated into legal systems by a series of constitutional and legal reforms in the twenty-first century. Legal innovations concerning rights of nature now take forms as varied as the recognition of these rights at the level of the national constitution (Ecuador) or their expression in country-wide laws and special agreements (New Zealand), judicial decisions (Colombia, India), and provincial and local regulations (see Table 1) that accord subjecthood, which we discuss in further detail below.

Nature as a subject of rights first appeared in the 2008 constitutional reforms of Ecuador. Bolivia followed suit with two national laws in 2010 and 2012.[20] These regulations include the human right to a healthy environment and also consider nature, Mother Earth and *Pachamama*[21] as the possessors of rights in dialogue with related indigenous perspectives in South America. Indigenous worldviews in South America posit that the earth has the right to be respected, a right to the diversity of its life and its reproduction, to clean water and air, and indeed a right to equilibrium and its own life. In Ecuador and Bolivia, the constitutional and legal reforms include these objectives in order to actualise *sumak kawsay* (good living),

[19] M-A. Hermitte, 'Le statut de la diversité biologique', in B. Edelman and M-A. Hermitte (comps), *L'homme, la nature et le droit* (Paris: Christian Bourgois, 1988), pp. 238–249; G. Stutzin, 'Un imperativo ecológico: reconocer los derechos de la naturaleza', *Ambiente y Desarrollo* **1** (I) (1984): 97–114. [An Ecological Imperative: Recognise the Rights of Nature].

[20] Mother Earth Rights Act (2010) and the Framework Act on Mother Earth and Holistic Development to Live Well (2012).

[21] Pachamama is an Andean divinity that dates back to the Inca period and is present in many Andean cultures as well as those beyond the Andean region in Latin America. It is a linguistic expression in Quichua and Aymara languages. Quichua is the language of diverse indigenous populations that are spread over the countries of Argentina, Bolivia, Chile, Colombia, Ecuador and Peru. Aymara is the language of the Aymaras or Aimarás, an indigenous group that forms an important part of Bolivia's population and inhabits regions in the north of Argentina and Chile and in the south of Peru.

Table 1: Rights of Nature: Legal Innovations and Mode of Incorporation

Rights of Nature	Constitutions	National Laws	Provincial/Local regulations
	Ecuador	*Bolivia* *Uganda*	*Argentina*: Santa Fe *Australia*: Western Australia Parliament *Brazil*: Florianópolis, Paudalho, Bonito *Colombia*: Nariño Department *France*: Iles Loyauté in New Caledonia *Mexico*: Mexico City, State of Guerrero, State of Colima *United States*: Tamaqua, Halifax, Mahanoy, Nottingham, Newfield, Licking, Packer, Pittsburg, Baldwin, Allegheny County, Mountain Lake Park, State College, Wales, West Homestead, Broadview Heights, Yellow Springs, Mora County, Santa Monica, Mendocino County, Waterville, Crestone, Orange County,. Moreover, some indigenous communities do recognise nature rights: the Menominee people, Nez Perce Tribal General Council, Yurok Tribal Council.

suma qamaña (living well), *ñandereko* (a harmonious life) or *teko kavi* (a good life). These concepts encapsulating heterogeneous Andean worldviews, which relate to the overarching theme of the good life, are preserved by the local populations and presented as alternatives to projects of global capitalism. The ideas of *sumak kaway/suma qamaña* incorporate socio-political, cultural and economic facets alongside the ecological. Their ecological aspects are worked into the discourse of nature as a subject of rights such that a classic and deeply rooted idea of law is repurposed to account for new legal perspectives linked to these worldviews.

These legal innovations were associated with the major changes of constitutional reform in Ecuador, whereas Bolivia opted for the adoption of country-wide laws between 2008 and 2012. In addition, there are draft laws under debate in Argentina, Mexico and

Perú, while Chile is focusing on constitutional reform as its environmental strategy, with representation for indigenous peoples.[22] Apart from the articulation at the national level, many provincial and city initiatives are enriching the recognition of the rights of nature or ecosystems in different parts of the world, including the United States, Brazil, Colombia and Argentina among others. Although decentralised strategies are not as robust as a constitution or a national law, they allow smaller localities to initiate their own paths to revitalising nature through ordinances and by mobilising institutions, non-governmental organisations, and citizens who are committed to this idea (Table 2). In cases involving damage to cities' ecosystems, this type of innovation has procedural legitimacy and strengthens the recognition of the rights of nature at the sub-regional level. Apart from rivers, which have been at the centre of legal innovation, particular ecosystems such as lagoons, forests, natural areas, glaciers and so forth have also been the recent subject of rights (Table 2). We turn to an analysis of river rights next.

Court decisions have actively mooted the recognition of river rights in the continents of Australia, Asia and America (Table 3). The emblematic case of the Atrato River[23] in Colombia recognises the river as a subject of rights and also oversees the appointment of its guardian. The judicial thrust in this direction is evident in the rulings of constitutional or supreme courts as well as lower courts. The rulings of provincial courts, however, can be subjected to review by higher courts, as has happened in the case of the Ganges and Yamuna[24] in India, which we discuss later. The organisation of the judicial system in each country demarcates the cases that can be ap-

[22] It is important to note that the Constituent Assembly has 155 members and its composition has a gender component and representation for indigenous peoples through 17 seats. In Chile, on 4 July 2021, a leader of the Mapuche (an indigenous people) was elected President of the Constituent Convention. Catalysed by the contributions of several non-governmental organisations as well as academia in Chile, the incorporation of an eco-centric perspective in the new Constitution and an explicit recognition of the rights of nature seems likely.

[23] Colombian Constitutional Court, 10 November 2016.

[24] Uttarakhand High Court, 20 March 2017.

Table 2: Legal Rights of Nature

Type of Ecosytem	Provincial/Local regulations	Judicial decisions
Lakes	*United States*: Lake Erie	*Colombia*: Tota *India:* Sukhna Lake
Lagoons	*Spain*: Mar Menor	
Forests		*Colombia*: Amazonia *Ecuador:* Los Cedros
Natural Areas	*New Zealand:* Te Urewera, Egmont National Park (Taranaki Maunga)	*Colombia*: Complejo Los Páramos las Hermosas, Los Nevados, Isla Salamanca *Ecuador:* Galapagos Islands
Mountains	*New Zealand:* Mount Taranaki	
Badlands		*Colombia*: Pisba
Glaciers		*India:* Himalayan Gangotri and Yamunotri
Landscapes and cultural heritage	*Australia*: Great Ocean Road	
Watersheds	*United States*: Boulder Creek Watershed	

pealed before the higher courts. There is evidence of a double-track in judicatures as well: some provincial courts may reject claims that are entertained by the higher courts.

Finally, rights of rivers are also articulated in the agreements between communities and the state. The iconic case of the Whanganui River in New Zealand is an example: the agreement between the government of New Zealand and the Maori people, which granted rights for the Whanganui river, subsequently led to a national law.

Evidently, heterogeneous strategies are deployed to achieve the recognition of the rights of nature and rivers, each with its strengths and weaknesses. A new constitutional pact is robust as it usually contains the central views and debates of the country. Reciprocally, it becomes the central axis for the interpretation of the legal system. A national law is also forceful insofar as it applies to an entire terri-

Table 3: Rights of Rivers: Regulations, Laws, Judicial Decisions

Rights of Rivers	Provincial/Local regulations	Agreements that result in a law	Judicial decisions
	Australia: Yarra River *Canada:* Magpie River and the Muteshekau Shipu *Perú:* Llallimayo River and all water sources in Melgar District.	*New Zealand:* Whanganui River	*Bangladesh:* Turag and extended to all rivers in Bangladesh *Ecuador:* Vilcabamba, Alpayacu *Colombia:* Atrato, Otún, Pance, Quindío, Magdalena, Cauca, Coello, Combeima, Cocora, La Plata. *India:* Ganges and Yamuna (stayed)

tory and is the result of a parliamentary debate involving representatives from the entire country. On the other hand, in countries that do not have provincial regulatory powers, national legislation is the only feasible alternative.

Though the strategy of obtaining city ordinances does not appear at first glance to be a powerful option, however, it does allow incremental advances to be made when possibilities at the national level seem unattainable or do not exist due to the way the judicial organisation of the state is set up.

The questions that arise next grow from the place of individualistic ideology in the occidental legal imagination and its instruments. Its corollary entails that nature can easily be recast as private property, and in this regard the individualistic orientation is not flexible enough to accommodate the collective orientation of cultures in the Global South. If we ponder Marie-Angèle Hermitte's view that jurists redefine the objects given by the world in order to insert them into their own universes,[25] the emerging ideas, regulations and court rulings on nature do indeed test the field of law. Further, legal inno-

[25] M-A. Hermitte, 'Le droit est un autre monde', *Enquête Les objets du droit* **7** (2010): 1–14. [Law is Another World].

vations that register radical ways of thinking about the environment are challenged if the pillars of the state are not ready to embrace the change. Emergent legal arguments striving to affirm the rights of rivers to flow, to be respected, and to be able to claim the rights of restoration and regeneration can be shored up or watered down in the realm of practice, including juridical practice.

In the following section, we look into the course of legal innovations on the ground in different latitudes and hybridised legal cultures in an attempt to cognise both unifying and diverging strands.

Section II

Undercurrents in the South: the contexts and cultures of river rights

The spillage of industrial effluents and sewage, the processes and residues of mining, state-supported dam construction, encroachments along riverbanks and human interferences with the watercourse play havoc with rivers. The anthropogenic causes that lead to the contamination of rivers, and barriers that dam the flow of fluvial life, range over an extensive terrain. A large number of communities and collectives in the Global South, as well as global non-governmental organisations,[26] are now appealing to civil society and national law-making authorities to right the wrongs affecting rivers – checking river pollution, mitigating the threat to bio-life forms, addressing de facto river-water and river-bed privatisation, and combatting ongoing sand mining by mafias.[27] The conferral of legal personhood in the defence of rivers is a strategy in the juridical forefront contending that rivers cannot remain silenced judicial objects when their appropriation and ecological destruction continue apace.

[26] For example, the Pachamama Alliance, the Earth Law Center, the Community Environmental Legal Defense Fund (CELDF), and the Global Alliance for the Rights of Nature (GARN) are some of the global non-governmental organisations working on this agenda.

[27] See 'Sand & Stone Mining: 45 lives lost in fatal accidents in a week' 21 Jan. 2021. https://sandrp.in/category/sand-mining/.

Yet the empowering conception of legal rights for rivers intersects with counteracting forces that can dilute the authority of the law, as we illustrate in the examples discussed below.

We identify undercurrents that affect the smooth functioning of river rights as flowing from three major sources: i) the tensions between indigenous custom and statutory law; ii) political capitalism; iii) national sovereignty. While the accord of legal rights and personhood for rivers is an attempt to merge indigenous practices with formal law, the undercurrents of differences remain strong enough to muddy the waters. Ongoing differences between a legal system derived from Occidental law and indigenous systems based on societal or religious custom are not always ironed out and differ especially in relation to the emphasis laid on the group rather than the individual. According legal personhood to rivers is variously perceived as enabling, as a halfway house, or in the experience of the Maoris of New Zealand (outlined below), as recolonising. Secondly, ongoing political capitalism[28] dilutes the authority of this juridical measure. In this regard, Holcombe perceives political capitalism as trumping both the left and the right, in ways that work to the mutual profit of the economic and political elite. The riverine context is saturated by capitalistic interests in mining and power generation, often in connivance with elected politicians. The third source that constrains the smooth functioning of legal rights for rivers is the sovereignty of the nation-state. The interests of rivers that cross provincial and national borders are often breached by conflicts over water use that remain unresolved by the nation-state both within the country and between nations.

While a common ecological vision underlies legal attempts to bestow rivers with rights, subsequent trajectories are shaped significantly by overarching national and legal cultures along with conflicting undercurrents. Below we look into 3 legal cases: the mooting of the Atrato River as a subject of rights by the Colombian Consti-

[28] Randall Holcombe describes 'political capitalism' as 'an economic and political system in which the economic and political elite cooperate for their mutual benefit'. R. Holcombe, 'Political capitalism', *Cato Journal* **35** (1) (2015): 41.

tutional Court in 2016; the statutory proceedings conferring legal personhood upon the Whanganui river in New Zealand by legislation in 2017; and the aborted attempt to declare the Ganges and the Yamuna Rivers as legal persons in India in the same year. We draw on these accounts here to take a long and slow look at processes of change and outline how these are being navigated.

Cognising and submerging subaltern interests: the Atrato River Basin, Colombia

Colombia's Atrato River Basin was declared to be a defensible subject of rights on 10 November 2016.[29] It is the third most navigable river in Colombia's Chocó region. The interests of the afro descendants (87 per cent of the inhabitants), indigenous communities (10 per cent of the inhabitants) and farmers living in the Atrato region were pleaded by the Study Center for Social Justice, *Tierra Digna*, as representative of the community councils of the region. The Center was concerned about the contamination of the river due to illegal mining, which entailed serious consequences for the health and livelihoods of the residents.

The judges addressed concerns that sought to protect the 'life, health, water, food security, a healthy environment, and the culture and the territory of the active ethnic communities'.[30] They noted that in

> our constitutionalism, which follows the global trends in the matter, the environment and biodiversity have progressively acquired valuable socio-legal connotations. And further, the obligations of the State concerning the protection and conservation of the lifestyles of indigenous peoples, black and farm communities, means guaranteeing the conditions for these forms of being, perceiving, and apprehending the world to survive.

The judicial ruling argued that 'the defense of the environment is not only a primary objective within the structure of our Social

[29] Judgment T-622/16, Constitutional Court of Colombia, translated by, and available at, the Dignity Rights Project: https://delawarelaw.widener.edu/files/resources/riveratratodecisionenglishdrpdellaw.pdf

[30] Ibid, p. 10.

Rule of Law, but it also integrates, in an essential way, the spirit that informs the entire Political Constitution'.[31] The Colombian Constitutional Court's interpretation of 'bio-cultural rights' is worth reproducing. It emphasises

> the rights that ethnic communities have to administer and exercise sovereign autonomous authority over their territories – according to their own laws, customs – and the natural resources that make up their habitat. Their culture, traditions, and way of life are developed based on the special relationship they have with the environment and biodiversity. In effect, these rights result from the recognition of the deep and intrinsic connection that exists between nature, its resources, and the culture of the ethnic and indigenous communities that inhabit them, all of which are interdependent with each other and cannot be understood in isolation[32].

The judgment proceeds to outline a three-tiered understanding of nature in the Colombian legal system:

> (i) in the first place, it begins on an anthropocentric vision that conceives the present human being as the only reason that there is a legal system (and the natural resources as simple objects at the service of the first), (ii) a second biocentric point of view claims more global and solidary conceptions of human responsibility, which advocate – in equal measure – for the duties of man with nature and future generations; (iii) finally, eco-centric positions have been formulated that conceive nature as a true subject of rights and that support plural and alternative worldviews to the approaches recently exposed[33].

The judicial decision lays out how guardians are to be selected and appointed by the national state authorities, the local communities, and an advisory team that includes the Humboldt Institute, WWF Colombia, and other research institutions.[34] The execution of the sentence, however, is complex. Since customary law is not the basis of Colombia's legal system, it is treated in a piecemeal and

[31] Ibid, p. 30.
[32] Ibid, p. 35.
[33] Ibid, p. 33.
[34] It is possible to follow the guardians' activities here: https://www.guardianesatrato.co/.

subservient mode, especially by those manning the bureaucracy. A recent report from the region underscores this view:

> There is danger in instrumentalising Indigenous peoples as stewards of the land and selectively legislating and institutionalising their ontologies. Doing so does not allow Indigenous legal systems to exist and to be recognised as they are, as legal systems different in kind that operate independently from Colombia's civil law tradition. This, in turn, reinforces artificial structures of colonial legal hegemony.[35]

The River Guardians themselves are afraid of being targets of armed attacks, as the illegal mining for gold and drugs produced from the coca plant continues unabated and produces terror in the region despite the Constitutional Court's ruling.[36] Conflicts between indigenous inhabitants of riverine areas and capitalist miners continue to undermine the interests of the former. Since mining in the Atrato River region persists, albeit illegally, the livelihoods of less well-to-do inhabitants are affected adversely. Further, the timescale for cleaning up the Atrato River may take a generation, as Brigitte Baptiste, one of the guardians, observes.[37]

Here, the recolonising culture of capitalist interests, hand-in-glove with bureaucratic elements, militates against the reasoning of the Colombian judiciary, the region's inhabitants, and the river's own interests. And so, making the Atrato river the subject of rights reflects a project where ethical claims and human rights continue to be challenged by neoliberal economic dominance.

[35] M. Arsenault, 'The Arhuaco legal tradition and the decolonization of environmentalism in Colombia', *McGill Journal of Sustainable Law,* 12 May 2021. https://www.mcgill.ca/mjsdl/article/arhuaco-legal-tradition-and-decolonization-environmentalism-colombia (accessed 7 Aug. 2021).

[36] B.B.S. Murphy, 'Drugs, gold and guns bring terror and death to the 400-mile waterway in Colombia', *The Sunday Post*, 16 Oct. 2019. https://theferret.scot/colombia-drugs-river-atrato/ (accessed 7 Aug. 2021).

[37] RCN Radio, 23 Mar. 2018, 'A un año del fallo de la Corte, la contaminación del río Atrato es crítica', https://www.rcnradio.com/estilo-de-vida/medio-ambiente/un-ano-del-fallo-de-la-corte-la-contaminacion-del-rio-atrato-es (Accessed 1 Aug. 2021).

Breaches in the Maori way: River Whanganui in New Zealand

On 15 March 2017, the River Whanganui (known as *Te Awa Tupua* in the region) was accorded legal personhood by legislation acceding to a long-standing social movement by the Maoris claiming representation for their centuries-old relationship with the river. The Maoris constitute about 15 per cent of New Zealand's inhabitants and are concentrated in the Whanganui region. They regard the river as a living ancestor in a temporal and spatial continuity that proclaims, 'I am the River, the River is Me,' where the river is conceived as indivisible in Maori cosmogony along its 290 kilometre course running from Mt. Tongariro all the way to the Tasman sea.

Interestingly, the idea of marrying indigenous Maori conceptions with legal personhood for the Whanganui river was proposed by two Maori academics, James Morris and Jacinta Ruru, who were persuaded that this legal strategy would 'create an exciting link between the Maori legal system and the state legal system'.[38] It could also work as the high-water mark for resolving settler–indigenous claims over what were treated as separable entities in common law – the river's waters, banks and riverbeds. Two representatives, one from the Maori and one from the New Zealand state, were made guardians of the river and a fund ($30 million) was allocated in 2017 for enabling the well-being of the river.

The New Zealand legislation granting rights to the River Whanganui was celebrated by the Maoris as setting right an injustice that had overlooked their relationship with the river. The cultural and spiritual values associated with the Whanganui river and valorised under the new legislation were initially met with Maori approbation. But what were the environmental consequences on the ground? The right to produce electricity from the water is still vested with a private power company while the ownership of the water that flows through the river is left out of the agreement, diluting the interests of the indigenous inhabitants. A close examination shows that the

[38] J. Morris and J. Ruru, 'Giving voice to rivers: Legal personality as a vehicle for recognising indigenous peoples' relationships to water?', *Australian Indigenous Law Revie,* **14** (2) (2010): 49–62.

rights to diversions for hydropower (guaranteed under pre-existing laws) will remain in place until 2039.[39] The interests of corporate energy producers are written into the common law and despite the enactment of the new legislation, faecal bacteria and sediment from farming, as well as pollutants such as plastics, are increasingly discernible in its watercourse. Further, notions of private ownership and commercial purposes in statutory law continue to be 'conceptually distant' with regard to the priority accorded to the group or collective, seen from the perspective of indigenous worldviews and practices.[40]

Gerrard Albert, one of the chief Maori negotiators with the New Zealand state, opines that change will take time. Moreover, he does not see 'the river's legal personhood as primarily an environmental issue. It's about acknowledging and respecting Māori – something that can have flow-on effects to how Māori are treated more broadly.'[41] From an ethical and decolonising standpoint, underscoring the sacred beliefs and practices of the Maori is a widely supported move. Whether the river's environment will turn the corner with the grant of personhood – certainly in the short term – remains an open issue. What is evident is that processes pertaining to the Whanganui river, akin to the River Atrato's predicament, are governed by the preeminent authority and sovereignty of the state – here the New Zealand state – and its legal institutions.

Plainly, charting a new course for the river invites invigoration of hybridising practices that pertain to Maori ideas of guardianship and representation, such as elders' panels. The recognition of oral testimony, relevant to the Whanganui river, would be significant in

[39] J. Lurgio, 'Saving the Whanganui: Can personhood rescue a river?', *The Guardian*, 29 Nov. 2019. https://www.theguardian.com/world/2019/nov/30/saving-the-whanganui-can-personhood-rescue-a-river (accessed 10 Aug. 2021).

[40] cf. L. Belluci, 'Customary norms vs state law: French courts' responses to the traditional practice of excision', in R. Provost (ed.), *Culture in the Domains of Law* (Cambridge: Cambridge University Press, 2017), p. 89.

[41] J. Hollingsworth, 'This river in New Zealand is legally a person. Here's how it happened', *CNN*, 12 Dec. 2020. https://edition.cnn.com/2020/12/11/asia/whanganui-river-new-zealand-intl-hnk-dst/index.html (accessed 1 Aug. 2021).

order to articulate and implement legal personhood that is meaningful for the Maoris.

The undercurrent of majoritarian sentiment: Rivers Ganges and Yamuna, India

The grant by New Zealand of legal personhood to the Whanganui River seems to have resonated with two judges of the Uttarakhand High Court, a provincial court in North India. Confronted with the degradation of the sacred rivers Ganges and Yamuna, the High Court of Uttarakhand accorded these two rivers all the rights of a legal person on 20 March 2017, soon after the New Zealand legislation was passed.[42] The judgment states that these two rivers and their tributaries have the rights of juristic persons with 'all corresponding rights, duties and liabilities of a living person in order to preserve and conserve river Ganga and Yamuna' (paragraph 19).[43]

The decision conjoined arguments for endowing the rights of a legal person upon the Ganges and the Yamuna rivers with prior juridical reasoning in India that had construed the deity as a juristic person in keeping with Hindu religious beliefs. The Ganges and Yamuna rivers were declared as juristic persons by the judges because these two rivers are akin to deities and, as evidently sacred entities, call for protection and guardianship to facilitate the 'faith of society', which was seen to be compromised by their deplorable environmental state.

Yet, the Uttarakhand judgment ran into troubled waters on socio-legal grounds contoured by India's plural religious heritage and its secular constitution. The judgment had singled out rivers sacred to the majoritarian religion, Hinduism, for legal attention. Misgivings arose as the judgment equated the 'faith of society' with Hindu society. This is a contested position in a country where religious culture is not homogeneous. Bushra Quasmi (2017) questions the

[42] *Mohd Salim v State of Uttarakhand & others*, WPPIL 126/2014 (High Court of Uttarakhand, 2017), http://lobis.nic.in/ddir/uhc/RS/orders/22-03-2017/RS20032017WPPIL1262014.pdf (accessed 3 Aug. 2021).

[43] Ibid, 19.

accord of legal personhood for rivers on the grounds of sacredness because, as she puts it, 'a river is not a deity for everyone – only a natural resource to be used in an effective and sustainable manner'. She contends that a river, in contrast to a deity situated in a temple, for instance, is not 'exclusionary to non-believers'.[44]

A secular argument for the river as a legal person, perhaps, would enable a focus upon the ingress of industrial effluents and sewage that sully the waters for believers and non-believers alike. Further, the empowerment afforded by legal personhood could be directed towards righting river wrongs which have sacred facets as well. We cite two instances that have been a recent cause for concern. The Hindu practice of immersing idols (which carry traces of paint and non-bio-degradable materials) in rivers leads to a perceptible rise in pollution levels. Secondly, the occasional floating of half-burnt corpses in the Ganges (which was accentuated by those who could not afford wood for cremation through the COVID-19 crisis), is evidently harmful to the health of both people and the river, as environmentalists noted before the country's National Green Tribunal. It cannot be assumed that sacred practices buttress the environmental interests of rivers or should be at the forefront of matters deliberating legal personhood.[45]

A second discrepancy arises from the legal case which is built for the River Ganges by drawing exclusively upon ancient Sanskrit texts as sources while eclipsing the oral, tribal, regional and linguistic traditions of Hinduism in the judgment. As we move from textual space to the territorial emplacement of rivers and regional articulations of Hinduism, it becomes apparent that other rivers in India too, such as the Godavari, Kaveri and Narmada, are invested with local and powerful sacred traditions. Regional and oral manifestations of the sacredness of these latter rivers are overshadowed in the

[44] B. Quasmi, 'Rivers as legal persons: A regressive step', *Economic and Political Weekly* **52** (30) (2017).

[45] 'Indian government criticised after scores of bodies surface in Ganges', *The Guardian*, 19 Jan. 2016, https://www.theguardian.com/world/2016/jan/19/hindu-bodies-ganges-india-pollution-narendra-modi (accessed 2 Aug. 2021).

transposition of the juristic status of a deity to the Ganges and the Yamuna exclusively by recourse to classical, textual traditions.

Further, as the judgment on the legal personhood of the Ganges and Yamuna rivers proceeds, there is a conflation of the juristic person and the living person. The judgment accords Rivers Ganges and Yamuna, along with their tributaries, all the rights of juristic persons and 'all corresponding rights, duties and liabilities of a living person in order to preserve and conserve river Ganga and Yamuna' (paragraph 19).[46] The conflation of the juristic person and the living person is not apparent in the legal formulation of the idea in either Stone's path-breaking work or later. To regard 'juristic' and 'living' persons as coterminous, as Erin O' Donnel and Julia Talbot-Jones express it, 'would be a significant expansion of legal rights for nature and the existing precedent surrounding the concept of legal personality'.[47]

And yet paradoxically, the Ganges is alluded to with the suffix 'Maa' (Mother) by the Hindus. In Bangladesh, too, a river is revered as Maa or mother without resonating with the religious connotations of Hindu beliefs. The dissonance between the vernacular South Asian conception and the legal formulation of personhood assumes meaning in legally unanticipated ways. Viewed from the popular perspective, the conflation of the living and the legal person seems to bring the law closer to colloquial, cultural thinking about the river as a person, and especially as the nurturing mother in South Asia. The miscognition seems to work as an assimilative cultural invention for those untutored in the niceties of the law. This aspect came to the fore when reports in vernacular media following the judgments conferring legal personhood upon rivers in both India and Bangladesh averred that for the residents there, rivers have always been moth-

[46] *Mohd Salim v State of Uttarakhand & others*, WPPIL 126/2014 (High Court of Uttarakhand, 2017), https://elaw.org/system/files/attachments/publicresource/in_Salim__riverpersonhood_2017.pdf para. 19 (accessed 3 Aug. 2021).

[47] E. O'Donnell and J. Talbot-Jones, 'Will giving the Himalayas the same rights as people protect their future?', *Pursuit Melbourne University*, 20 Apr. 2017. https://pursuit.unimelb.edu.au/articles/will-giving-the-himalayas-the-same-rights-as-people-protect-their-future (accessed 10 Aug. 2021).

ers.[48] Tellingly, the notion of the legal person also draws upon the concept of the living person, albeit masked, to articulate its juristic sense even as it comes to underscore the difference over time.

Finally, the guardianship of the Ganges and the Yamuna, as envisaged in the Uttarakhand court's ruling, was to be vested primarily in the government's representatives, from which the latter sought to retract. Since the decision to confer personhood was a provincial court's decision, the government, or more precisely the state administration, sought and succeeded in obtaining its stay by the Supreme Court (though a final hearing has yet to be held). The provincial government's arguments poured cold water over the Uttarakhand case with a two-pronged rebuttal. The Rivers Ganges and Yamuna, it was stated, pass through provinces and countries where the writ of the Uttarakhand judiciary does not prevail. The Uttarakhand executive's second reason contended that it was unclear who would be liable to pay on the river's behalf if the river flooded, for instance. The view that the decision was 'unimplementable' prevailed, though a Supreme Court hearing is awaited.

The unwavering power of undercurrents

While national and religious cultures vary in the Global South, the appalling environmental state of the rivers here calls for innovative legal measures that work. The trend towards invoking the rights of rivers as legal persons is a clarion call to action. It provides a promising template – but does it herald new dawn?

The legal process of investing rivers with personhood within present-day national contexts of the Global South reflects the view that local cultures and their conceptions of the sacred afford templates for alternative visualisations of riverine health. While the conception of legal personhood of rivers is a metaphorisation that exists independently of and distinct from cultural and religious personifications of nature, it does resonate on the cultural level. Where imag-

[48] Carolyn Merchant holds the view that masculinist technologies killed nature's nurturing idiom. C. Merchant, *The Death of Nature: Women, Ecology and the Scientific Revolution* (San Francisco: Harper & Row Publishers, 1983).

inings and collective representations of nature personify rivers, the cultural meanings of rivers as ancestors or sacred beings are popularly conflated with and culturally attuned to the legal construct of personhood. Is this the work of agency in that 'metamorphic zone' of which Latour speaks, or, as Rene Provost puts it, a way of beckoning us 'to be conscious … of the crucially creative character of the process of presenting culture to law' and indeed law to culture?[49] In countries of the Global South, the investment of rivers with legal rights is viewed positively both from an ethical standpoint *vis-à-vis* formerly subjugated vernacular beliefs about the sacredness of rivers, as well as from an instrumental perspective that seeks to revive rivers through this strategy.

While the cases discussed above indicate that legal personhood for rivers is widely regarded as being close to the indigenous sentiment of riverine peoples, the process of conferring legal personhood is evidently not a one-size-fits-all process. The Maoris of New Zealand and the inhabitants of the Atrato basin are cultural minorities vis-à-vis the dominant white settlers within their nations (though they are majorities in the Whanganui and Atrato regions respectively), but the case of India adds further dimensions in relation to cultural entailments and sacralised rivers. In India, the issue of legal personhood for rivers, framed in non-secular terms, tilts towards the majority's religious interest, overlooking the interests of religious minorities in a country where the majoritarian faith is becoming increasingly dominant. Nor are sacred practices unambiguously beneficial, seen from the perspective of river contamination.

Pressing ahead with a line of thinking that compares the edifice and workings of 'modern', rational–legal law with indigenous custom in the countries of the Global South, it is plain that the present legal framework for developing natural resources, including rivers, grew out of the context of colonisation. Statutory law did not happen as organic development and even now the constitution and

[49] Latour, 'Agency at the time of the Anthropocene'; R. Provost, 'Centaur jurisprudence: Culture before the law', in R. Provost (ed.), *Culture in the Domains of Law*, p. 9.

workings of law in formerly colonised states show up its hybrid character. Initially, colonial laws were accepted perforce as historic injustices or reshaped by 'natives' on the ground. These latter practices ran alongside the colonisers' imposition of alien legal conceptions and languages. Gradually, the colonisers' legal system became a part of the successor post-colonial nation-states and exists nowadays as a patchwork together with select customary laws. And so while it is from the reserves of custom in the Global South that the movement for legal personhood for nature draws its momentum, what Quijano terms the 'coloniality of power' still dominates the legal discourse.[50]

The imperfections of legal regimes in areas populated by indigenous peoples who are encapsulated within sovereign nation-states, as in New Zealand and Colombia (and indeed tribal areas within India), make it fertile territory for political capitalism to thrive. The persistence of the old (colonial) rules, along with the tardy implementation of newer laws in favour of indigenous or local peoples, are easily turned to advantage by capitalist interests which overexploit both rivers and riverine peoples. Often the rulings of the judiciary, the legislative proposals of parliament, and the techniques of the bureaucracy work at cross-purposes and run counter to subaltern interests in the Global South. The powerlessness of the bureaucracy to insulate its workings from politicians and the entanglements of the latter with capitalists pose big challenges for preventing mining activities and noxious effluents from affecting rivers while ensuring the sustenance of those citizens who derive their small-gain livelihoods from riverine resources.[51]

In an overarching sense, illegal actions *vis-à-vis* rivers prevail because there is inadequate state and mainstream societal support, including funding, for countermeasures. The bestowal of legal rights upon rivers adds a new arrow to an environmental arsenal but the

[50] A. Quijano, 'Coloniality of power, eurocentrism, and Latin America', *Nepantla: Views from the South* **1** (3) (2000): 533–580.

[51] For details on India, see: https://sandrp.in/2016/12/28/river-sand-mining-in-india-in-2016/2017 and for Colombia, see: https://theferret.scot/colombia-drugs-river-atrato/ (accessed 7 Aug. 2021), for instance.

law has to be enabled to act beyond well-recognised constraints. How do we chart an ecological future for rivers while keeping in view subaltern interests in rivers within the nation-state, the countries of the South, and beyond? Often countries tend to take up the issues of one or more rivers but are scarcely able to consider the ecological restoration of all rivers given the scale and costs involved.[52] Again, problematically, while rivers cut across nation-states, the law remains anchored to the territory through which rivers flow and which it governs as sovereign, thus compromising the ecological integrity of the river as a unit. From a futuristic perspective, thinking cannot remain frozen in the frame of the constitutional nation-state (or its provinces) and sooner or later we have to consider rivers in a planetary reckoning. While the increasing country-wide acceptances of river rights may augur well, the currents and undercurrents that run alongside such legal moves do not constitute means that are robust enough and sufficient to keep the rivers of the planet flowing, a subject we look into in the next section.

Section III

What after country-wide legal rights for rivers? Planetary vistas

'The river is everywhere'
Hermann Hesse – *Siddhartha*

We next turn to the aspect of rivers as integral ecological features that course across countries and continents. While rivers run across the earth, they are partitioned in the context of modern nation-states. Thinking like a river would suggest that the conception of nation-states can disrupt its flow. We will dwell on this thought next.

Does the reality of nation-states aggravate riverine problems? Ana-

[52] Exceptionally, Bangladesh has declared legal personhood for all the rivers that flow through its territory.

lytically speaking, each stretch of the river comes to be governed by different laws on matters such as the quantum of water that can be drawn or where and whether rivers should be dammed. As with the Ganges, the sharing of waters that flow through more than one country is bound up in claims and counterclaims. Sharing river water between countries and provinces becomes fraught when the territories across which they flow are peopled by those with diverging economic interests or ecological worldviews. These areas easily become sites of conflict. Clearly, countries that are closer to river sources have a natural advantage over those where the river flows along plains and on to the delta. But other new and old issues surface and are not easily put aside: fishing rights, acceptable levels of river pollution, the responsibility for cleaning up, and freshwater life, for example.

The issues affecting rivers have quite obviously, of course, been exacerbated by industrialisation, followed by globalisation and the Great Acceleration, though differentially and at different points in time. Historically, stretches of long rivers were known by varied names since neither the means of communication nor cartographic mappings existed on the plane that they do now.[53] People related primarily to their part of the river. Though navigable rivers were always used for transport, the scale and motorisation involved – as well as the machineries and processes for extracting minerals from rivers – have led to the diminishment of rivers as habitable bodies for non-human and subsistence-oriented human life. What kind of institutions should we be seeking in the defence of rivers and the human and non-human lives that we want them to harbour? While national and international water commissions have been the past mode of dealing with problems that cross provincial and national waters, the ecological imperatives of the Anthropocene call for both a reinvigoration/recasting of older institutions and experiments that engage with a new imagination.

Certain rivers could be marked for exclusive attention, just the way that the seven natural wonders of the world have been marked

[53] The Danube, for instance, was known by diverse names, as it flowed through different linguistic and cultural regions.

and accorded heritage status. The setting up of transnational but circumscribed regional bodies could also prioritise critical environmental concerns arising along the length of a river. While rivers as geographical features are described through their common characteristics, the issues affecting particular rivers differ considerably. The problems confronting the Ganges are distinct from those affecting the Atrato or Whanganui rivers, for instance. Again, for example, the Amazon, which runs through eight countries, or the Ganges, which traverses just two, could benefit from a regional, transnational body that could look into specific ecological issues affecting riverine environs. Casting a look at the natural world beyond rivers, it is contended that such a proposal could be beneficial for other natural features that are critical for planetary well-being, such as the transcountry Himalayan belt of glaciers, or the polar caps. Can we think of other strategic tools?

What we want for rivers is an institution that can be entrusted with their guardianship regarded from the unitary perspective of Planet Earth. Burke and Fishel advocate the setting up of an 'Earth System Council' of the United Nations[54] but others contend that the existing United Nations organisation, which was envisaged as a body for reducing outbreaks of wars between nations, may not be a good fit for this purpose.[55] Christopher Stone's work encourages 'electoral apportionment' for representatives of nature while Burke and Fishel reiterate that 'the living systems of biosphere demand recognition and representation in a policy that would extend below, above, and beyond the state'.[56] Writing in a similar vein, Dryzek suggests that ecological democracy should be designed to 'match the size and scope

[54] A. Burke and S. Fishel, 'Across species and borders: Political representation, ecological democracy and the non-human', in J.C. Pereira and A. Saramago (eds), *Non-Human Nature in World Politics* (New York: Springer, 2020), pp. 33–52.

[55] We are grateful to Professor Dipesh Chakrabarty for his verbal discussion of these ideas.

[56] C. Stone, *Should Trees Have Standing? Law, Morality and the Environment* (Oxford: Oxford University Press, 2010); A. Burke and S. Fishel, 'Across Species and Borders'.

of problems' across states and borders where necessary.[57] Yet, it is not difficult to foresee that nation-states will not be easy allies. As Burke notes, the fact that historically countries have had 'the inalienable right … to dispose of their natural wealth and resources in accordance with their national interests', without taking the interests of other states into account, is a blind spot for the planet.[58]

Experiments with water and river parliaments have been afoot in France and India since the 1990s. Bruno Latour helped to pave the way for 'water parliaments', which included public hearings that brought concerned citizens, engineers and biologists together to discuss the sustainability of France's Dordogne and Garonne rivers.[59] In a recent lecture,[60] Latour returns to the theme of a parliament in the context of an ENGO called 'The Embassy of the North Sea', which is attempting to concretise this idea through diplomatic strategising. The Embassy of the North Sea, founded in the Netherlands in 2018, seeks to impart a political voice to things as varied as codfish and gas fields.

Turning to another part of the world, in India the Tarun Bharat Sangh, an NGO led by Ramon Magsaysay award-winner Rajendra Singh, has been at the forefront of a river parliament of the Arvari River in the province of Rajasthan since 1998.[61] This parliament comprises representatives from 70 villages and is convened twice a year. The parliament's pioneering efforts have successfully rejuvenated the river and its stock of fish through the construction of earthen dams.

[57] J.S. Dryzek, 'Political and ecological communication', *Environmental Politics* **4** (4) (1995): 13–30.

[58] A. Burke, 'Blue screen biosphere: The absent presence of biodiversity in international law', *International Political Sociology* **13** (3) (2019): 333–351.

[59] In B. Latour and P. Weibel (eds.), *Making Things Public Atmospheres of Democracy* (Boston: MIT Press, 2005): 482–485.

[60] 'The Parliament of Things | Philosopher Bruno Latour, Lecture'. Nov 25, 2020. Accessed August 2, 2021 https://www.youtube.com/watch?v=zZF9gbQ7iCs

[61] R. Singh, 'How a river parliament came into being', *The Hans India*, June 14, 2016. https://www.thehansindia.com/posts/index/News-Analysis/2016-06-14/How-a-river-parliament-came-into-being/234973,Accessed February 22, 2022

Building on Latour's idea of a 'parliament of things',[62] our ambitious second suggestion would be to propose a world parliament of rivers in the interests of Planet Earth. Mobilisation for river parliaments at planetary, meso and local scales would strengthen the gains from legal rights for rivers.

Concluding remarks

The legal notions of rights and personhood for rivers, as indeed for other waters, are being reshaped and reworked across the diversity of national and cultural contexts. The impetus for such legal expressions arises from present-day riverine predicaments and the renewed appraisals of western and indigenous cultural thinking. It indicates the potential of 'indigenous' culture as a valuable source in charting a course in the defence of our rivers.

To close with the idea of riverine flows as a metaphor is indeed to submit that it is flows which will meld diverse ecological cultures and legal systems with our planetary future. Flows could be a way to relate the multiple, non-western worldviews of the river as a person (a mother, ancestor, nurturer) to Gaia, the Greek goddess of Earth, and to link them also to current juridical conceptions that envisage rivers as persons and subjects of rights, serving the planetary in their opposition to injurious damming or mining. The process of recognising the rights of rivers is about embarking on a confluence of ideas, a starting-point for the earth, not a final destination. It concerns the distillation of current environmental law as it seeks to merge indigenous streams of thought into rivers that embody a planetary vista for the earth, albeit not without undercurrents.

[62] B. Latour, 'Outline of a parliament of things', *Ecologie & Politique* **56** (1) (2018): 47–64.

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