



From the river-object to the river-person? The emergence of discourses on the rights of nature and legal personhood of the Rhône River

Cyrille Vallet

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Du fleuve-objet à la personne-rivière? L'émergence des discours sur les droits
de la nature et la personnalité juridique du fleuve Rhône

*From the river-object to the river-person? The emergence of discourses on the
rights of nature and legal personhood of the Rhône River*

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*A ces cours d'eau de montagnes, dans lesquels j'ai joué
et qui m'ont vu et fait grandir*

“El agua habla sin cesar y nunca se repite”
Octavio Paz, *Semillas para un himno*, Refranes, p.155
Obras completas, 2003, ed : galaxia Gutenberg

Jupiter et le Métayer, de la Fontaine

Jupiter eut jadis une ferme à donner.
Mercure en fit l'annonce, et gens se présentèrent,
Firent des offres, écoutèrent:
Ce ne fut pas sans bien tourner.
L'un alléguait que l'héritage
Était frayant et rude, et l'autre un autre si.
Pendant qu'ils marchandaient ainsi,
Un d'eux, le plus hardi, et non pas le plus sage,
Promit d'en rendre tant pourvu que Jupiter
Le laissât disposer de l'air,
Lui donnât saison à sa guise,
Qu'il eût du chaud, du froid, du beau temps, de la bise,
Enfin du sec et du mouillé,
Aussitôt qu'il aurait baillé.
Jupiter y consent. Contrat passé, notre homme
Tranche du roi des airs, pleut, vente, et fait en somme
Un climat pour lui seul. Ses plus proches voisins
Ne s'en sentaient non plus que les Américains.
Ce fut leur avantage, ils eurent bonne année,
Pleine moisson, pleine vinée.
Monsieur le receveur fut très mal partagé.
L'an suivant, voilà tout changé:
Il ajuste d'une autre sorte
La température des cieux.
Son champ ne s'en trouve pas mieux;
Celui de ses voisins fructifie et rapporte.
Que fait-il? Il recourt au monarque des dieux;
Il confesse son imprudence.
Jupiter en usa comme un maître fort doux.
Concluons que la Providence
Sait ce qu'il nous faut mieux que nous.

Résumé

Dans le contexte contemporain de l'Anthropocène, les droits de la nature et la reconnaissance de la personnalité juridique des entités naturelles sont souvent promus comme une solution potentielle pour prévenir les crises écologiques. Cependant, une approche critique met en exergue l'instrumentalisation de ces concepts dans le cadre des rapports de pouvoir. Le développement du discours sur les droits de la nature et la personnalité juridique en Europe suscite ainsi des interrogations quant à une éventuelle instrumentalisation. Cette approche représente une rupture profonde avec les cadres juridiques et les rapports à la nature qui prédominent actuellement en Europe.

Cette thèse explore ce changement de paradigme, en se focalisant sur les dynamiques de mise à l'agenda politique de la personnalité juridique d'un cours d'eau transfrontalier par des acteurs périphériques aux cercles décisionnels et de gouvernance. La question de recherche est la suivante : « Dans un contexte transfrontalier, caractérisé par des cadres institutionnels et juridiques différents, comment les acteurs et les coalitions d'acteurs se réapproprient-ils le concept de personnalité juridique pour rouvrir la gouvernance d'un fleuve ? » Dans le cadre de cette étude, la réflexion s'articule autour de trois corpus théoriques : l'écologie politique, l'analyse des processus politiques, et la géographie politique.

L'introduction présente tout d'abord une synthèse de plusieurs cas d'attribution et de mises en œuvre de la personnalité juridique des écosystèmes aquatiques et des fleuves, suivie d'une explicitation du cadre théorique de l'étude. Le chapitre 2 analyse les cas de la Whanganui, de l'Atrato, de la Turag et de la Mar Menor et met en lumière des variables explicatives des évolutions juridiques. Ces variables sont ensuite mobilisées pour discuter des conditions d'émergence du discours de la personnalité juridique du fleuve transfrontalier Rhône. Le chapitre 3 décrypte les stratégies des acteurs porteurs de ce discours. Enfin, le chapitre 4 explore les imaginaires véhiculés par la personnalité juridique, révélant l'entrelacement de visions différentes du monde et du fleuve, de l'extractivisme à la démocratie en passant par l'écocentrisme.

A ce jour, la mise en discours de la personnalité juridique du fleuve Rhône ne possède pas de caractère performatif. Toutefois, ID-Eau et la CIPEL activent divers outils participatifs, parmi lesquels des pétitions, des conventions citoyennes, et des réunions publiques, qui démontrent la dynamique ascendante des démarches. Ces dernières interrogent, à travers des relations de pouvoir, les modalités contemporaines de la gouvernance du fleuve devenu objet socio-écologique. La construction d'un problème collectif, pour lequel la personnalité juridique serait la solution, mérite d'être consolidée. Si la reconnaissance de la personnalité juridique du fleuve Rhône s'avère être une demande sociétale, la gouvernance de l'eau devrait intégrer cette préoccupation. Dans le cadre d'une évolution ou d'une réforme des processus décisionnels, associer différemment les citoyens aux prises de décisions permettrait de passer d'une gouvernance à dominante technique et administrative vers une gouvernance à dominance politique. Cela pourrait conduire à un renouvellement des fondements démocratiques.

Abstract

In the contemporary context of the Anthropocene, Rights of Nature and legal personhood of natural entities are often promoted as potential solutions to avoid ecological crises. However, a critical approach highlights the instrumentalisation of these concepts within the framework of relations of power. The development of the discourse surrounding the Rights of Nature and legal personhood in Europe gives rise to inquiries regarding the potential instrumentalization of these concepts. This approach represents a profound departure from the legal frameworks and relationships with nature that currently predominate in Europe.

This thesis explores this paradigm shift, focusing on the introduction of the legal personhood of a transboundary watercourse into the political agenda by actors peripheral to the decision-making process and water governance system. The research question that guides this study is as follows: “In a transboundary context, characterized by different institutional and legal frameworks, how do actors and coalitions of actors reappropriate the concept of legal personhood and to what extent do they reopen the governance of a river?”. This present study is grounded in three theoretical frameworks: political ecology, analysis of policy process and political geography.

The introduction commences with a synopsis of numerous cases in which the legal personhood of aquatic ecosystems and rivers has been recognised and implemented. This is followed by an exposition of the theoretical framework of the study. Chapter 2 provides an analysis of the cases of the Whanganui, Atrato and Turag Rivers and the Mar Menor lagoon, highlighting the variables that explain the legal evolution. These variables are then used to discuss the conditions of emergence of the discourse on the legal personhood of the Rhône transboundary river. Chapter 3 provides an in-depth analysis of the strategies employed by the various actors involved in this discourse. Finally, Chapter 4 explores the imaginaries revealed through the concept of legal personhood, exhibiting the interweaving of different visions of the world and the river, ranging from extractivism to democracy and ecocentrism.

The discourse surrounding the legal personhood of the Rhône River has not yet been performative. However, ID-Eau and CIPEL are employing a variety of participatory tools, including petitions, citizens' conventions and public meetings, which demonstrate the bottom-up nature of these initiatives. These initiatives raise questions about the governance of the river, regarded as a socio-ecological object, through the lens of power relations. The construction of a collective problem, for which legal personhood would be the solution, deserves to be consolidated. Should the recognition of the legal personhood of the Rhône river prove to be a societal demand, water governance should integrate this concern. In the context of a change or reform of decision-making processes, involving citizens in a different way in decision-making would make it possible to move from predominantly technical and administrative governance to predominantly political one. It is conceivable that this could renew the democratic foundations.

Acknowledgments

“Heureux qui, comme Ulysse, a fait un beau voyage”¹ is the maxim. I could not say more regarding this extraordinary journey that my doctoral journey was.

I am grateful to my co-directors Professor Christian Bréthaut and Professor Michel Lussault who have made this research so interesting and challenging. They have made themselves available and been very supportive, inviting me to push beyond my limits after a thorough deconstruction of my engineering background. They encouraged me to explore new ideas, theories, concepts and methods. They reminded me that there is a whole world of knowledge out there just waiting to be discovered (with a little work...) and shared. Being a member of the University of Geneva and Ecole Normale Supérieure de Lyon proved to be highly complementary in terms of the different expertise. The people of these Universities and their laboratories are what make them great, and my colleagues were amazing. They will recognize themselves and I would like to express my sincere gratitude to them for the fruitful discussions we had on ideas, feedback on ongoing work, books to read and lunch breaks.

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“Frotter ma cervelle contre celle d'autrui”² (Montaigne) and engaging fascinating discussions with these inspiring individuals, alongside numerous scholars, interviewees, professionals, citizens (...) I encountered during this process was an incredible pleasure. I am grateful to them.

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¹ Poem from Joachim du Bellay, translated as “Happy who, like Ulysses, has made a beautiful journey”

² Expression from Montaigne, translated as “rubbing my brain against someone else's”

Acronyms

Acronyms	English	French
AERMC	Water Agency of Rhône – Méditerranée Corse	Agence de l’Eau Rhône-Méditerranée Corse
APR	Popular Assembly of the Rhône River	Assemblée Populaire du Rhône
CIPEL	International Commission for the Protection of the Waters of Lake Geneva	Commission Internationale pour la Protection des Eaux du Léman
CNDP	National Commission for Public Debate	Commission Nationale du Débat Public
CNR	National Company of the Rhône River	Compagnie Nationale du Rhône
CUREG	University Commission for Ethical Research at the University of Geneva	Commission Universitaire pour une Recherche Ethique à l’Université de Genève
EDF	French Electricity	Electricité de France
EU	European Union	Union européenne
GARN	Global Alliance for Rights of Nature	/
IAGF	Initiatives for the Future of Great Rivers	Initiative pour l’Avenir des Grands Fleuves
PLI	Popular Legislative Initiative	Initiative Législative Populaire
RoN	Rights of Nature	Droits de la Nature
RoR	Rights of Rivers	Droits des Rivières
SIG	Geneva Industrial Services	Services Industriels de Genève
WFD	Water Framework Directive	Directive Cadre sur l’Eau

Preface

The present manuscript proffers a comprehensive account of the findings derived from my three-years PhD research, which was conducted under the joint supervision of Professor Bréthaut from the University of Geneva and Professor Lussault from the Ecole Normale Supérieure of Lyon. This research is situated within a contemporary *momentum* in which the concept of Rights of Nature, and its operationalisation through legal personhood, is promoted by its proponents as a “panacea” against environmental degradation. Indeed, a variety of scholars, associations and decision makers claim that the Rights of Nature supersede and eliminate the *summa divisio*, thereby resulting in superior protection for the environment. They assert that this constitutes a substantial shift in paradigm. Concurrently, others claim that the paradigmatic shift is either inefficient or dangerous due to its potentialities to deconstruct our legal foundations. Today, various regions have adopted this concept, particularly through the acknowledgement of the legal personhood of rivers. However, the implementation of this approach varies significantly worldwide. Moreover, upon closer examination of its practical implementation, it becomes evident that this concept is mobilised for a diverse array of reasons and purposes. Consequently, the subject is a matter capable of engendering debates beyond legal scholars and in relations with associations, officials and citizens.

The focal point of this study is the Rhône River, which is employed as a living laboratory. As a water engineer, it is no surprise that I selected a river as the medium of discussion of the Rights of Nature. The pertinence of the Rhône River is attributable to various factors. First, the river has become an industrial tool, supporting the economic development of its basin and resulting in a governance of few powerful actors. Second, the transboundary nature of the river brings a new case to the on-going conversation. Third, various actors have been advocating for the Rights of the Rhône River.

What could be more surprising is the interest of a water engineer to the emergence of this discussion. It should be understood as a motivated professional evolution rather than a career reorientation. As a water management engineer, I have cultivated an interdisciplinary understanding to address tensions between water users. The initial training I received covered disciplines such as hydrology, biology, physics and chemistry, with some introduction to social concepts. With this background, I was soon confronted to the unexpected – at least for me, as young water engineer – socio-nature characteristics of water and rivers. Water management, indifferently that we consider the ecosystems, its treatment or its distribution, implies a dedicated governance. Water is indeed at the crux of power relations which results of and are the results of complex socio-political processes and requires choices. These choices should be made on explicit political criteria and not only technical ones. In this context, how does the legal personhood of the river challenge and illuminate the prevailing debates?

To discuss this subject, the manuscript is organised around five chapters, reflecting an article-based thesis. Chapter 1 presents various cases of the rivers’ legal personhood, thereby setting the scene on a global scale. By doing so, it gives me the opportunity to identify the gaps in the existing literature and to explain the theoretical framework within which the research is situated. I then present my research question which is “In a transboundary context, characterised by different institutional and legal frameworks, how do actors and coalitions of actors reappropriate the concept of legal personhood and to what extent do they reopen the governance of a river?”. The conclusion of Chapter 1 is marked by the assertion of the Rhône River’s significance as a case study. The ensuing three following chapters correspond to three articles. The progression is logical. Chapter 2 provides elements of answer to the “what are we talking about?” question. Chapter 3 explores the strategies of actors and develops arguments in relation

with the question “how do actors promote a change of paradigm?”. Chapter 4 develops on the “what does it reveal?” question. Chapter 5 is the conclusive chapter. First, I return formally to the research question and discuss the hypotheses. Subsequent to this, I present a number of elements that I believe to be conducive to the identification of a way forward. I also posit that the purported paradigmatic shift may in fact be of a different nature. Rather than posing a threat to legal foundations or addressing the ecological crisis, the concept of legal personhood of natural entities has the potential to profoundly challenge our decision-making processes and democratic functioning.

This thesis has been written with a variety of readers in mind. It is first addressed to the scientific community of various disciplines, such as geographers, legal scholars and political scientists. Second, managers of water bodies can get lights of the request for rivers’ legal personhood. Third, policy makers will find some policy tips or recommendations regarding water governance and public participation in decision-making processes. Finally, proponents of the legal personhood will benefit of analyses of bottlenecks. It is my hope that all readers will find scientific evidence to further the discussion on legal personhood and the Rights of Rivers and to address the various ongoing crises.

1 Introduction

1.1 An emerging new paradigm: the Rivers' Legal Personhood

The quality of the ecosystems is in decline and their effective functioning is under threat. This phenomenon persists despite the continuous development and implementation of environmental legislation aimed at two key objectives: i) strengthening environmental management commitments to the public and ii) developing specific management tools (Mermet et al., 2005). Some authors (Borràs, 2016; Bourg, 2019; Boyd, 2018; Brunet, 2019; Laitos & Wolongevicz, 2014) argue that the degradation of ecosystems is a failure of extant environmental legislation. Laitos and Wolongevicz (2014) state that the environmental laws are anthropocentric, having been developed on the basis of human exceptionalism, presuming that human beings are not limited by planetary boundaries. Lepage (2008) further elaborates on the issue of transparency concerning conflicts of interests, asserting that this lack of transparency engenders significant pressure to circumvent EU and national legislations. Van Bosterhauudt (2014) claims that environmental criminal laws are too technical and not enough based on moral values, resulting in the possibilities of negotiations with the administrations instead of legal conviction. The aforementioned scholars posit that the purpose of such legislation is not to preserve or protect ecosystems, but rather to address their degradation or damage, once it has occurred. This perspective suggests that environmental laws are only effective in response to an incident or pollution, and only to a limited extent. The precautionary principle has been the subject of critique on the grounds of its perceived bias towards anthropocentrism. It is contended that this principle is inadequate in ensuring the protection of ecosystems, particularly in the context of pollutions or diffuse negative impacts (such as climate change). In light of these concerns, various authors (Bourg, 2019; Boyd, 2017; Brunet, 2019), associations (Notre Affaire à Tous, Global alliance for the Rights of Nature, IUCN) advocate for a paradigm shift in the human-nature relationship, underpinned by the Rights of Nature (RoN). This approach has been recently applied to different aquatic ecosystems, prompting a re-evaluation of the current environmental protection and resource governance frameworks.

The concepts of Rights of Nature and legal personhood of specific ecosystems are no longer theoretical questions as they were in 1970s. Back then, Walt Disney had initiated a project to develop a ski resort, which required cutting down 1000-year-old sequoias. The Sierra Club, an environmental non-governmental organization (NGO), challenged the project in court on the grounds that it was in violation of several federal laws regarding national parks (David, 2012). However, the tribunal dismissed the Sierra Club's case on the grounds that it had supposedly "no interest to act". The tribunal reasoned that the project did not pose a threat to the NGO itself, as the trees in question did not belong to the Sierra Club. Christopher Stone, Professor of Law, countered this by pleading that the trees should stand for themselves (C. D. Stone, 1972).

The concept of Rights of Nature had been a subject of discussion prior to 2008, but not yet incorporated into law or implemented, with the exception of few municipalities in the United States. For instance, Hermitte (1988) analysed the positive laws and demonstrated the lack of protection by the environmental laws, especially regarding the biological biodiversity. She then proposed to recognize biodiversity as subject of rights. To this end, she advocated for appointment of independent scientific managers for specific recognized ecosystems. She emphasized the necessity to avoid switching from a tyranny of economic development to a tyranny of nature, by limiting nature's rights through a balance of interests. The novelty of her proposal remains relevant today.

In 2008, Ecuador adopted a new Constitution. It introduced the concept of "*Pacha Mama*", an indigenous term from the Quechua language that could be translated as "Mother Earth", under

the Chapter 7 “Rights of Nature” of Title II, (Iorns Magallanes, 2021; Tanasescu, 2013). As a result, the Rights of Nature became a central tenet of the Constitution, aimed at forging new relationships with and duties towards non-human entities. Afterward, in 2017, the Whanganui River (New Zealand), the Atrato River (Colombia) and the Ganges River (India) were recognised as having rights. This development has been followed by several further recognitions of legal personhood, including that of Mar Menor (Spain) in September 2022. Following this trend, in the Rhône River basin, discourses pertaining to the legal personhood of the Rhône River have emerged since 2020. These discourses are primarily articulated by two actors: ID-Eau, a Swiss-based NGO and CIPEL, the International Commission for the Protection of the Waters of Lake Geneva. The originality of these requests lies in various grounds. First, the governance of the river is well-established and is considered functional, with no readily identifiable problems. Second, the proponents of the Rhône’s legal personhood are peripheral to this governance. Third, the Rhône is a transboundary river, crossing the French-Swiss border, while all entities to which legal personhood has been recognised are confined within national borders. These characteristics led me to question the profound motivations and means of the actors for introducing such legal personhood of the Rhône River into the political agenda. To do so, I built a theoretical framework associating the frames of political ecology, analysis of the policy process and political geography (section 1.2). I then present and operationalise the following research question (section 1.3): “In a transboundary context, characterised by different institutional and legal frameworks, how do actors and coalitions of actors reappropriate the concept of legal personhood and to what extent do they reopen the governance of a river?”.

Before delving in few international examples of implementation of the legal personhood and then the Rhône River case, this new impetus necessitates elucidation of the concept of the Rights of Nature (RoN). The Global Alliance for Rights of Nature (GARN) defines the Rights of Nature as “the recognition that our ecosystems - including trees, oceans, animals, mountains - have rights just as human beings have. It is the holistic recognition that all life, all ecosystems on our planet are deeply intertwined. [...] Rather than regarding nature as property under the law, Rights of Nature acknowledge that nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles”³.

This RoN paradigm confronts a series of intricate challenges pertaining to both the institutionalisation and implementation process of legal rights. When applied to rivers, this paradigm resulted in the “Universal Declaration of the Rights of Rivers (RoR)” in 2020, an online petition that declares “all rivers to be living entities that possess legal standing in a court of law”. The petition proposes seven fundamental rights:

1. The right to flow,
2. The right to perform essential functions within its ecosystem,
3. The right to be free from pollution,
4. The right to feed and be fed by sustainable aquifers,
5. The right to native biodiversity,
6. The right to regeneration and restoration,
7. The right to maintain lateral and longitudinal connectivity.

Before proceeding with further details, it seems necessary to characterise and differentiate legal personhood and Rights of Nature. As Iorns Magallanes (2021, p. 216) observes, “legal [personhood] may well become part of a Rights of Nature toolbox, but it is not synonymous with rights of nature. Indeed, where legal [personhood] has been adopted, it has occasionally

³ <https://www.garn.org/rights-of-nature/>

been framed not as a matter of rights but of [increased human] responsibility” for higher protection. The author considers Rights of Nature and legal personhood to be two “sides of the same coin, [...] both being necessary for the river’s protection”. The remainder of Section 1.1 will present the processes that have led to the recognition of legal personhood for iconic cases (section 1.1.1) and their implementation (section 1.1.2).

1.1.1 Recognition of the legal personhood, a complex process

Various authors (Eckstein et al., 2019; E. J. Macpherson, 2021; O’Donnell & Talbot-Jones, 2018; Revet, 2022; Sohnle, 2023) have focused on the legal personhood granted to rivers and/or streams at the national level. The authors discuss the potential contributions of such an approach to solving intersectoral coordination problems while enhancing the economic, cultural (even spiritual) or environmental aspects of the concerned hydrosystems. Through the analysis of diverse case studies, the authors seek to address the following overarching items. First, they reveal factors and processes that have led to the recognition of rights of the river. Second, they discuss about the representation of the river and its speaker. Finally, the authors focus on the acknowledgment of rights and responsibilities.

Eckstein et al. (2019) identify four key reasons that contribute to the legal personhood of the river : (1) the implementation of First Nations’ laws, (2) the transition from anthropocentrism to eco-centrism, (3) the facilitation of the valuation of the river ecosystem services (4) and / or the articulation of positions in public debates. The authors underscore the extensive applicability of the concept. However, they also emphasize that the recognition process has the capacity to intensify tensions among communities. Indeed, the utilization of legal personhood to mobilize and strengthen community cohesion might not be such a straightforward process.

Sanders (2018) contends that legal personhood can serve as a means to manage conflicts concerning the distribution of power between the First Nations and the State. In the context of the Whanganui River, the legal framework inherited from colonialism conflicts with Māori’s values. The river is regarded by the settlers as property and commodity to be exploited, while Māoris consider the river as a member of their family. Recognizing the legal personhood of the Whanganui River is a way to repair faults of the colonialism and to officially recognize Māori’s cosmogony (Bourgeois-Gironde, 2020). The establishment of the legal personhood of the river was intended to circumvent the allocation of property rights to either the Government or the Māori. The Crown’s decision to grant herself ownership of the river in mid-19th century underscores the partial redress nature of the legal personhood as a remedy for the injustices inflicted upon the Māori. The legal personhood status is also intended to ensure the preservation of the river for future generations (Hutchison, 2014). In contrast, O’Bryan (2019) considers that the First Nations in Australia do not seek such redress. The First Nations’ aspiration is to put an end to the myth of “Aqua nullius”, which posits that, at the time of colonisation, the British Crown declared that no individual owned the waters. As a result, in most regions of the country, Indigenous Peoples have been marginalized in the governance and responsibility for water bodies, as they were not regarded as their owners. In Spain, the preamble to the Mare Menor law explicitly articulates two primary motivations: i) “the grave socio-environmental, ecological and humanitarian crisis that the Mar Menor and the inhabitants of its coastal municipalities are experiencing” and ii) “the insufficiency of the prevailing legal protection system”. A Popular Legal Initiative (PLI) was launched as a response to two significant incidents of eutrophication of the lagoon, locally referred to as “sopa verde” (green soup). The paradigm shift from an anthropocentric to an ecocentric perspective is evident in the context of the Mar Menor Lagoon. With respect to the Atrato River in Colombia, Revet (2022) contends that the Court has imposed the legal personhood of the river in response to the grievance articulated by the local population. The Atrato River and its Indigenous population were heavily impacted by illegal trafficking. The local population decided thus to initiate legal proceedings

against the State, citing its failure to maintain peace and to provide economic opportunities. The population requested peace and the Supreme Court gave them the juridical protection of the Atrato River, considering that it will protect the population (Revet, 2022) through the concept of biocultural rights. This concept covers different rights that First Nations need to promote their self-government and the conservation of their cultural identities (Sajeva, 2022). The High Court of Uttarakhand (India) recognised the legal personhood of the Ganges River, with the objective of compelling the Government of the State of Uttarakhand to implement legislation pertaining to the protection of the environment and to formulate action plans.⁴

Focusing on rivers' legal personhoods in Oceania, Eckstein et al., (2019) and O'Donnell & Talbot-Jones, (2018) identify two distinct establishment processes: (1) Modification of the law, as exemplified by New Zealand through the Te Awa Tupua Act, and (2) Rulings or court decisions, as evidenced by the Ganges or Atrato Rivers cases. Eckstein et al. (2019) emphasize the necessity of a co-construction involving all relevant parties. It took many years in the case of the Whanganui River. This period allowed for the involvement "in designing the institutional arrangement [of] those most likely to be affected by the changes" (Eckstein et al., 2019, p. 10). The Māori worldview was integrated "into legislation in a way that could work with existing laws and social norms" (Eckstein et al., 2019, p. 10). This approach emphasized the ownerships and the integration of local knowledge, reflecting a legal evolution that aligns with legal pluralism (O'Donnell, 2021a), a concept particularly prevalent in the settler colonial states. In Spain, the recognition of the Minor Sea's legal personhood exemplifies a third approach. Giménez and Ortuño (2022) provide a comprehensive analysis of the popular legal initiative. The draft law developed at the local level garnered support from over 630'000 signatories. The PLI, initially rejected at the local decision-making level, was submitted at the national level. In accordance with the provisions enshrined in the Spanish Constitution, the Members of Parliament had the obligation to examine it and to propose a law related to the legal personhood of the Minor Sea. It is thus a process to empower local inhabitants against local actors and opponents. In addition, the far-right party Vox opted to challenge the constitutionality of the law, citing concerns regarding the limitation of property rights. In November 2024, the Constitutional Court upheld the constitutionality of the law. The duration of the entire political and judicial process was approximately six years.

With respect to the river itself as subject of rights, the questions pertaining to the appropriate level of analysis and action remain unresolved. The scope of the analysis and the subsequent actions must be clarified, whether limited to the river itself, its banks, the alluvial aquifer, or the entire river basin including its flora and fauna. To illustrate, in the case of the Whanganui River, the subject of rights is defined by law as "from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements" (Bourgeois-Gironde, 2020, p. 15). In contrast, De Vries-Stotijn et al. (2019) present a divergent analysis of the New-Zealand legislation. Noting that historic water quotas remained unaltered and unaffected by the new law, they argue that the legal personhood does not extend to the water itself. This observation leads to the conclusion that while legal personhood is recognised to the river in its entirety, from the mountains to the sea, the water itself is not included nor protected by this designation. In Spain, the legal personhood covers the Minor Sea lagoon (an area of 160km²) but it encompasses also the hydrographic basin of a size of 1 600 km². This includes "all natural characteristics of the water, the organism communities, the soil and the subsoil and the aquatic subsystems that form part of the Mar Menor lagoon and its basin". Consequently, the entire river basin and aquifer systems are concerned by the law.

⁴ The Government appealed and the recognition has been cancelled since then.

As demonstrated by these diverse processes and scales of analysis, the status of “legal personhood” is characterised by considerable heterogeneity, manifesting in varied forms (see Table 1). However, it is noteworthy that all these processes share a common trend: the instrumentalization of the legal personhood and the RoR as a tool for governance change.

Beyond this common trend, diversity exists also in the acknowledged rights themselves. These rights differ between the rivers. O’Donnell and Talbot-Jones (2018) characterize the legal personhood through the three following rights:

- The right to enter into and enforce contracts,
- The right to own and deal with property, and
- The right to sue (and be sued) in court, commonly referred to as legal standing.

The right of legal standing is widely regarded as the most significant recent development in legal rights, as it no longer necessitates the demonstration of harm to human users of the river (Eckstein et al., 2019). The Whanganui River has been recognised as possessing “all the rights, powers, duties and liabilities of a legal person”. Stone (1972, p. 458) characterised the legal standing as follows:

- “[the nature] can institute legal actions at its behest,
- In determining the granting of legal relief, the court must take injury to it into account,
- That relief must run to the benefit of it”

Hutchison (2014) draws parallels with legal corporations. The question of the legal personhood of corporations, and the conceptualisation of corporate personhood, has been a subject of concern for courts and theorists. Firms can own property and be owned. Hutchison argues that the Whanganui River is actually both a legal person and a property-owned (by the pre-existing property owners, as pre-existing rights are not modified by the law). This leads to the conclusion that the Whanganui River possesses a “dual personhood status” (Hutchison, 2014, p. 181). The Minor Sea Lagoon is recognized as a subject of rights (art 1, Ley 19/2022) on the basis of three rights: i) the right to exist and evolve naturally, ii) the right to protection and iii) the right to restoration. “Every legal or physical person is authorized to take the defence of the ecosystem of the Minor Sea [...]. This action is submitted in the name of the ecosystem” (art 6). Here, the law does not prescribe specificities regarding proceedings, except that anyone can stand in the name of the lagoon. This development marks a departure from the traditional institutional of “having standing to sue”. In Australia, the Yarra River (known as the Birrarung River by the First Nations) is recognized as a “living and integrated natural entity”. However, this recognition does not endow the Yarra with “independent legal standing” (Eckstein et al., 2019, p.16). That is to say, the River cannot initiate legal proceedings itself. Consequently, while the Yarra is a living entity, it does not possess legal personhood. O’Donnell (2021a, p. 652) concurs with De Vries-Stotijn et al (2019) in emphasizing that “none of the rivers [Yarra, Whanganui, Atrato, Ganges & Yamuna] have received a formal legal right to the water flowing within their banks”. None of these rivers have been legally recognized as having the right to flow. She concludes that rivers “could be legally facing extinction”. The case of the Mar Menor is still too recent to develop such analysis. The law does not establish specificities about the water quotas.

Through these examples, we see that “extending rights to nature does not mean giving the same body of rights that human beings have” (Hutchison, 2014, p. 182). Hutchison further mentions that “rivers should have river rights” (2014, p.182). Hence, the rights should be adapted to the non-human entity. She finally asserts that the rights are the reflects of our society’s values. The legal recognition of river personhood signifies an acknowledgment of their inherent values,

which supersedes their ownership or exploitation. This evolution of values is presented as an historical progression, following the recognition of rights for enslaved persons, women or children for example. The cases presented herein demonstrate the extensive scope of the “legal personhood” of aquatic ecosystems, encompassing a wide range of options, meanings and processes. The local context elucidates the characteristics of the selected status, including historical and reparatory contexts for Māori people in New Zealand or the Yarra population in Australia, the implementation of an Integrated Water Resource Management approach in Australia, constitutional rights implementation in Colombia, law enforcement support in India, the fight against eutrophication in Spain and high laxism in the implementation of previous laws and regulations. These examples are presented by the proponents of legal personhood as demonstration of conceptual relevance. Dedicated storytelling and narratives are under development and the momentum surrounding legal personhood is growing. This has led to the emergence of critical questions, such as the replicability of existing models. By nature, “models are decontextualized and their application in specific settings can lead to utter diversity” (Molle, 2008: 142). Molle emphasizes that “political and other motives [prevail] in the adoption of a given model, especially when the context and modalities of its implementation are quite distinct from the circumstances in which the original model was developed” (2008, p.142). The narratives and models support what Molle (2008, p. 132) names the “Nirvana concept”: “a concept [...]that embod[ies] an ideal image of what the world should tend to be”. Once established, nirvana concepts, narratives and models are intended to be preserved by institutions and actors (and the interests of the said institutions and actors). The emerging paradigm of river legal rights and personhoods is not taking place in a no-man’s land. The prevailing social constructions of water and nirvanas are in place and compete. The status of the legal personhood narrative can be questioned and compared to other existing river governance mantras. One can wonder if the legal personhood will become the new mode, vanish or be integrated into existing narratives.

Once the rights are recognised and the legal personhood is established, its enforcement is a key aspect and I present below the current implementation.

Table 1 - Presentation of various rivers' status and the recognition processes. Yarra River does not have recognised rights nor legal standing and the Ganges' rights have been contested and legal decision is pending

Ecosystem	Whanganui River	Atrato River	Yarra River	Ganges River	Mar Menor Lagoon
Country	New – Zealand	Colombia	State of Victoria (Australia)	State of Uttarakhand (India)	Spain
Subject	Whanganui River bed from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements	Atrato rivers, with its basin tributaries	Yarra River	Ganges River (unclear if it refers only to the state section, the Indian section or the entire watercourse)	Mar Menor lagoon and its hydrographic basin
Recognition process	Parliamentary law	Decision of the Constitutional Court	Law of Victoria State	Decision of the High Court of the State of Uttarakhand	Popular legislative initiative
Rights acknowledged	all the rights, powers, duties and liabilities of a legal person	Rights to protection, conservation, maintenance and restoration and bio-cultural rights of the local communities	“one living and integrated entity”, without rights nor responsibilities.	status of a legal person with all corresponding rights, duties and liabilities of a living person	the right to exist and evolve naturally, the right to protection and the right to restoration (art 1, Ley 19/2022)
Date of recognition	2017	2016 (but decision released in 2017)	2017	2017	2022
Voice of the entity	Te Pou Tupua: commission of 2 Guardians (and creation of other commissions)	Commission of 14 Guardians (and creation of other commissions)	Birrarung Council of 12 members	“triumvirate” of the director of the federal depollution programme of Ganges River, Chief Secretary of the State and the	three public figures: Committee of Representatives, commission of Monitoring (the Guardians),

				General Attorney of the State	Scientific Committee
Objective	Decolonisation of the water management	Bringing peace and creating economic opportunities to the local communities	Creation of a single voice for decision making about use and trade of environmental water	Implementation of the existing water laws and the subsequent creation of the Ganges Management Board	Protection of the ecosystem of Mar Menor

1.1.2 From the Rights of Nature to their implementations

The rights of nature and legal standing must be expressed by human representatives. In New Zealand, the Whanganui River is represented by Te Pou Tupua (the human face of the river), a board comprising two members, known as Guardians, one of whom represents the Government and the other the riverine Māori population (Te Awa Tupua Act, 2017). The Whanganui River representatives have the authority to appear in court on behalf of the river to protect its interests. However, to date, they have refrained from initiating legal proceedings (Eckstein et al., 2019), opting instead for the facilitation of negotiations between the involved parties (Cribb et al., 2024a). The Te Awa Tupua Act establishes an advisory body (named Te Karewao) and an operative body (named Te Kopuka). The decision-making process is predicated on the principles of unanimity or consensus. The guardians of the Whanganui River are guided by a list of four values named Tupua te Kawa (Hutchison, 2014). “I am the river. The river is me” is probably the most well-known one. Tupua te Kawa can be understood as a mandate both for the River and its representatives.

As a living entity, the voice of the Yarra River, in Australia, is articulated through the Yarra - Birrarung Council, composed of 12 members appointed by the government for a period of 4 years (Yarra River Protection (Wilip-Gin Birrarung Murrumbidgee) Act, 2017). At least 2 of them must be chosen within the Yarra’s Traditional Owners (meaning the Yarra First Nation). Some of the representatives are from the user groups of the industries (1 representant) and the agriculture (1 representant). It is an advisory board which advocates on the name of the River. It ensures the involvement of the Communities in the protection and promotion of the Yarra River. The legal status of the river as well as the mandate of the river’s representatives reflect the local co-construction and narrative. For the Yarra and the Whanganui rivers, their new legal status, respectively living entity and legal person is a way to give also voice to the local First Nations (Eckstein et al., 2019).

In Spain, the implementation of the law is not yet fully accomplished. Some decrees are still to come. However, the law defines three public figures: the Committee of Representatives, the Commission of Monitoring (the Guardians), the Scientific Committee (Ley 19/2022, 2022). The Committee of Representatives proposes “actions for the protection, conservation, maintenance and restoration of the lagoon”. It also “monitors and controls compliance with the rights of the lagoon and its basin”. The Commission of Monitoring “disseminates information on the law, monitors and controls the rights of the lagoon and its basins”. The Scientific Committee evaluates the quality of the ecosystem, the risks and the actions of restoration. The way the legal personhood is implemented and enforced is key, as authors underline that legal personhood can actually lead to people being less concerned by the protection of those rivers (O’Donnell, 2021a).

The recognition of rights raises several questions and is not an easy path. In India, the Uttarakhand court decision was appealed immediately by the Uttarakhand State government. In Bangladesh, concerns are growing over a conflict between the rights of the river and the rights of the poorest, who live and work in areas affected by river grabbing (O’Donnell, 2021a). Finally, enforcement is possible only if financial, technical, and human resources are available. Political willingness should be present also. On the Rio Vilcabamba in Ecuador, plaintiffs have not come back to the Court to enforce its decisions, due to lack of financing (O’Donnell, 2021a).

As demonstrated by the preceding illustrations, it can be inferred that “the technical feasibility of RoN must be taken for granted” (Bétaille, 2019, p. 3). However, a range of critiques has been offered which will be further discussed in the following paragraph.

1.1.3 Some critics of the Rights and Legal Personhood of Nature

A primary set of arguments against the RoN consists of the defence of environmental laws, asserting their development and improved efficiency since Stone's statement in the 70's. Bétaille (2019) argues that enforcement of existing laws should be the priority instead of promoting a paradigm shift. He contends that the intrinsic value of Nature can be protected by environmental laws, for instance through the creation of National Parks, as much as RoN would be able to do so. According to him, the perceived inadequacies of environmental laws can be ascribed to lax norms, insufficiently ambitious objectives, a lack of political will, and corruption, among other issues. He asserts that RoN would encounter similar challenges and have not demonstrated superior efficacy in comparison to extant environmental legislation. Bétaille further emphasizes that environmental law is still too nascent to adequately evaluate its revolutionary approach. While some environmental laws have been in effect for over five decades, it is pertinent to question the sustainability of this argument when applied to RoN laws, which have less than ten years of existence.

Second, Rawson et Mansfield (2018) analyse the RoN circulation with the networks of actors and epistemic communities. They contend that RoN, akin to other environmental laws and human rights, are Western ideas and thus maintain a dualistic approach, pitting humans against nature. Bétaille (2019) denounces the aporia in the essence of the RoN presented as eco-centric and requiring, in fact, human involvement, as with any rights. These rights may therefore imply increased risks of conflict between groups with different views on and understanding of their territories and evolution (Eckstein et al., 2019).

Third, Guim et Livermore (2024) emphasise the impracticability of delineating the boundaries of the subject bearer rights, for instance, the limits of an ecosystem. This creates difficulties in the establishment of a balance of interests between diverse non-human entities. The evaluation of the interests of the entity is a multifaceted challenge, with no standardised methodology. This lack of standardisation engenders confusion, ineffectiveness and arbitrariness in the implementation of the RoN. Viaene (2022) underscores the potential tensions or conflicts between RoN and indigenous peoples' rights in Bolivia. González-Serrano (2024) asserts that water extractivism is not directly targeted in the decisions, citing the Atrato case. She demonstrates that the legal enforcement of Rights of River does not create binding obligations to the extractive economies. She also highlights the lack of practicability, which is further compounded by the RoN's inability to challenge the "hegemonic factors that cause the destruction of rivers and nature" (González-Serrano, 2024, p. 13). The RoN have been unsuccessful in modifying permits and the related legislation, which has been developed over time to favour capital accumulation, project feasibility and effectiveness. The failure of the RoN to adequately address the drivers of river and environmental destruction has led González-Serrano (2024) to posit that the concept of RoN contributes to the development of "an ornamental legal framework" in the Atrato River.

Fourth, Bellina (2024) asserts that the legislation of RoN in Bolivia, issued from the new constitution, fails to align with the indigenous cosmogony of the local population. Furthermore, Viaene contends that the RoN "might become a new tool for the domination of indigenous people" (2022, p. 196) and argues that it does not contribute to the decolonization of international or latin-american laws. Additionally, she raises concerns about the romanticizing of the Indigenous people, a perspective that aligns with Petel's caution (2024, p. 3) against the essentialization of the indigenous groups as "noble savages". Rawson et Mansfield (2018) underscore the RoN as a Western construct, thereby reinforcing colonialism. Marshall (Eckstein et al., 2019) contends that the UN declaration of the Rights of Mother Earth itself is misleading through the application of Western terms to Aboriginal conceptions, thus misrepresenting the latter.

A further caveat concerning the RoN pertains to the depoliticization of debates and decision-making processes in the context of RoN, facilitated by state support (Viaene, 2022). A techno-managerial consensus has emerged to replace the formerly prevalent public dissensus. Finally, Guim et Livermore (2024) underscores the dissipation of energy in the promotion of the RoN, as opposed to the refinement of prevailing legal framework.

Building on these critics, scepticism and the existing status of implementation, I present some of the gaps in literature and the objectives of this research in the following paragraph.

1.1.4 Gaps in literature and objectives of this research

The initial gap that I have identified pertains to the heuristic approaches and the absence of a forum of discussion between diverse disciplines and with the society in general (Gilbert et al., 2023). It is noteworthy that a first set of literature on the RoR has been produced by anthropologists, ethnographers and philosophers. These scholars have analysed the reflection of the First Nations cosmogony in the concept of the RoR and legal personhood. A second set of literature has been produced by legal scholars, with only limited insights from scholars in other disciplines or water engineers. The subject matter might appear to be predominantly legal in nature, involving debates about *summa divisio*, comparisons of environmental laws vs RoN, and legal mechanisms. From a geographical perspective, I find myself in agreement with Friedman (1986, p. 780) when he asserts that “the law (...) is too important to be left to lawyers” (or, in the present context, legal scholars). It is my contention that other disciplines, for instance geography, and practitioners, such as water managers, should engage in this conversation. Geographer scholars occupy a distinctive vantage point from which to offer a complementary perspective and to contribute to on-going research. They should enrich the debates by drawing upon the boundaries of geographical subjects and the interactions between individuals, society and territories. Water practitioners, as the primary implementers of extant water legislation, play a pivotal role in identifying practical failures or challenges. It is therefore imperative that they engage in the conversation and in the regulation-making process. The potential implementation of a new legal framework supporting the RoR, resulting from an evolution of the water public policy, will be a key responsibility of water specialists, and their roles will be directly impacted.

The second gap relates to the mechanism by which the RoR and legal personhood are introduced to the political agenda. The literature focuses mainly on the implementation stage of the RoR and legal personhood and the evaluation of their effects. A lack of studies has been observed concerning the initial socio-political processes within the public policy cycle (Knoepfel et al., 2006). For instance, in the Atrato case, literature provides insights into the legal thought processes (Clavijo-Ospina, 2023) and the consequences of the decision in the fields are analysed (Mosquera-Guerrero & Krueger, 2024; Revet, 2020, 2022). However, the sequence of events initially leading to the referral to the courts has not been clarified. In a similar manner, the literature presents a general understanding of the Māori societal context, and their dispute over the Whanganui River. The Māori group is presented as homogenised and as defending altogether a single agenda. It is noteworthy that there is an absence of discussion surrounding a focusing event that could have influenced the agenda-setting. The construction of the narrative of the legal personhood as a solution in the various examples is not decrypted. The socio-political construction of the problem that legal personhood is able to solve is rarely detailed in the literature.

The third gap that this thesis seeks to address pertains to the development of comparisons through the lens of environmental and contextual comparisons. The majority of the literature on comparisons of RoR has been developed by legal scholars. The main focus of this body of literature is on the comparison of the legal mechanisms and their implications (E. Macpherson

& Clavijo Ospina, 2018; O'Bryan, 2017; O'Donnell & Talbot-Jones, 2018). These comparisons have been primarily conducted between cases exhibiting analogous characteristics, such as decolonisation, the exclusion of certain category of water users, and national scales. However, as new territories acknowledge the RoR, including in Europe, it is a necessity to enhance the comparisons, to draw the lessons of the common trends and to confront them to the European context. The identification of key factors is imperative to facilitate the discernment of territories that could have the potential to provide future support to the RoR development and implementation. This will also establish a shared framework for understanding. Chapter 2 enriches the range of analyses by examining the Mar Menor case and identifying key lessons, which are then mobilised in the Rhône River Basin context. The issue of scales, ranging from national boundaries to international river basins, is also to be addressed.

Finally, Naffine (2012) and Stone (2012) states that rights reflect the values of the society. The decision-making process concerning the management and the consideration of Nature, in this instance Rivers, should be a societal debate. The nexus between legal rights and societal structures is intricate, with rights serving as a construct of society, which, in turn, is shaped by them. Consequently, it is imperative to comprehend the values of the individuals, groups, and institutions that promote or oppose the RoR and the legal personhood. Various scholars (Boelens et al., 2024; Immovilli et al., 2022) are analysing the RoR as a conflict of values over the understanding of what the river is. To enhance the conversation, I propose to unpack imaginaries in the European context.

In order to address the aforementioned gaps, my research objectives are 1) to involve geographers and water engineers in the debate, 2) to decrypt the introduction of the concept into the political agenda, 3) to enhance the understanding of the emergence of nature rights movement in the Rhodanian context. Subsequently, the theoretical framework underpinning this study is structured around three main axes: political ecology, analysis of policy process and political geography. They are presented in the following section.

1.2 Theoretical framework

The first theoretical framework I mobilise is that of political ecology. Within this framework, I discuss the relationship between Humans and Nature under the umbrella of the Rights of Nature, environmental struggles and water justice. The theory of policy process is further mobilised to discuss about the strategies of the proponents of the legal personhood of the Rhône River. Finally, the territorial impacts, democracy and participation are considered through the lens of political geography. The mobilisation of these diverse frameworks reflects the importance of developing an interdisciplinary analysis and understanding of the movement of Rights of Nature. Indeed, the development of a novel legal paradigm is indicative of divergent understandings of the nature of the law and the essence of society and nature, transcending a specific discipline (Hervé-Fournereau, 2024). The theoretical framework is illustrated in Figure 1 alongside the various interactions between the frames.

1.2.1 Political Ecology

The political ecology framework provides theories to analyse power and environmental management. It is at the intersection of environment and the economic, social and political factors. It emphasizes that to comprehend natural resource conflicts, it is essential to focus on actors and their discourses (Benjaminsen & Svarstad, 2009). To this end, I draw upon two schools of thought: the Rights of Nature framework and the environmental struggles and water justice.

1.2.1.1 *Rights of Nature*

The Rights of Nature is the global theoretical framework that encompasses the recognition of the legal personhood of natural elements. Once regarded as an unthinkable cause, it has now become a “meaningful reference in environmental politics” and an “emergent movement in defence of Mother Earth” (Espinosa, 2014, p.392). RoN challenges a certain legal order based on an anthropic vision. It also challenges the sovereignty rights of states, through the Universal Declaration of the Rights of Mother Earth (UDRME, draft adopted in 2012). At present, states have only a few binding international obligations, in particular the “obligation to ensure that activities within their territory do not cause environmental damage beyond their jurisdiction” (Espinosa, 2014, p. 392). The proponents of the Rights of Nature present a comprehensive argument, encompassing several key points in support of their vision. First, they underscore the inherent limitations of the “infinite growth on a finite planet” as presented in the Meadow Report (Espinosa, 2014, p.400). Second, they advocate for the intrinsic value of both living and non-living components of nature, emphasising that this value is “derived from the basic fact of existing and being part of the ecosystemic whole” (Espinosa, 2014, p399). This characterises the biocentrism concept. It is in opposition to the Green Economy, which considers that the ecoservices should be paid and that nature has value due to its utility to the human beings. Third, the narrative incorporates the First Nations’ vision of the “Mother Earth”. It highlights the wisdom of these nations in contrast to the western capital accumulation. It also denounces the patriarchalism and favours the utilisation of feminine vocabulary. Fourth, legal protection given by rights has always expanded through history. Finally, they oppose the misconceived belief that humans are separate from and superior to Nature which, according to Cullinan (2011) would result in what he terms “ecoapartheid”.

The Rights of Nature imply a fundamental re-evaluation of our relationship with Nature. Nature is not to be regarded as human property, nor is to be used for the exclusive benefit of humans; rather, a close interdependence with it is to be fostered (Brunet, 2019).

This school of thought is complemented by two other perspectives: the environmental struggles perspectives and water justice perspective. The former advocates for the establishment of novel rights in favour of the environment, while the latter asserts the implementation of existing rights for the most vulnerable populations, which are the most adversely affected by ecological degradation. I discuss them in the following paragraph.

1.2.1.2 Environmental struggles and water justice

Zwarteveen and Boelens (2014, p. 146) contend that water uses are not systematically grounded in principles of justice, contrary to the prevailing doxa that asserts that “the same water rules and regulations apply to all” (Zwarteveen & Boelens, 2014, p. 146). The issue of water justice is a multifaceted one, and four aspects can be considered.

First, the uneven spatial and temporal distribution of water, as well as other characteristics encompassing being upstream or downstream, creates a natural injustice. Human intervention is imperative to mitigate the consequence of this phenomenon. Through this intervention, hydrological cycle is modified to counterbalance physical injustice. Consequently, this prompts inquiries into trade-off and the process of decision-making. The rationales underpinning these actions can be grounded in a range of justice principles.

Second, the fact that water is a vital good for all life on Earth gives rise to the question of its equitable partage. Fulfilment of both human and environmental needs is part of the discussion. The former is addressed through the human rights-based approach. The later one is highly debated through the rights of nature and the rights of future generations.

The third facet pertains to the utilisation of water, with a particular emphasis on its application for human well-being and the benefits derived from ecosystem services. It encompasses a wide range of social values, including economic efficiency, property rights, water-related cultural services and environmental needs. The allocation process, predicated on the establishment of priorities, is presented as being fair. Nevertheless, biases have been demonstrated, and higher water quotas are typically allocated to the most efficient uses (Zwarteveen & Boelens, 2014). The management of water resources has placed significant emphasis on rationality and efficiency, favouring and supporting modernity while neglecting traditional or less efficient uses in terms of productivity and economic growth. Conversely, cultural requirements are not invariably accorded the requisite consideration as priority uses.

Fourth, institutions have been developed to ensure water management and procedural justice. These institutions have the capacity to exert significant power through the decisions they make and the regulatory roles they fulfil. The decision-making process or the rules of the game, and their subsequent results, can result in sentiments of water (in)justice. This practice contributes to the ongoing debate concerning the exclusion of certain users in favour of others. The issues of water appropriation, property rights and water footprint in international trade are also associated with this aspect of water justice.

Zwarteveen and Boelens (2014) underline that the concept of water justice extends beyond the mere notion of “what it should be”; delving into the intricacies of how this justice is perceived and experienced. It is imperative to consider the “dimensions of (cultural) recognition and procedural democracy alongside those of (re)distribution” (p.147). Within the context of First Nations’ cultures, the cultural dimension of water remains an area of ongoing inquiry (Eckstein et al., 2019; Marshall, 2017; RiverOfLife et al., 2021). The Te Awa Tupua Act formally acknowledges the Whanganui River within the framework of Māori customary law, recognising its significance in cultural and spiritual contexts. This legislation acknowledges several of Māori values, including *taniwha* (water creatures with extraordinary powers) and *whakapapa* (part of the family) (RiverOfLife et al., 2021). Simultaneously, in Australia, First Nations have

been dispossessed of their rights to decision-making and governance, through the myth of *Aqua nullius* (Marshall, 2017).

The evolution of the water governance is predicated on a systematic interrogation of the concept of water justice (Neal et al., 2014). This interrogation must address the multivarious questions of who benefits and who is disadvantaged, who is to blame, who pays, how knowledge has been produced and how the decision has been made. As Smith (1996) hypothesised, the weakness of the representativeness of the least efficient users might lead them to the non-participation in the decision-making process.

The modification of water allocations and water rights implies a complex process of political contestation. Zwarteveen and Boelens (2014) propose a series of conceptual frameworks aimed at elucidating and mitigating water-based injustices. In this study, the following two are mobilised. First, “contestation” is defined as the disputation of the contents of rules, norms and laws, and includes discourse on both the pros and cons, whilst the authorities responsible for decision-making and implementation are challenged. Irrespective of the intended application of water allocations, the framework tends towards contentiousness. Second, the scholars emphasise the importance of scale and scalar politics in understanding water (in)justice. The variation of the units of time and place gives rise to divergent assessments of the justice of a given situation. Consequently, the demand for greater water justice encompasses claims for recognition, participation, redistribution, redress for historical injustices and inequities. As Zwarteveen and Boelens (2014) emphasise, the accumulation of water rights by certain parties is contingent upon the dispossession of others. This illustrates how dynamics of justice are intricately linked to historical and social context. The authors further argue that achieving water justice is contingent upon an “explicit understanding of how scales are used, constructed and entwined in hydrosocial dynamics and networks, among others, through political struggle” (Zwarteveen & Boelens, 2014, p. 152).

In France and Switzerland, tensions related to water have been present since a long time. They concern localised sites, such as the Ain-Rhône confluence (Michelot, 1990), or the entire watershed (Bethemont, 1997). Water is constitutive to certain territories, such as the Rhône delta (Petit & Rivière-Honegger, 2006). The discourse on water allocation has seen a marked escalation in the last decade, including with regard to the development of reservoirs for agriculture. The death of Rémi Fraisse in 2014 led, within a few months, to the termination of the Sivens dam project (in the Adour-Garonne River Basin). Tensions concerning water are currently very high, leading Brunel (2023) to speak about “real civil war” concerning the construction of mega basins (p.64). In this context, the emergence of Rights of Nature movements on the Rhône River basin questions the uses of water and through this the existing water management. The project research delves into the various facets of water, challenging both the cultural recognition of what the water is as well as the procedural democracy. In particular, the hydrosocial concept (Linton & Budds, 2014) and the imaginary of democracy (Ezrahi, 2012) are mobilised.

1.2.2 Analysis of the policy process

Water governance refers “to the range of political, social, economic and administrative systems that are in place to develop and manage water resources, and the delivery of water services, at different levels of society” (Rogers & Hall, 2003a, p. 10). This governance is the result of various trade-offs between actors which can be explained through the lens of several frameworks. The present study analyses the policy process to decrypt the implications of claiming rivers as legal persons. The relevance of this framework is attributable to the significance of the public policies and the number of regulations in the water management sector. The recognition of RoR and the subsequent acknowledgement of legal personhood have

precipitated a shift in water governance policies in the territories where they have been recognised.

The analysis of the policy process encompasses the entirety of the policy-making process, from its inception up to its subsequent assessment. Policy process is defined as “the range of activities and decision-making processes by the various actors to solve a problem considered as a public problem” (Knoepfel et al., 2006, p. 137). Policy process is thus constituted by a sequence of intentionally coherent decisions or activities. The objective of these decisions or activities is, in an organised manner, to address a problem that is politically defined as collective in nature. It is aligned with the actions of actors who seek to modify a situation that is perceived as unacceptable. This set of actions, divided into various stages, is commonly represented schematically under a cycle. Knoepfel et al. (2006) identify a total of four distinct stages. This thesis undertakes an exploration of the initial stage of the process, namely the agenda-setting stage, by means of a variety of theoretical lenses. The construction of a problem, its characterisation as a public issue (and not a private one), and its introduction into the political agenda are all integral components of this stage. This preliminary step is of significance, as “the environmental discourse that constitutes the environmental problem enables and constrains the available policy options and the range of legitimate actors for its resolution” (Feindt & Oels, 2005, p. 169). Moreover, not all problems give rise to the formulation of public policy. This is in particular the case when the problem is perceived as a private issue, if no solution can be envisaged, or if the opponents of the new policy are powerful enough to avoid any evolution.

The policy process of one territory can also be influenced by the policy process of another territory. This phenomenon can be attributed to the diffusion of professional standards (E. Hassenforder & Barone, 2019). Molle (2008) explains for instance, how the Integrated Water Resources Management has become an almost universal paradigm. However, various scholars (Molle, 2008; O'Donnell & Holley, 2024) have challenge this understanding by emphasising that models are context sensitive and should be adapted to succeed through site-specific arrangements. Cleaver (2002) conceptualises the evolution of public policies through the lens of bricolage. The processes in question are led by individuals who leverage their knowledge, power and agency to shape and reshape the rules and institutions. The establishment of novel policy frameworks is the result of messy processes, wherein the identities of the involved actors must not be disregarded (Cleaver, 2002). Larrue (2000) and Mény & Thoenig (1989) concur with this understanding, emphasising that the stages of the policy process cycle can be contradicted by the factual sequential order of policy development. Indeed, it is possible for various stages to occur simultaneously.

Actors are at the heart of the policy-process and we need to understand the roles that actors play in the policy-making processes. The term “actor” is used in a generic and extensive manner, encompassing a single individual, several individuals, legal entities, or any social group. The concept of actor is predicated on the congruence of the internal values and interests of its members, with the objective being the pursuit of a particular public policy in unison. The actors are also characterized by their capacity to act independently and make choices as part of their agency. Knoepfle characterised three main categories of actors: the politico-administrative system, the beneficiary of the policy changes and the loser of these changes. However, the embeddedness of these status should be highlighted. In addition, actors may possess conflicting objectives, resulting in the emergence of tensions between them and the institutions or among the actors themselves. This dynamic has the potential to result in the formation of both formal and informal coalitions among the actors. The coalitions of actors are motivated by beliefs organised in a tri-partite structure (Jenkins-Smith & Sabatier, 1994). The “deep core” component represents the highest level, encompassing ontological and normative beliefs. The aforementioned beliefs are distinguished by their stability, as exemplified by the fundamental

values concerning the nature of humans or the nature of nature. The subsequent level is the “policy core” component, which encompasses values, priorities and strategies that are intended to facilitate the realisation of deep core values. The final component delineates the “secondary aspects” that are deemed the most amendable beliefs within the policy domain. Depending on their objectives, actors may, either consciously or unconsciously, organise themselves in such a manner as to strengthen their influence over policy processes. Actors shape the public policy and the decision-making process, which in turn influence the behaviour’s actors. The duality of this reciprocal influences should not be over-estimated (Hirsch & Lounsbury, 1997). The present study explores the co-evolution of actors in the context of the Rights of Nature and the legal personhood of rivers.

Chapter 2 undertakes a comparative examination of cases that have been promoted as models by the proponents of the Rhône legal personhood, and it characterises the forces driving changes. This comparison leads to the identification of operational variables which are then used to understand the debates in the Rhône River basin. Chapter 3 focuses on the construction of the problem and the introduction of legal personhood in the agenda-setting process. It presents a comprehensive overview of the strategies that various actors have employed in their attempts to modify the prevailing policies and agendas. Chapter 4 provides insights into the potential for non-linear paradigm shifts to occur through the understanding of the imaginaries of the actors.

1.2.3 Territoriality and Democracy through the lens of political geography

Following the seminal work of Raffestin (2019), social sciences of inhabited space, encompassing geography, planning and urbanism, have placed great emphasis on the fundamental relationship between territory and power. The concept of territory is intrinsically a geopolitical space, encompassing both human and non-human beings into interwoven relationships characterised by the circulation of power – as demonstrated by the salient issues inherent to hydropolitics. This makes it essential to look at the mechanisms through which power relations are regulated. Vanier (2015) delves into the intricate relationship between territory and democracy. He defines territory as “a space socially appropriate and delimited” (Vanier, 2015, p. 109). The author calls attention to the progressive discrepancies between the scales at which we exercise democracy (municipal, regional, national or European level) and the territory of life. Vanier highlights the disconnection between our democratic expression as voters and the scale of our experience as citizens. The mobility of modern life, characterised by the ability to live, work, and socialise in distinct locations, has resulted in a shift from a static concept of residency to a more fluid and dynamic notion of user. In this context, Vanier proposes a shift from the status of “resident – voter” to that of “user – voter”. He argues that commons should support a more inclusive and participatory democratic framework.

This expansion of our territory of life results in an evolution of our democratic expression, with innovative governance arrangements being implemented. There is an international trend towards involving the public in decision-making processes under various forms. The commonly accepted types of participation include information, consultation, deliberation or co-production. These participation processes are governed by various instruments, including the Aarhus Convention, the Water Framework Directive, and the Environmental Impact Assessment laws. Johnson (1997) points out that, in addition to the instrumental value of such processes, arguments in support of them include emancipation, legitimacy, or improvement of political culture.

Focusing on the Rhône, Bréthaut (2016) analyses the different arenas that organise public participation. He evaluates the social, substantial and procedural efficiencies of such participatory processes. Social efficiency is defined as the involvement of all relevant actors

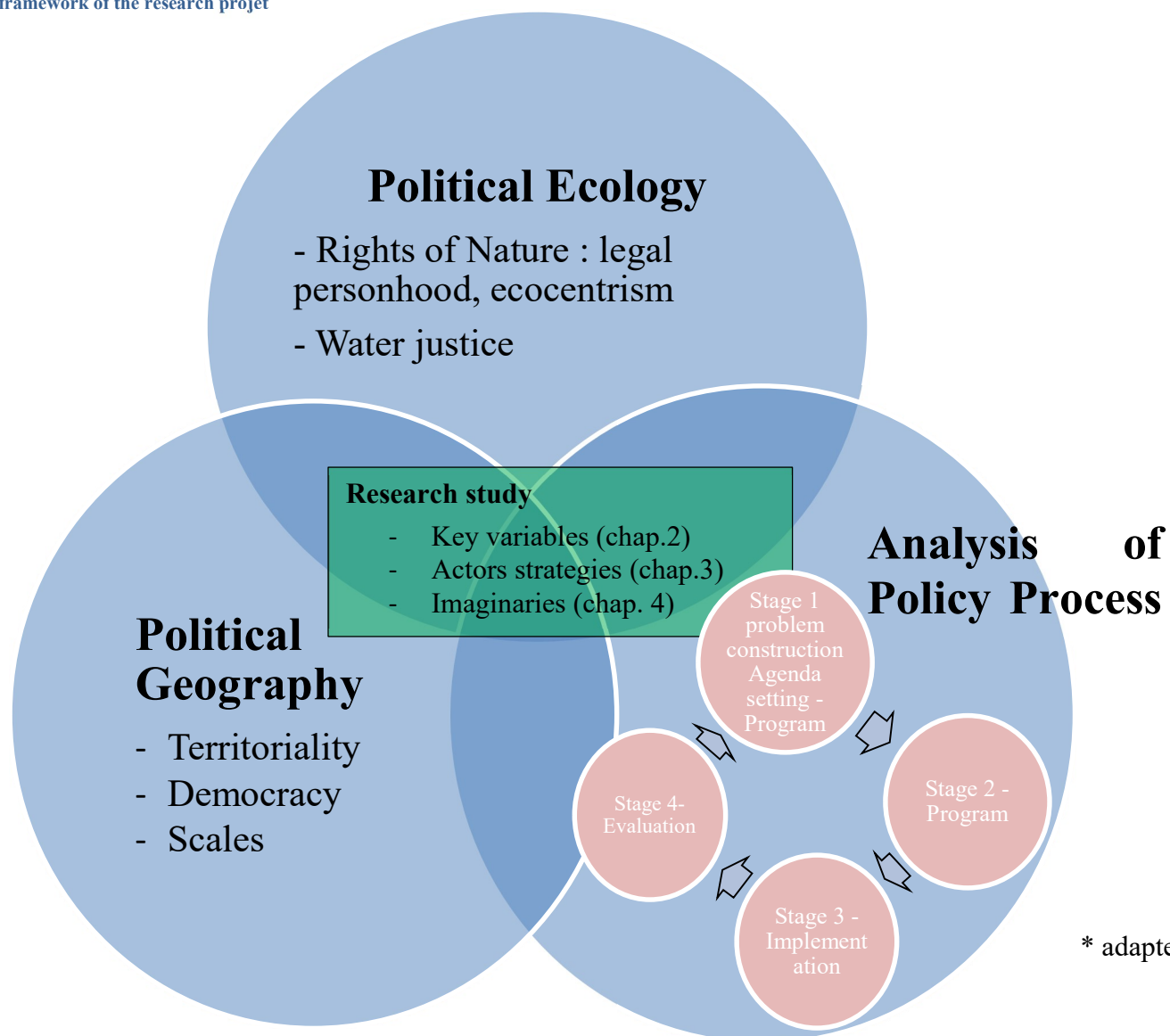
and the equality of treatment. Substantial efficiency is the assessment of concrete impact of the participation and the integration of the results of the consultation in the decision-making process. Finally, procedural efficiency is related to the additional time and difficulties involved in making and implementing a decision. One of Bréthaut's conclusions is that the efficiency of the participation processes within one arena does not guarantee the transfer of results to other arenas or scales nor does it ensure implementation. Other scholars, such as Hassenforder et al. (2021) emphasise the possibility of a "co-production of the participation", preceding the "co-production of the decision". They demonstrate that there is an increased transparency and that changes are more effective. However, the intricacies of such "co-production of the participation" have been identified as a significant challenge, including with the exit of some participants during the process.

One can question the integration of newly set up actors within the existing participatory processes. New actors might have to prove their legitimacy to join existing arenas, while decision-makers might want not to be challenged by outsiders. It triggers the integration within participatory processes of the outsiders. Swyngedouw (2005) identifies five aspects that fall under what he terms the "democratic deficit" (p.1993). First, there is the question of who is entitled to participate in the name of others and who is responsible for authorising this participation. Second, there is the question of the representativity of the civil society members, who are not elected and might have private agendas. Furthermore, civil society organisations are also affected by power struggles between members. The third aspect pertains to the challenge of accountability. Swyngedouw (2005, p. 2000) asserts that "given the diffuse and opaque systems of representation, accountability is generally very poorly, if at all, developed". The legitimacy of civil society actors is the fourth aspect, particularly when these actors develop discourses to tailor-make a problem as a concern for the public. Finally, the question of scale-jumping in the process is crucial. The process of up-scaling or downscaling an issue has the potential to result in the emergence of new actors and consequently new powers, while concomitantly excluding others.

This final aspect, pertaining to the aforementioned scale jumping phenomenon, constitutes a pivotal challenge in the realm of environmental management. Swyngedouw & Heynen (2003, p. 913) assert that the discussion on the appropriate scale "is an integral part of social strategies to combat and defend control over limited sources and/or a struggle for empowerment". McCarty (2005, p. 735) posits that scales are socially constructed, and rely on the successful construction of nature through the "mobilisation and manipulation of myriad non-human actors and processes". As constructions, they are inherently contested. The scales are thus characterised by «intense disputes over the legitimacy, costs and effectiveness of acting at one level as opposed to others» (Benson & Jordan, 2010, p. 8). In conclusion, the concept of scales interferes in the policy process and are recurring elements throughout this research. Chapter 3 poses the question of how outsiders of the existing institutionalized water governance establish their own legitimacy. Chapter 4 explores some facets of democracy as a value system. The Figure 1 below represents the mobilisation of the three frames within the research project.

Having set the theoretical framework, the next section elaborated on the research question and hypothesis of the thesis.

Figure 1 – Theoretical framework of the research projet



* adapted from Knoepfel (2006, p.125)

1.3 Research question and hypotheses

As a means to expand upon the extant body of knowledge concerning RoR and legal personhood, I delve into the processes that facilitate the emergence of the legal personhood and its subsequent inclusion into the political agenda, along with the strategic redrawing of debate terms by relevant parties to align them with their own interests. Molle (2008, p. 131) asserts that “ideas are never neutral and reflect the particular societal settings in which they emerge, the worldviews and interests of those who have the power to set the terms of the debate, to legitimate particular options and discard others, and to include or exclude particular social groups”. I acknowledge that indeed models of legal personhood do exist, as presented in the previous sections. The globalisation of ideas, such as RoR, is subject to reterritorialization through specific social practices at the local scale (Kinkaid, 2019). In summary, the context is indeed an important factor, albeit one of several variables to be considered (O'Donnell & Holley, 2024). Consequently, I have decided to formulate research questions concerning the potential construction and contradiction of a political contestation grounded on these new ontologies in a novel context. Far from being under an approach “West versus the rest of the world” (Bétaille, 2019; Petel, 2024), I study the case of the transboundary Rhône River with insights from cases worldwide.

To reflect this approach, I have developed an overall research design which exhibits the following characteristics. First, my aim is to provide an understanding of the positioning of the various actors in relation to the potentialities of the Rhône River's legal personhood. This understanding, grounded in the empirical data, reflects my own interpretation of the complexities and intricacies of the actors involved. Second, I structured the research around a principal research question, which was further declined in three subsidiary sub questions and hypotheses. The hypotheses under consideration are derived from an abduction process, informed by exploratory interviews, the most common river-persons and the theoretical framework. They have guided the research during the three-year project. I have thus implemented a hypothetical-deductive reasoning process (Lawson, 2000). Each chapter contributes to the testing of the hypotheses, albeit to varying degrees. I also integrate some data issued from a more iterative approach in the chapters. As a result, this design tries to overcome the dichotomy between the hypothetical-deductive approach and the iterative approach.

My principal research question is the following.

In a transboundary context, characterised by different institutional and legal frameworks, how do actors and coalitions of actors reappropriate the concept of legal personhood and to what extent do they reopen the governance of a river?

As presented above, I operationalise it through three sub-questions and corresponding hypotheses.

The first sub-question (Q1) is “What are the key drivers contributing to explain the emergence of this notion?”. The hypothesis is: **“In a context characterized by the strong presence of public policies and a productivist vision of the environment, the notion of legal personhood and its operationalization is instrumentalized, questioning the legitimacy of ongoing and / or upcoming water governance schemes”** (Hypothesis H1). Based on the “political ecology” framework, I mobilize arguments related to the implementation of the legal personhood both from the Rhône River basin but also others. Numerous arguments have been developed to support the legal personhood, and I analyse their pertinence in the Franco-Swiss context. This couple Q1/H1 is mainly informed by chapter 2. The methodology employed in this chapter is unusual, mixing a comparative approach and a single case study. Explanatory factors are identified in four processes of recognition of legal personhood and then mobilised to discuss a potential operationalisation on the Rhône River.

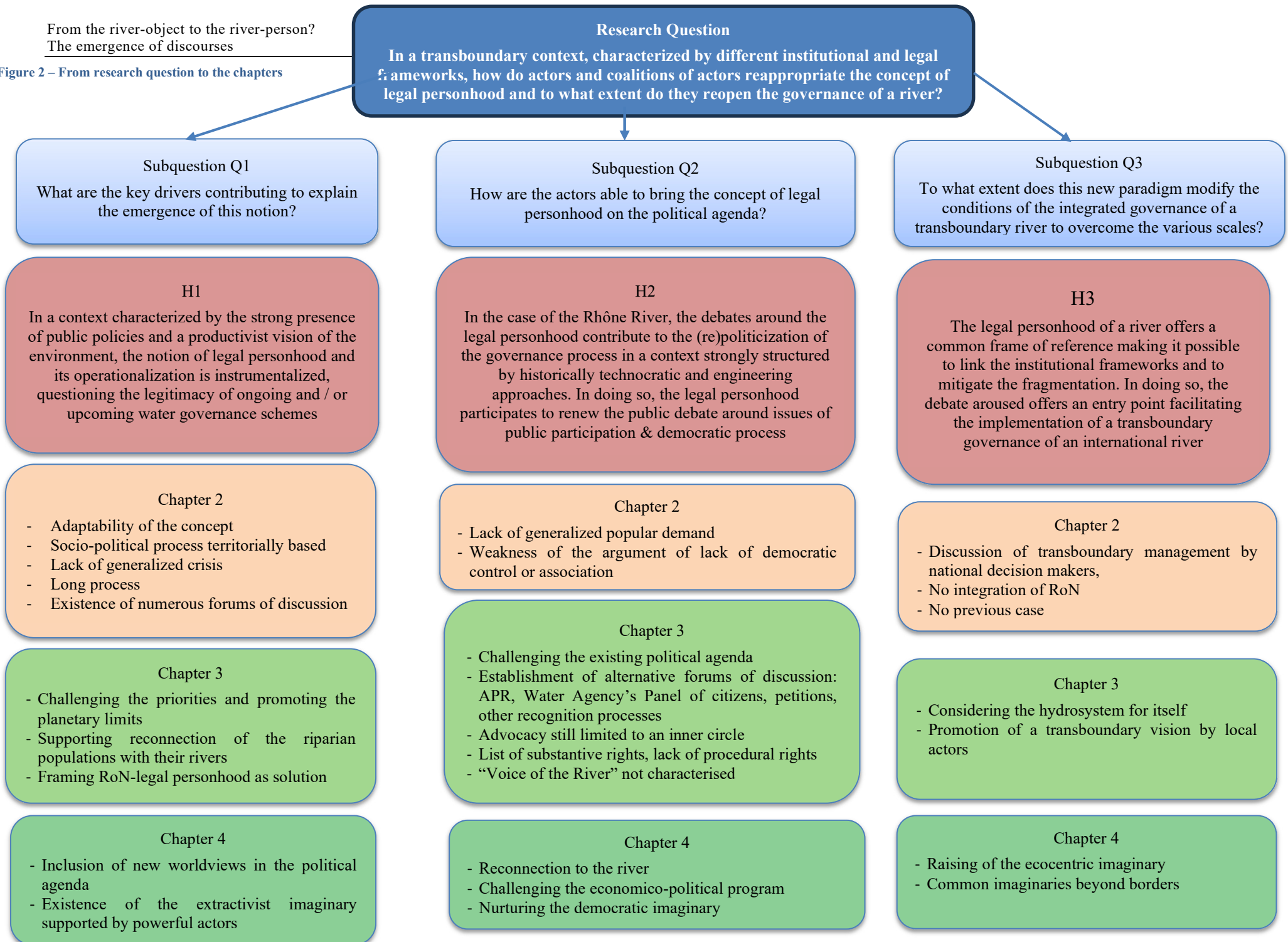
The second research sub-question (Q2) is “How are the actors able to bring the concept of legal personhood on the political agenda?”. The hypothesis is “**In the case of the Rhône River, the debates around the legal personhood contribute to the (re)politicization of the governance process in a context strongly structured by historically technocratic and engineering approaches. In doing so, the legal personhood participates to renew the public debate around issues of public participation and democratic process**” (Hypothesis H2). Mobilizing the analysis of policy process, I focus on the construction of the issues, their transformations in a public problem and their politicizations. I decrypt the strategies of actors through a constructivist approach. This couple Q2/H2 is primarily informed by chapter 3.

The last research sub-question (Q3) is “To what extent does this new paradigm modify the conditions of the integrated governance of a transboundary river to overcome the various scales?”. I postulate that “**The legal personhood of a river offers a common frame of reference making it possible to link the institutional frameworks and to mitigate the fragmentation. In doing so, the debate aroused offers an entry point facilitating the implementation of a transboundary governance of an international river**” (Hypothesis H3). The focus is the potential evolutions of the institutions and governance as consequences of the new paradigm. I also intent to analyse the role of water and the Rhône River through a diplomatic lens. Arguments to treat this couple sub-question /hypothesis come from the three articles. Chapter 4, related to the imaginaries, provides some arguments to this couple, but a comprehensive view is drawn through the mobilisation of assertion from the two other chapters.

The Figure 2 illustrates the relationships between the research question, sub-questions, hypotheses and chapters. The elements of discussion pertaining to the hypotheses can be located in various chapters.

From the river-object to the river-person?
The emergence of discourses

Figure 2 – From research question to the chapters



1.4 Research method

1.4.1 Ontology

Subsequent to the presentation of the research question, it is imperative to elucidate the standpoint from which the present doctoral research is being articulated. Initially trained as an agronomist and a water engineer, I had been working for a period of 15 years prior to commencing this doctoral research. Over the course of this 15-year professional career, there had been a progressive evolution in the nature of my work. Initially, my role was that of a water engineer, with a technical profile related to aspects such as the design of water networks or environmental impact assessment. The technical activities pertained to the development and implementation of quantitative methods, encompassing the analysis of hydrological systems and the categorisation of ecological niches, respectively. At that time, my understanding of water was as a compound of hydrogen and oxygen molecules, providers of support for economic, societal and ecological needs. As time elapsed, my professional responsibilities underwent various transformations. The new duties entailed strategic planning for water uses and management. The development of strategic planning involves the mobilisation of both quantitative and qualitative methods. In order to establish a diagnostic and to comprehend present and future needs of the relevant actors, a series of public workshops or dedicated meetings were deemed necessary. The primary focus of my involvement was the provision of expert explications on water analyses, such as the ones stipulated within the water framework directive, to the relevant decision-makers and citizens. Conversely, it is also important to consider how actors' values, motivations and actions might influence quantitative outcomes. To a certain extent, the nature of my profession as water resource expert included the facilitation of communication and understanding between positivist water engineers and the society. My PhD journey has enabled me to comprehend the extent to which I am an active member of the socio-nature of water. This statement prompts a concurrence with Schurmans' perspective (2011).

Schurmans contends the affiliation of the social researcher with its city is inextricably linked to three fundamental reasons. First, my role as an engineer who designs water delivery or flood risk mitigation projects is unquestionably a societal one. Second, my inclination to identify an object of research with a transboundary component is directly attributable to an anecdote from one of my previous professional experiences, when I was water advisor to the Minister of Environment in Moldova. The country's water resources are limited, with the available water being sourced from two transboundary rivers. The upstream countries control the water flows in Moldova through the utilisation of various structures and dams. In 2016, the spring and summer months were marked by an unprecedented lack of precipitations. Chisinau, a city dependent on the Nistru River for its water supply, was facing a critical water shortage. In anticipation of the crisis, I proposed to discuss the situation openly with the Ukrainian administration so that it would be in a position to release some water (as the presence of a dam at the border would permit). The responses given were somewhat unexpected. First, it was asserted that the scope of relations and discussions with Ukraine was limited in the water management domain. Consequently, the acceptance of such water release was deemed unlikely. Second, it was hypothesised that individuals of Chisinau would simply purchase water from retail outlets. "*C'est la vie!*"⁵. These answers have led me to question the transboundary relationships in the context of water management. Schurmans concludes that, as a consequence of the two preceding arguments, namely the construction of our identity as the result of our involvement in the city and of previous experience, each of us also modifies the city and other

⁵ "That's life". I have never heard this French expression so much as in Moldova.

people. I found myself in accordance with the fact that in the eyes of others, I represent an other that exerts a tangible influence on them.

Schurmans' statement prompts me to recognise certain particularities of my research project. First, it is common for the subject of a PhD to be proposed or strongly elaborated by the supervisor. In my own case, I led the elaboration of the PhD research project from its inception, including the establishment of contact with my supervisors, the formulation and development of the thematic, and the securing of funding – with an effective support of my supervisors. This demonstrates my high motivation for the subject and for this project. Second, the subject of the PhD pertains in part to the introduction to the political agenda of the legal personhood of the Rhône River. It is evident that the nature of my research itself is such that it directly interferes with this introduction. By studying it, I create a sounding board. During the course of certain meetings, interviewers became aware of the existence of the “Appel du Rhône” and even of the concept of the Rights of Nature. Consequently, I involuntarily promoted the concepts to some interviewees who were not previously aware of its existence. Furthermore it is conceivable that one actor or another may utilise the present manuscript, my articles or my public conferences to advocate or to contest the legal personhood of the river.

As a conclusion, my current posture is the result of the combination of a deterministic training and a more constructivist professional experience. I believe that processes of decrypting the world and the society should be grounded on the two distinct yet complementary approaches. Explicative approaches, mobilising the logic of proofs and causality links, should be associated to the constructivist approaches grounded on the actors' viewpoints. Returning to the water debate, qualitative data attain their full significance when contextualised within their societal milieu and when their societal interpretation and utilisation are elucidated.

1.4.2 Epistemological posture

In order to reflect this ontology, a comprehensive research design was developed with the following characteristics. First, the objective is to provide an understanding of the positioning of the various actors in relation to the potentialities of the legal personhood of the Rhône River. Consequently, I focus directly on the actors themselves, as it is posited that they construct and modify both social phenomena and reality. The rationalities and motivations of the actors are “the entry data” of my research. This understanding reflects my own interpretation of the complexities and intricacies of the actors involved. Consequently, I have adopted a constructivist stance within the interpretative paradigm (Berthelot, 2018).

Second, the research has been structured around a principal research question, which has been further delineated into three subsidiary sub-questions and hypotheses. The hypotheses are informed by exploratory interviews, the most common river-persons and the theoretical framework. The respective sub-question/hypothesis pairs have provided the guiding framework for the project research. I have thus implemented a hypothetical-deductive reasoning process (Lawson, 2000). Each chapter contributes to the testing of the hypotheses. The “political ecology” framework informs the second chapter. I mobilize arguments pertaining to the implementation of the legal personhood both from the Rhône River basin and other geographical areas. A plethora of arguments have been promoted to support the legal personhood, and the present study examines their pertinence within the Franco-Swiss context. The methodology employed in this chapter 2 tends to be a mixed methodology. Explanatory factors are identified in four processes of recognition of legal personhood. These factors are then mobilised to discuss a potential operationalisation on the Rhône River. In chapters 3 and 4, I employ methods grounded on interviews within the interpretative approach. In chapter 3, the focus is on the construction of issues, their transformation into public problems and their politicisation. I decode and interpret the strategies and motivations of actors within this process

through a constructivist approach. Chapter 4 provides a contextual framework for the recognition of the legal personhood through imaginaries. I interpret and make explicit the motivations and systems of values of the water actors, as per the data collected during their interviews. In the concluding chapter 5, I open the debate for the utilisation of complementary ontologies to elucidate the challenges raised by the concept of legal personhood. This would provide a multifaceted perspective on the subject.

1.4.3 Data collection

This research project has been developed on the basis of extensive primary and secondary data collection. The methodology is grounded in a qualitative approach. It encompasses literature analysis, interviews and participative observation to enrich data collection and triangulate information from derived from various sources.

First, a comprehensive review of scientific and grey literature has been conducted throughout the duration of the project. The collected documents encompass water laws, legal judgments, water policy documents and newspaper articles. The documents, in English, French or Spanish, refer not only to the Rhône River but also several other rivers and countries. These documents serve as foundational sources for comprehending the prevailing institutional context. Furthermore, a range of websites was also consulted.

Second, the fieldwork was conducted from September 2022 to December 2024. Prior to this, I developed a data management plan and a semi-directory questionnaire to guide the interviews (Brinkmann, 2020), including a consent form for interviews (annexes 1 and 2). In order to comply with the recently established procedures, this documentation was submitted to the University Commission for Ethical Research at the University of Geneva (CUREG - Commission Universitaire pour une Recherche Ethique à l'Université de Genève), which issued the certificate of ethical compliance. Fifty-eight interviews were conducted from September 2022 to December 2024. Participants were selected based on their public activities and recommendations, encompassing the diverse water uses along the Rhône River across various geographical scales. In an effort to ensure a comprehensive exploration of the subject matter, both French and Swiss participants were included in the study, thereby facilitating a multifaceted examination of the perspectives across both nations (annex 3). The purpose of the discussion had been explained previously to the interviewees, who provided their consent prior to participation. The interviews generally lasted between one to two hours in general. I conducted them either in person at the participants' office or via online platforms. The questionnaire was organised in three sections. Initially, I explained the objectives of the discussion and obtained the formal consent from the participants. The second part of the interview entailed the solicitation of respondents' insights on the historical, contemporary and future challenges confronting the Rhône River. The third part of the discussion focused on the rights of nature and legal personhood itself. The respondents articulated their comprehension of the concepts, their mobilisation by various actors, and the advantages and difficulties.

Finally, observatory participation took place in 2023-2024. I participated in various pre-investigation public meetings related to the potential construction of a French dam named Rhôneergia, which were organized by the French National Commission for Public Debate (CNDP – Commission Nationale pour le Débat Public). In addition, I also observed some workshops organised by environmental activists. Furthermore, I have been an active member of the Water User Assembly of Lyon Metropolitan area. This Assembly, which is opened to all inhabitants of Lyon and its metropolitan area, convenes approximately 10 times per year to study subjects pertaining to water and then issue recommendations. The agenda for these meetings has included specific discussions on the Governance of the Rhône River, the natural

water cycle and the impacts climate change. From this Assembly, I was elected as a representative to the board of the water public services of Lyon Metropolitan Area.

1.4.4 Data Analysis qualitative coding

The predominant analysis method for interview data, text documents and other materials was thematic analysis (Naeem et al., 2023). The process of reading, understanding and organising raw interview data and text materials enabled the identification of recurrent arguments. Initially, the process entailed the establishment of categories of ideas, concepts or specific wording. These categories are elaborated through a deductive approach. Consequently, the preliminary tentative list of categories included the items of “legal personhood”, “ecosystems”, “justifications”. Subsequent analysis of the interview data had revealed the emergence of additional themes, including “democracy”. Consequently, the preliminary list was augmented with categories that were identified through an inductive approach. Second, qualitative analysis was conducted based on the identified patterns. Third, the immediate context of the text was analysed, especially the social practice categories. Finally, explanations were provided taking into account the interactive context and social context. A particular focus was placed on the potential interrelationships between controversies and the RoR / legal personhood paradigm, as controversies are contested discourses in nature.

Chapter 2 aims to understand how some river-persons have become references in the discourses of promoters of rights for the Rhône River. Utilising extant scientific literature, I draw a qualitative comparison between these river persons to characterise some key variables and causality mechanisms (Rohlfing, 2014a). The subsequent phase involves the mobilisation of these results to provide insights into the on-going processes within the Rhône river basin.

In Chapter 3, I decrypt the strategies of the two primary promoters of the legal personhood. To this end, I delve in the history of their actions, published materials and discursive contributions. This chapter is further enriched by a series of interviews.

Chapter 4 is an empirical-based article, mobilising numerous interviews to understand the profound motivations of the actors. The interview data was then subjected to in-depth analysis through the lens of the imaginary discourses. Given that imaginaries are seldom explicit, due to the fact that they express conscious or unconscious beliefs and values concerning the world as it should be, an iterative method was developed between the theory of imaginaries and the raw interview data. The present chapter thus provides a comprehensive presentation of verbatim quotations, with the purpose of explicitly delineating the discourses of the diverse actors involved. The analysis reveals the presence of three discourses that can be traced across the diverse interviews: extractivism, ecocentrism and democracy.

1.4.5 Research ethics and positionality

At the commencement of interviews and during meetings or workshops of the observatory participation, I always explained that this research project is an independent academic project despite the co-financing support from the Water Agency of Rhône-Méditerranée Corse (AERMC – Agence de l’Eau Rhône - Méditerranée et Corse), IAGF (Initiatives for the Future of Great Rivers) and Index Project, in addition to the Universities. IAGF is a NGO, co-financed by National Company of the Rhône River (CNR – Compagnie Nationale du Rhône), with the aim of enriching the international conversation regarding the management of great rivers. Index Project is a local engineering design office specialising in project management planning. It is noteworthy that some interviewees were initially reluctant to meet with me, due to this co-financing support and my previous professional commitments. I could appear to some interviewees as a product of the prevailing “water management system” while their strategy was to keep their distance with and to build a balance of power against this

“system”. However, the clarification of my distance and independence from the co-financing institutions convinced the interviewees.

Throughout the research project, I have attempted to maintain an objective stance in my research approach. As a French citizen, I opted to pursue a co-supervised thesis, both in France and Switzerland. I allocate approximately two-thirds of my time in Geneva, which gives me the opportunity to work within a professional Swiss context. This choice enabled me to establish connections with prominent stakeholders in Switzerland and foster a comprehensive understanding of the RoN discourse. Furthermore, as a water engineer, it was necessary for me to deconstruct some of my technical knowledge, or what Foucault would claim as “the regime of truth” (Revel, 2004), to achieve the establishment of an objective framework for my research. I use here the concept of “regime of truth” to highlight the status of the technical knowledge in comparison to other knowledges, such as the vernacular knowledge. As a conclusion, I join Bright et al. (2024) statement that the doctoral research is a transformative process, which through writing, leads to the development of reflexive competencies. I come back on this transformative process in the conclusive chapter 5.

The following section presents the Rhône River as a case study and the related justifications.

1.5 The Rhône River, as a relevant case study

The research question is addressed through a qualitative single-case study, utilising a constructivism approach. The selection of the Rhône River as a case study is explained in further details below. The Rhône River is regarded as a living laboratory with regards to the challenges associated with the Rights of Nature and the processes of recognition of legal personhood. In the following paragraphs, I develop first a general overview of the Rhône River Basin, second I present the water governance and finally followed the context related to RoN and legal personhood.

1.5.1 An overview of the Rhône River Basin

The Rhône River originates from the high glaciers of Switzerland, traverses the Lake Geneva and ultimately discharges into the Mediterranean Sea through a delta south of France. Lake Geneva, which is one of the largest in western European, is shared between the two countries (cf

Map 1). The following

Table 2 presents a selection of the physical characteristics of the river.

Table 2 – Main characteristics of the Rhône River (data from AERMC, CIPEL and (Bravard & Clémens, 2008))

	Switzerland	France	Total
Surface of the River Basin (km ²)	7 800 (8%)	90 000 (92%)	97 800
Surface of the Geneva Lake (km ²)	350 (60%)	232 (40%)	582
Lengths of the lake shores	142 (71%)	58 (29%)	200
Annual Flows	250 m ³ /s (Geneva)	1 700m ³ /sec (Beaucaire)	/

Bravard and Clémens (2008) identify five hydrographic entities of the Rhône River, distinguished by both topographical features and climatic influences. The first of these is the Alpine Rhône, extending from its glacial source to the transboundary Lake Geneva. The topography of the region is characterised by pronounced inclines and a distinctive U-shaped valley. Along the tributaries, high dams have been constructed, including those of the Grande Dixence and Emosson. Lausanne and Geneva, two of the most populous Swiss towns are located on the shores of Lake Geneva. The second hydrographic entity identified is the “upstream French Rhône”, which extends to the point where the Rhône joins the Saône in Lyon, the most populous town of the river basin. This section is distinguished by significant flood plains, including the Lake Bourget. The third hydrographic entity is the Middle Rhône, extending from the point at which Saône flows into it to the confluence of the Rhône River with Isère (a distance of 110km). The fourth segment is the downstream Rhône, extending from the Isère confluence to the delta. The climate is classified as mediterranean, with the tributaries exhibiting heightened sensitivity to mediterranean rainfall events. The Rhône ultimately forms a delta measuring approximately 500km². The hydrology of the Rhône is distinguished by a high degree of complexity, attributable to the presence of glacial rivers (Isère and Durance), mountains rivers, partially oceanic rivers (e.g. Saône) and mediterranean climate rivers. There are more than 20 dams on the Rhône River itself. Notably, the river hosts to 22% of France’s nuclear power production, (Albert et al., 2022) and is considered as one of the most nuclearized regions of the world. For further information about the landscape of the river basin as well as general information (such as human geography, the economy of the Rhône territories, etc), I will advise the reader to refer to the extensive literature on the subject (Bravard, 1987; Etat des lieux du bassin Rhône-Méditerranée, 2019)

Map 1 – the Rhône River Basin. The size of the tributaries is based on the Strahler order, with emphasise downstream (2024, with the kind permission of Perrin Remonté, <https://www.perrinremonte.com/fraccueil-1>)



1.5.2 The water governance of the Rhône River

Both countries have ratified the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention, 1992). The fundamental objective of the Convention is to encourage cooperation concerning shared waters through the establishment of specific agreements and the formation of joint bodies. However, despite being part of this Convention, France and Switzerland have not established such a joint body, nor have they established a unique transboundary governance institution to oversee the entire international river basin. Bréthaut & Pflieger (2020a) characterise three phases of the

transboundary governance. The initial phase (1), spanning from 1879 to 1970, is characterised by the perception of the Rhône as a catalyst for industrial production and a recurrent danger due to its floods. During this period, the governance is said to be monofunctional. Infrastructure, including dams and dikes, is progressively constructed. In Switzerland, the Industrial Services of Geneva (SIG – Services Industriels de Genève) were established in 1896, while in France, the National Company of the Rhône River (CNR – Compagnie Nationale du Rhône) was created by the 1921 law to manage the river. In the aftermath of World War II, a coalition of actors advocated for the intensification of the Rhône exploitation with the objective of promoting France’s development. This resulted in the construction of more than twenty dams along the entire Rhône watercourse. The International Commission for the Protection of the Waters of Lake Geneva (CIPEL – Commission Internationale pour la Protection des Eaux du Léman) was established at the close of this period, in 1963, with the view of addressing the diminishing water quality of the Lake Geneva. It is an intergovernmental body, comprising civil servants and representatives from both States and from the Swiss cantons, the French region, and departments. Subsequent to the 1970’s (2), France initiated the implementation of its civil nuclear production plan, the Messmer Plan (Garcias & Tillement, 2024). This initiative led to a significant transformation in the governance of the Rhône River, with the incorporation of Electricity of France (EDF – Electricité de France) as a pivotal actor. The governance became multifunctional, centered on a limited number of water uses. Finally (3), in the late 1990s, there was an increase in environmental concerns and the issue of other users, which resulted in a polycentric model of governance characterised by heterogeneous and complex rivalries.

EDF-CNR-SIG have developed self-coordination mechanisms. The States’ involvement has been limited to the development of the legal framework up to recently. The States were not associated to the operational coordination, developed on a “ad hoc” basis approach mainly, addressing issues as they arise. Over the last few years, the two states have entered into negotiations about two agreements, one related to the Lake Geneva and another to the Rhône River (Thiboud, 2023).

A number of other actors are present and complement the water governance in both France and in Switzerland. In France, the Water Agency of the Rhône-Méditerranée Corse is a financing and planning administration and it implements the decisions of the Water Committee, a board of the different water users. Various actors are also united within the Plan Rhône, a financing tool to implement a sustainable development along the Rhône River itself. Finally, CNR has been implemented a Plan 5Rhône to redistribute some of the benefits made through the hydro-electricity production to the local territories. In Switzerland, Cantons play a key role in the water management, within the legal framework defined by the federal level. The federal level leads to a certain uniformization of practices through co-financing possibilities. I am not intending to present all of them. For a more comprehensive overview, the reader is referred to the extensive literature on the French or Swiss water management (Barbier et al., 2022; Buchs, 2016; Colon et al., 2018; Muniz Miranda, 2017; Richard et al., 2010; Thomi, 2005).

1.5.3 A Rhône River under evolution

This established water governance appears to be facing new challenges. A concise overview of these challenges is provided herein; the subsequent chapters will provide a more comprehensive discussion.

First, climate change is affecting the Alps and the Rhône River due to its situation and topography. According to various studies (Aubé, 2016a, 2016b; BRLi, 2022; Ruiz-Villanueva et al., 2015), the hydrology of the Rhône River has undergone changes and will continue to do so. The Rhône glacier may have entirely disappeared by the end of the twenty-first century.

From a quantitative point of view, there may be greater water availability during the winter months, with reduced availability in the summer months.

Second, concerns regarding the evolution of the water quality persist. Elevated levels of PFAs have been detected in the aquatic ecosystem and in the drinking water of some localities around Lyon (Teymoorian et al., 2025). In recent years, the occurrence of algal bloom in the Geneva Lake has been observed, resulting in restrictions on bathing activities and giving rise to concern regarding the production of the drinking water. Concurrently, the temperature of the river is rising, thereby increasing the risk of pathogen development.

Third, new uses are being discussed in both France and Switzerland. These include hydropower production, nuclear development, heat and cold transfers, and water transfers to other territories.

In summary, the total annual quantity of water may remain constant, but its distribution over the year will be different. It is reasonable to hypothesise that the scope of water uses will be extended. Consequently, the emergence of heightened tension is a distinct possibility. This has encouraged discussions at governmental levels between the two countries to craft two agreements, one on the Rhône River itself and the other one on Lake Geneva. These agreements remain the subject of ongoing discussion. Indeed, Lake Geneva has the peculiarity of having a dam at its outlet since the late nineteenth century. The Seujet dam produces negligible hydropower and its operation is governed by a Swiss intercantal agreement (Acte intercantal, 1984) to which France is not a party. The purpose of this agreement is to restrict the variation of the water level (Acte intercantal, 1984) to within a margin of 60 cm. The two countries are currently engaged in discussions concerning the operational management. Given the substantial size of the lake, this management could counterbalance some of the adverse effects of climate change on the hydrology of the downstream French Rhône. The operation rules of the dam have the potential to exert a substantial impact on the water availability downstream, either by augmenting it or, in contrast, diminishing it. Moreover, a water transfer exists from the Arve watershed in France to the Swiss Emosson dam. The implementation of this water transfer results in the release of the French waters into the Rhône upstream of the Geneva lake. In the absence of the transfer, the water would naturally join the Rhône downstream of the lake. This water transfer is overseen by the bi-lateral convention of Emosson (Convention d'Emosson, 1964). This results in a volume of water of the lake that is attributed to France but is under Swiss management through the Seujet dam. France can request the release of this water and does it when the water availability in the Rhône is insufficient downstream. To conclude, the aforementioned specificities - encompassing climate change, water quality and quantity, water transfer, and the Seujet Swiss dam managed without French direct participation - have led to a renewed political interest in this transboundary water body.

1.5.4 The Rhône River, more than just a River?

In addition to the Rhône River regarded as a source of physical and geographical support for the population, the existence of a specific “rhodanian mindset” is a subject that merits discussion.

First, the specific developments that have taken place along the Rhône River constitute a human-made heritage, which might be unconsciously ignored. The Camargue results from the construction of digues coupled with the water management practices of the salt industry and the irrigated agriculture (Bravard & Clémens, 2008). The river heritage comprises also for instance the epis Girardon and the suspended bridges. The commemoration of the 100-year anniversary of the first suspended bridge led to the organisation of the “Fêtes du Rhône” in 1926. This event has been organised on 1 to 3-year cadence with the objective of promoting “the valley of the Rhône River, from the spring to the sea, and its economic, cultural and folkloric components” (Beauchêne, 1999, p. 160). A ritual organised in four steps has been

established: oblation to the Rhône River, allegorical parade, transfer of the rhodanian flag, plantation of the friendship tree. However, between 1987 and 2024, the event was organised only 3 times. Beauchêne (1999) states that the creation of the “Fêtes du Rhône”, as well as the CNR few years earlier in 1921, might have been driven by a political objective in the context of an economic competition. This objective was to counterbalance the fluvial policy of Germany, which prioritised transport towards the continental Europe through the Rhin and Danube Rivers. Beauchêne contends that the events constitute evidence of a rhodanian culture elaborated in order to accompany the development of the Rhône River.

Second, other scholars discuss about the mobilisation of the Rhône in everyday life (Monneret, 1999; Vincent, 1999). They assert that the culture of the river has been developed when the river was a key object in the centre of the economic life of the riparian cities, in the 19th century. For the riparian inhabitants, the river constituted more than a mere geographical feature; rather, it was a structural element of their social life (Monneret, 1999). However, following the mid-nineteenth century, the development of the railways, the construction of flood defences and then the establishment of the CNR, gave rise to questions regarding the local relationships with the river. The River has become a marginal aspect of social life. After world war II, the development of the river bank, the creation of industrial zones, the cooling of the nuclear power plants characterise the functionalisation of the river. Allemand et al. (2021) conducted a study of the so-called « chemical valley », which is located in the southern region of Lyon. They noticed that the historical landscape had been eradicated due to the construction of highways on the riverbank, the Feyzin Raffinery and the industrial zone, resulting in the river becoming both invisible and inaccessible. The aforementioned phenomenon has been termed « landscape blindness » (Allemand et al., 2021). This landscape blindness is also present in Valence or in the Perrache neighbourhood of Lyon. The construction of the highways has resulted in the separation of these towns from their riverbanks. The relationship with the river has necessarily withered away.

The third element pertaining to the “rhodanian culture” is the transformation of the river from an object of constant presence, interactions and familiarity to an object with an extraordinary status through the process of patrimonialisation. The establishment of the “Maison du Rhône”, opened in 1989 in Givors, supported this idea. To avoid the disappearance of a certain culture of the river, voluntary processes are implemented. Vincent (1999) identifies the joust as one of the preserved riparian cultural elements in various fluvial towns. However, it is not obvious that these elements extend across the entire river basin to characterise a rhodanian culture. The literature does not appear to support the notion of an existing Rhodanian mindset. The closure of the “Maison du Rhône” in 2014 could be perceived as the symptom of the deliquescence of the relationship Rhône- river and riparian inhabitants.

1.5.5 Emergence of the discourse on the Rights of Nature

Recently, the discourse on Rights of Nature and recognition of rivers as legal entities has begun to take root along the banks of the Rhône River. This emergence marks a significant shift in the water management, as it challenges established legal and institutional paradigms regarding the status and the governance of the river. The initiative to place the legal personhood of the Rhône on the public agenda has not emanated from the primary decision-makers of the water governance, but rather from actors positioned at the periphery of formal decision-making arenas.

Two such actors are of particular note. The first of these is ID-Eau, a Swiss-based association that was established in 2018. The organisation has defined its mission as the promotion of lifestyle changes that are conducive to water protection. The second is the CIPEL, the French-Swiss intergovernmental body tasked with implementing cooperative strategies to safeguard

the quality of Lake Geneva's waters. While CIPEL possesses some technical and administrative legitimacy through its mandate and its board constituted of French and Swiss official representatives, neither it nor ID-Eau can be regarded as central actors in the governance of the Rhône or the Lake. This marginal positioning gives rise to a fundamental tension: it is actors operating outside the prevailing frameworks of governance who are advancing a radical reimagining of the river's legal status, while those formally mandated to develop or to protect the river remain largely silent on the matter. This disjunction gives cause for consideration of instrumentalisation of the legal personhood by its promoters as a tool of contestation against the prevailing river governance. In addition, it calls into question the effectiveness and responsiveness of prevailing governance structures in addressing contemporary societal and ecological concerns.

In response to their peripheral status, both ID-Eau and CIPEL have adopted various strategies to promote their vision, to gain visibility and legitimacy. In 2020, ID-Eau initiated an online petition entitled the "*Rhône's Appeal for the recognition of a legal personhood to the Rhône River*". This appeal advocates for the recognition of four rights for the river and its ecosystems, in anticipation of any potential irreversible damage. The rights encompass the right to exist, the right to be preserved, the right to regenerate, and the right to evolve. This initiative is complemented in 2021 by the ID-Eau's establishment of the *Assemblée Populaire du Rhône* (APR – Popular Assembly of the Rhône). APR is a citizen's assembly composed of twenty-five randomly selected riparian inhabitants of the Rhône River basin. This assembly is conceptualized as a participatory body intended to represent the riverine population. Meanwhile, CIPEL has proposed a feasibility study on the potential recognition of legal personhood of Lake Geneva. Chapter 3 provides a more detailed examination of the positioning and strategies employed by these two actors. It analyses how the concept of legal personhood – and, more broadly, the Rights of Nature – functions as both a critique of existing governance models and potential avenue for their reconfiguration.

During my research project, additional movements were established to request the recognition of legal personhood for some tributaries: Water Parliament of Isère, Rights of Durance. While I monitored the evolution of these movements, I have deliberately decided not to delve into their questions. First, they were only at the inception of the process. Second, the approach of ID-Eau is marketed as encompassing the entire watershed, while the CIPEL approach focused at a more local scale. I have the possibility to delve into two different "scales of the struggle and the struggle over scale" which are two sides of the same coin (Doherty et al., 1992). Blomquist and Schlager (2005) explains that the identification of the watershed is a political choice, as it is a question of scale.

In a nutshell, the Rhône River has a well-established water governance system that appears to meet water demand and uses without major tensions. In particular, the transnational governance remains technocratic and operational, with reduced transparency and limited political accountability. The river has kept a high role for economic purpose. However, relationship between the riparian inhabitants and the river, which Hermitte would name "attachment", has become strained and the river is not a key actor within the population. In addition, the river itself faces a set of increasing challenges and new discourses are emerging. It can thus be concluded that the Rhône River emerges as a compelling subject for examination and comprehension with respect to the advent of rights for rivers, their ontologies, and their ramifications for various actors, institutions and the water governance.

1.6 Presentation of the following chapters

Four chapters constitute the remaining part of the thesis. Chapters 2, 3 and 4 correspond to scientific, peer-reviewed articles. These articles are cited at the commencement of each chapter. It is noteworthy that while the thesis is written in English, chapter 3 is in French. The related article was published in *Géocarrefour*, formerly known as *Etudes Rhodaniennes* and subsequently *Revue de Géographie de Lyon*. Since 1926, this publication has played a key role in the debates on the Rhône River, so it was considered strategic to engage the conversation with scholars familiar with this journal. Chapter 5 constitutes the conclusion of the thesis, wherein the hypotheses are revisited, and future research directions are proposed.

1.6.1 Chapter 2 – Les défis de l’opérationnalisation de la personnalité juridique des rivières dans un contexte européen, réflexions à l’aune du fleuve Rhône (or The challenges of operationalising the legal personhood of rivers in a European context, with reference to the Rhône).

In Chapter 2, four cases of recognition of the legal personhood are mobilised to illuminate the Rhône River situation. The employment of a comparative method results in the identification of key variables in the cases of Whanganui, Atrato, Turag Rivers and the Mar Menor laguna. The variable “geographical and administrative scales” establishes a correlation that the recognition is a bottom-up process, initiated by actors outside the legitimate institutions, who frame the agenda setting. It is a protracted process, with each of these basins presenting tensions, albeit not necessarily directly linked to water. Additionally, there is a paucity of forums for discussion on water-related issues and the public perceives its exclusion from decision-making processes. Finally, this comparison underscores the adaptability of the concept, which is mobilised to achieve very different objectives.

The findings of this comparison are then used to shed light on the ongoing debates surrounding the potential legal personhood of the Rhône River, where the process exhibits both parallels and contradictions. The debate is initiated by territorial actors who must establish their legitimacy. These actors adopt a long-term perspective and they instrumentalize the concept of legal personhood to foster reflection on planetary boundaries. Despite existing tensions, these actors have not demonstrated the existence of a problem on the global river basin scale. The primary distinction noted is the various and numerous presences of forums for discussion and participation in water-related decision-making processes. However, the actors are engaged in their contestation.

1.6.2 Chapter 3 - The Legal Personhood as an Instrumental Tool for Reforming the Governance of the Rhône River

Chapter 3 examines the emergence of the discourse regarding the “Rights of Nature and the legal personhood” on the Rhône River itself, focussing on the agenda-setting stage. First, the history of the water governance over the last 150 years is presented and characterises three distinct phases. It analyses then how the concept is promoted and finds its ways on the political agenda. It underscores the strategies employed by proponents of legal personhood to transform difficulties in public problems to be solved (D. A. Stone, 1989). The paper decrypts the construction by CIPEL and ID-Eau of the argumentations to respectively implement a feasibility study to confer the legal personhood to Lake Geneva and to secure legal personhood to the Rhône River. These two different processes provide also insights about the challenges to frame the political agenda. We identify five lessons, encompassing the willingness to push for a more decentralised and inclusive governance. Also, it appears that the causal stories and

justifications for the paradigm shift towards the legal personhood do not highlight clearly the problem to be solved.

1.6.3 Chapter 4 - Extractivism, Ecocentrism and Democracy. Imaginaries around Rights of River and Legal Personhood of the Rhône River.

Chapter 4 explores the profound motivations of the actors through the concept of imaginaries. The term “Imaginaries” is defined as institutionalised visions of desirable futures. It articulates the dynamic interplay between the individuals and the society regarding our comprehension of the world. These concepts, issued from the Science and Technology Studies, are used to understand the actors’ vision articulated through the legal personhood of the Rhône River concerning what the river is or should be. The chapter is empirical in nature, developing on the actors’ interviews. The analysis identifies and examines three actors’ discourses: the extractivism imaginary, the ecocentric imaginary and the democratic imaginary. The study demonstrates that the river is perceived as having significance beyond its physical properties. This chapter provides foundation for further discussion of the socio-nature of the river and the hydrosocial cycle.

1.6.4 Chapter 5 - Conclusion

Chapter 5 is a synthesis and conclusion chapter. First, I present a global comprehension of my research findings and then I formally return to the research question and discuss the hypotheses. Second I replace this research within the academic literature, thereby highlighting both my contributions to the conversation related to the legal personhood of rivers and the limits of my research. Finally, I present various elements that I believe to be conducive to the identification of a way forward in research and as policy recommendations. I posit that the request for the acknowledgement of the legal personhood of the Rhône River contains a significant democratic component, indicating a repolitization of the water management.

2 Les défis de l’opérationnalisation de la personnalité juridique des rivières dans un contexte européen, réflexions à l’aune du fleuve Rhône⁶

Résumé

Afin d’analyser le processus de reconnaissance de la personnalité juridique du Rhône, cet article s’attache à caractériser des variables clefs de l’opérationnalisation de la personnalité juridique sur quatre écosystèmes : les rivières Whanganui, Atrato et Turag et la lagune Mar Menor. Il est démontré que ces processus sont ascendants, développés initialement en dehors des institutions et mobilisent la population qui n’était jusque-là pas consultée. Bien que l’expression de la voix du fleuve varie grandement, la personnalité juridique permet en général une concertation plus grande des populations riveraines. Sur le Rhône, il manque a minima à ce jour un soutien populaire pour faire avancer la reconnaissance de sa personnalité juridique. De plus, la présence de nombreuses arènes de concertation liées au fleuve est une différence notable par rapport aux quatre cas étudiés. Cependant, sur le Rhône, les prises de décisions sont parfois critiquées comme étant éloignées du terrain ou très centralisées.

Summary

The present article analyses the process of recognising the legal personhood of the Rhône River. First, key variables are characterised from the operationalisation of legal personhood in four ecosystems: the Whanganui, Atrato and Turag rivers and the Mar Menor lagoon. The article demonstrates that these processes are bottom-up, developing initially outside the institutions and mobilising populations that have not been consulted up to now. While the articulation of the river's voice exhibits significant variations, the concept of legal personhood generally facilitates enhanced consultation of the riverine population. Second, in the case of the Rhône, there is presently a dearth of popular support for the recognition of its legal personhood. Moreover, the presence of numerous consultation arenas related to the river stands out as a salient feature when compared to the four cases examined. Nevertheless, the decision-making processes have been sometimes criticised on the grounds of being remote or highly centralised.

⁶ This chapter is based on the article: Vallet, C. (2025), Les défis de l’opérationnalisation de la personnalité juridique des rivières dans un contexte européen : réflexions à l’aune du fleuve Rhône, in *Géocarrefour* 98 (2) <http://journals.openedition.org/geocarrefour/24100>

2.1 Introduction

Les Droits de la Nature sont régulièrement mis en avant comme solution permettant une effectivité de la protection des écosystèmes (Boyd, 2017; Brunet, 2023). Un des outils d'application de cette théorie est la personnalité juridique ; personnalité juridique et Droits de la Nature étant les deux faces d'une même pièce (Iorns Magallanes, 2021). Face aux crises écologiques, et dans la foulée de la Constitution équatorienne de 2008, les revendications liées à la personnalité juridique des entités naturelles se sont multipliées (Eckstein et al., 2019). L'aspect essentiel de la personnalité juridique réside dans la possibilité d'ester en justice. Ainsi Stone (1972), dont les promoteurs de la personnalité juridique se revendiquent, caractérise cette dernière par les trois éléments suivants : (1) la capacité pour la Nature d'intenter des actions en justice en son propre nom, (2) la prise en compte des dommages infligés à la Nature lors de la détermination du préjudice subi et (3) l'attribution des amendes à la Nature elle-même. A ces trois conditions de pouvoir ester en justice, O'Donnell et Talbot-Jones (2018) en ajoutent deux autres : (1) le droit de conclure et d'exécuter des contrats et (2) le droit de posséder et de gérer des biens. Afin de rendre la personnalité juridique opérationnelle, il est nécessaire qu'existe un organe d'intermédiation entre la rivière et les hommes, organe qui exprime « la voix du fleuve » au sein de notre société.

A ce jour, on observe sur le bassin versant du Rhône, une intensification des débats autour de la personnalité juridique du fleuve. La mise à l'agenda politique de cette question trouve son origine dans deux initiatives distinctes portées respectivement par l'association suisse ID-Eau et la Commission Internationale pour la Protection des Eaux du Léman (Vallet et al., 2024). Les motivations sont diverses et je pars du postulat que la démarche ne vise pas la création d'une personnalité juridique en soi, mais que l'objectif est l'ouverture du débat sur les choix techniques, politiques et démocratiques liés à l'environnement. Cela implique une réflexion sur la manière de poser les problèmes et de faire émerger les décisions (Vallet et al., 2024). A partir de l'analyse de la personnalité juridique sur d'autres rivières, je questionne dans cet article les conditions pour une éventuelle opérationnalisation de la personnalité juridique du Rhône. Il s'agit de comprendre dans quelles mesures ces exemples peuvent servir de modèles transposables. Le Rhône se distingue des personnes-rivières⁷ déjà reconnues comme telles par deux caractéristiques principales. En premier lieu, s'écoulant de la Suisse vers la France, c'est une rivière transfrontalière. Jusqu'à présent, la personnalité juridique a été reconnue pour des rivières ou des écosystèmes dans les limites administratives nationales. Il n'existe donc pas de modèles de personnes-rivières transnationales. En second lieu, l'aménagement de la rivière a induit le développement d'une gouvernance franco-suisse qui demeure à ce jour fragmentée. Bréthaut et Pflieger (2020b) caractérisent trois grandes phases pour la gouvernance du fleuve : 1) 1870-1970, une phase de régulation monofonctionnelle liée à l'hydroélectricité, 2) 1970-2000, une phase de régulation multifonctionnelle intégrant de nouveaux usages de l'eau tels que le refroidissement des centrales nucléaires, et 3) depuis 2000, une phase de régulation multifonctionnelle de rivalités complexes et hétérogènes intégrant les questions environnementales en particulier. Vallet et al. (2024) questionnent l'émergence d'une quatrième phase, associée à l'ouverture d'un débat sur les Droits de la Nature et la personnalité juridique. Dans une démarche comparative, j'analyse ici ce qui pourrait être les prémices d'un processus de reconnaissance de la personnalité juridique du fleuve Rhône. Ceci m'amène à poser la question de recherche suivante : comment, dans un cadre transnational, pour un fleuve

⁷ Expression tirée de l'article de Erin O'Donnell (2021), utilisée ici comme les rivières dont la personnalité juridique a été reconnue.

anthropisé comme le Rhône, la personnalité juridique peut-elle faire évoluer la gouvernance du fleuve ? En d’autres termes, comment la gouvernance est-elle amenée à remettre en question ses procédures ou les enjeux et les thématiques qu’elle aborde ? Il est entendu ici gouvernance comme étant « la palette de systèmes politiques, sociaux, économiques et administratifs mis en œuvre pour le développement et la gestion des ressources en eau et la fourniture des services d’eau à différents niveaux de la société » (Rogers & Hall, 2003b). Ces questions sont discutées à travers les deux focales suivantes :

- Quelles sont les variables déterminantes que nous pouvons tirer de la mise en œuvre de la personnalité juridique pour d’autres rivières ou écosystèmes aquatiques ?
- Comment les processus socio-politiques en cours sur le bassin versant rhodanien peuvent-ils être déchiffrés à la lumière des expériences sur d’autres bassins hydrographiques ?

Afin de développer des éléments de réponses, cet article est structuré de la manière suivante. Dans une première partie, certains des exemples les plus aboutis de reconnaissance de la personnalité juridique des rivières sont exposés. Il est développé dans une deuxième partie le cadre d’analyse en présentant la méthodologie de comparaison et les variables clefs tirées à partir des cas. Dans une troisième partie sont décryptés les processus en cours pour le Rhône à l’aune de ces variables-clefs. Enfin, la conclusion ouvre la réflexion sur la signification profonde de cette demande sociétale.

2.2 Processus et mise en œuvre de la personnalité juridique

Dans cette première partie, sont présentés tout d’abord les processus de reconnaissance de la personnalité juridique et leur mise en œuvre pour les rivières Whanganui (en Nouvelle-Zélande), Atrato (en Colombie), Turag (au Bangladesh) et la lagune Mar Mineure (en Espagne).

2.2.1 Les processus de reconnaissance de la personnalité juridique.

Eckstein et al. (2019) et O’Donnell et Talbot-Jones (2018) caractérisent deux grands processus de reconnaissance de la personnalité juridique : un processus législatif (en Nouvelle-Zélande) et un processus juridique (en Colombie). En Nouvelle-Zélande, le processus législatif de la reconnaissance de la personnalité juridique a pris plus de huit ans, non incluses les années de discussions préparatoires. Cette reconnaissance s’inscrit dans un contexte de contestations de la mise en œuvre du Traité de Waitangi de 1873. En 1999, le tribunal de Waitangi émet des recommandations pour traiter les griefs des Maoris (The Whanganui River Report, 1999). En 2016, certains candidats aux élections législatives incluent dans leurs programmes la promesse d’une loi de reconnaissance de la Whanganui comme personne juridique. Une fois élus, la loi « Te Awa Tupea » reconnaissant la personnalité juridique de la Whanganui est votée par les parlementaires puis mise en œuvre.

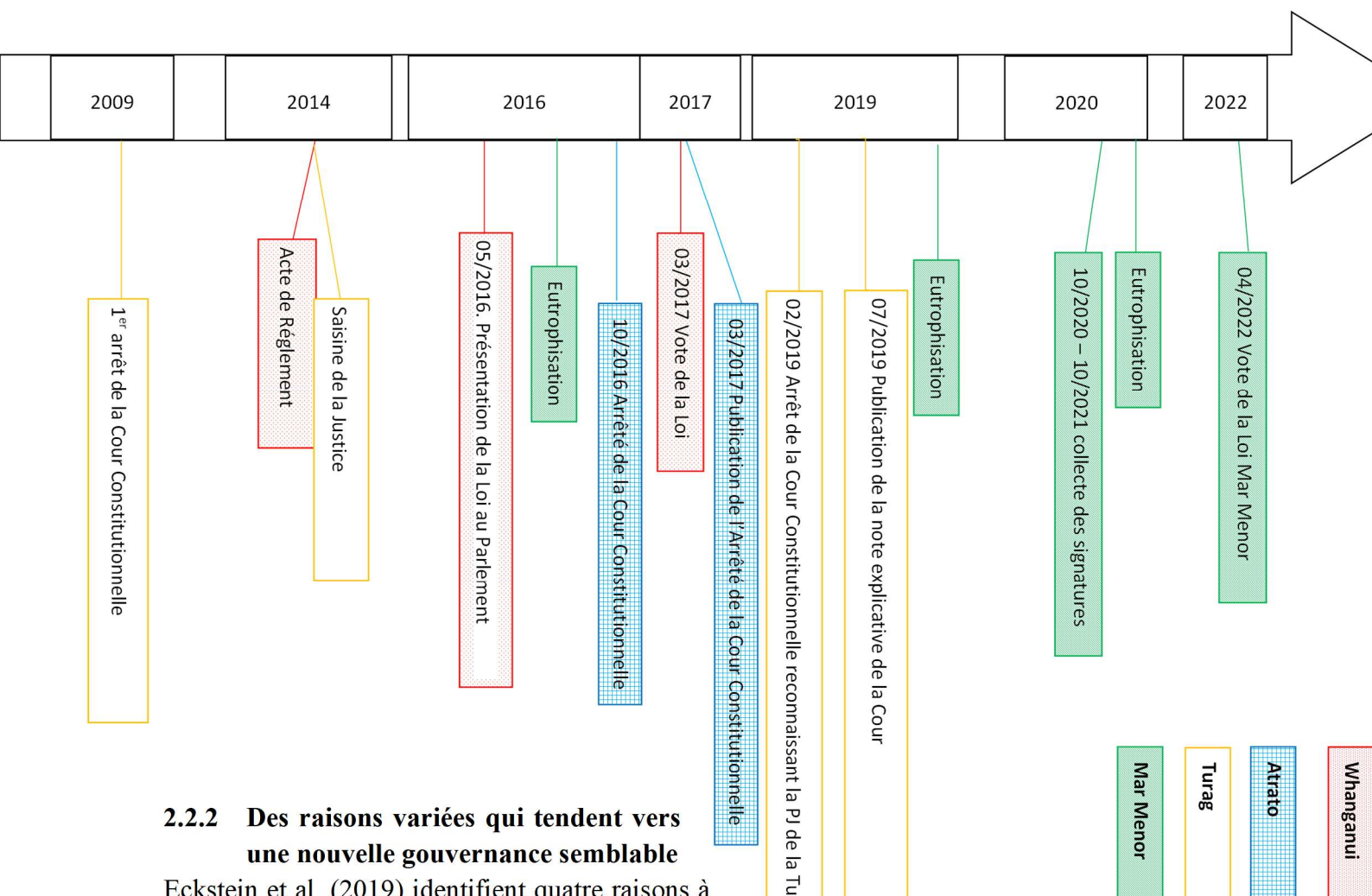
Pour la rivière Atrato, en Colombie, la reconnaissance est issue d’une procédure judiciaire (décision T-622/16 de la Cour Constitutionnelle colombienne). Victimes de pollutions, d’insécurité et sans perspective de développement, les communautés riveraines de la rivière ont saisi la justice pour revendiquer l’égalité des chances (Revet, 2020). Dans cette perspective, le juge Palacio a statué que le respect des droits des populations riveraines nécessitait la protection de leur lien d’interdépendance avec la rivière, et par conséquent la rivière elle-même (Revet, 2022). Le juge s’appuie dans sa décision sur la Constitution colombienne et s’inspire de la Nouvelle-Zélande. Cette démarche illustre un processus judiciaire de reconnaissance de la personnalité juridique, et met en exergue le rôle crucial d’un juge en particulier (Tignino, 2022).

En février 2019, la Cour Suprême du Bangladesh reconnaît la Turag comme une entité vivante et une personne juridique (Bangladesh River Cases - Unofficial Translation of the Verdict “Declaring Turag River as a Legal Person”, 2019). En juillet 2019, la Cour Suprême déclare que toutes les rivières jouissent du même statut juridique (Page & Pelizzon, 2022). Ces décisions sont rendues dans le cadre de la saisine par l’association Human Rights and Peace for Bangladesh. Elles font suite à des décisions antérieures de la Cour qui n’ont pas eu d’effet sur l’état des rivières et la publication d’un article dans le Daily Star annonçant « la mort de la rivière Turag » (Islam & O’Donnell, 2020). La Commission de la Protection de la Rivière (NRPC - National River Protection Commission) est nommée Gardienne de la Rivière sur le principe du *loco parentis*. Ce principe, qui fait référence à la responsabilité juridique d’une entité pour prendre des fonctions et décisions d’un parent, s’inscrit dans le cadre de la doctrine de la fiducie publique, où l’Etat assume la gestion des ressources communes (Jolly & Naik, 2022). D’autres directives sont aussi émises, telles que des sanctions ou l’obligation d’une campagne massive d’éducation. Page et Pelizzon (2022, p. 6) caractérisent cet arrêt d’aquinien en ce sens qu’il admet la supériorité des lois de la Nature sur les lois humaines « qui sont nulles et non avenues, lorsque ces dernières sont en contradiction aux lois naturelles ».

Enfin, en 2022, une mobilisation populaire mène à l’octroi de la personnalité juridique de la lagune « Mar Menor » en Espagne, octroi confirmé en novembre 2024 par la Cour Constitutionnelle. En 2016 puis 2019, la lagune connaît des phénomènes d’eutrophisation importants. Les poissons meurent par milliers et s’échouent sur les plages (Gil-Meseguer et al., 2024). La pollution est visible. C’est dans ce contexte que Mme Teresa Vicente encadre un travail d’étudiant portant sur la personnalité juridique de la lagune. Devant l’enthousiasme suscité par leurs propositions, le projet universitaire se transforme en une initiative législative populaire qui récoltera plus de 639 000 signatures. La Constitution espagnole garantit le droit d’initiative législative à la population, qui peut ainsi proposer une loi que les parlementaires doivent étudier. Bien que ce droit existe depuis la Constitution de 1978, deux autres initiatives seulement avaient eu lieu auparavant, sans aboutir cependant. L’initiative législative populaire de la Mar Menor constitue donc un cas exceptionnel dans le paysage espagnol. Le processus, qui s’est étendu sur presque six ans, illustre un modèle d’initiative législative populaire (Vicente Giménez & Salazar Ortuño, 2022).

Le retour sur ces cas antérieurs nous permet de comprendre les différents processus d’évolution du statut des rivières, qui passent d’objets juridiques à personnes juridiques (Figure 3). Ces évolutions peuvent tout d’abord s’opérer dans le cadre d’un processus parlementaire au cours duquel les élus déclarent que la rivière est une personne vivante et a les droits et devoirs d’une telle personne (Rivière Whanganui en Nouvelle-Zélande). Un autre processus est la reconnaissance par le pouvoir judiciaire, comme pour l’Atrato en Colombie ou la Turag au Bangladesh. Enfin, un processus d’expression populaire par un mécanisme de démocratie semi-directe est possible, comme pour la reconnaissance de la personnalité juridique de la Mar Menor.

Figure 3 – Chronologie des événements clés récents associés à la reconnaissance des Droits de la Nature et de la personnalité juridique sur les bassins versants de la Whanganui, de l’Atrato, de la Turag et de la Mar Menor (échelle temporelle déformée pour permettre la représentation)



2.2.2 Des raisons variées qui tendent vers une nouvelle gouvernance semblable

Eckstein et al. (2019) identifient quatre raisons à l'établissement de la personnalité juridique : (1) la mise en œuvre des lois des peuples premiers, (2) un mouvement d'une conception anthropocentrée du monde vers une conception éco-centrée, (3) la valorisation des services écosystémiques de la rivière, et (4) la possibilité pour le fleuve de plaider ses propres intérêts dans les débats publics. Les chercheurs soulignent ainsi la plasticité du concept et sa grande applicabilité. D'autres raisons sont également proposées. Sanders (2018) soutient que la personnalité juridique est un moyen de gérer les conflits concernant l'exercice du pouvoir entre les Premières Nations et l'État. Dans le cas du fleuve Whanganui, le cadre juridique hérité du colonialisme entre en conflit avec les valeurs maories. La rivière est considérée comme une propriété à exploiter par les descendants des colons tandis que les Maoris l'envisagent comme faisant partie de leur famille. L'appropriation du fleuve par la Couronne néo-zélandaise au milieu du XIXe siècle est perçue comme un vol par les tribus riveraines (Deleuil, 2020). Reconnaître la personnalité juridique du fleuve Whanganui est une manière de réparer partiellement les préjudices causés par le colonialisme et de reconnaître officiellement la cosmogonie des Maoris (Bourgeois-Gironde, 2020; Cribb et al., 2024b; O'Donnell & Talbot-Jones, 2018). La personnalité juridique du fleuve, qui s'appartient lui-même, n'a été créée que pour éviter le transfert des droits de propriété du gouvernement aux

Maoris. L'enjeu de la préservation du fleuve n'est donc pas l'enjeu principal de la loi (Bourgeois-Gironde, 2023). Charpleix (2018) y voit une étape essentielle de décolonisation du droit néo-zélandais. Le statut de personne juridique est également mis en avant pour préserver la rivière pour les générations futures (Hutchison, 2014) ou limiter l'emprise de la propriété ou de la marchandisation (Brunet, 2023).

En Colombie, les parties qui saisissent la justice revendiquent le respect de leurs droits fondamentaux tels que vivre dans un environnement sain, en sécurité et avec des perspectives de développement (Revet, 2020). Ils évoquent aussi l'existence d'une « nouvelle menace » (Clavijo-Ospina, 2023) et la décision de justice permet de préserver et d'affirmer l'interdépendance de ces populations avec leur territoire (Brunet, 2023). Cette démarche s'inscrit dans une volonté de renverser la charge de la preuve en faveur de l'environnement.

Au Bangladesh, la Cour Suprême justifie sa décision par la disparition et la pollution continues des rivières et la non-effectivité de ses décisions antérieures. Elle souhaite ainsi garantir le respect du droit constitutionnel humain à un environnement sain. En associant des valeurs constitutionnelles et des droits constitutionnels opposables, la Cour interprète la Constitution pour établir une « jurisprudence écologique » (Islam & O'Donnell, 2020).

En Espagne, le préambule de la loi justifie cet acte par les deux raisons suivantes : (1) « la grave crise socio-environnementale, écologique et humanitaire qui affecte la Mer Mineure et les habitants de ses municipalités côtières » et (2) « l'inadéquation du système juridique de protection actuel » (Auby, 2022, p. 1). Le basculement d'une vision anthropocentrée à écocentrée, avancé par Eckstein et al (2019) est évident. Cette vision écocentrée met en avant les relations homme – écosystème et s'oppose à la dichotomie Homme / Nature. Torre-Schaub (2023, p. 291) souligne que la loi vise à « donner des gages à une société fatiguée de l'inaction environnementale des autorités ». Que ce soit dans la loi espagnole ou dans l'arrêt bangladais, il y a une volonté de reconnaître l'être humain comme interdépendant de la nature et partie intégrante de cette dernière.

2.2.3 Les mises en œuvre de la personnalité juridique

Une fois les Droits de la Nature reconnus et la personnalité juridique établie, leur opérationnalisation est un aspect crucial. Ils doivent être exprimés par des représentants humains. En Nouvelle-Zélande, la rivière Whanganui est représentée par Te Pou Tupua (la face humaine de la rivière), composée d'un représentant du gouvernement et d'un membre de la population maorie riveraine, nommés chacun les Gardiens. Les représentants de la rivière Whanganui peuvent saisir les tribunaux au nom de la personne-rivière pour la protéger. Jusqu'à présent, les représentants n'ont pas porté d'affaires devant les tribunaux (Eckstein et al., 2019) et ont privilégié les négociations entre les parties (Cribb et al., 2024b). La loi Te Awa Tupua instaure un organe consultatif (nommé Te Karewao) et un organe opérationnel (Te Kopuka). Cet organe opérationnel est composé de 17 représentants des usagers, y compris l'opérateur hydroélectrique opérant sur la rivière. La recherche de l'unanimité ou du consensus dans la prise de décision est l'un des fondements du processus décisionnel. Les Gardiens de la rivière Whanganui sont guidés par une liste de quatre valeurs nommées Tupua te Kawa (Hutchison, 2014) dont la plus connue est « Je suis la rivière. La rivière, c'est moi ». Tupua te Kawa peut être compris comme un mandat tant pour le fleuve que pour ses représentants.

En ce qui concerne la personne-Atrato, s'inspirant du modèle néo-zélandais (Revet, 2022), la tutelle et la représentation légale des droits du fleuve sont confiées à une « commission des Gardiens » composée d'un représentant de l'Etat et de 14 Gardiens et Gardiennes issus des communautés locales. Ensemble, pendant deux ans, les Gardiens ont discuté, rédigé puis validé un plan de décontamination du fleuve à mettre en œuvre au cours des quarante prochaines

années. La décision du juge aboutit ainsi à la création d’une politique publique sur le bassin versant (Wesche, 2021). Revet (2022) souligne l’existence de frictions au sein des Gardiens qui présentent des profils très variés : enfants, femmes, hommes, membres de communautés noires ou indiennes. Les travaux de compréhension de la décision de la Cour Constitutionnelle et des membres de la communauté pour développer une vision prospective dans le cadre d’exercices d’imagination écopolitique contiennent une dimension pédagogique soulignée par les Gardiens. Enfin, des pressions sont exercées pour accélérer la prise de décision et leurs mises en œuvre ou au contraire s’y opposer. Ainsi, les Gardiens issus des communautés sont dépassés par la « lourde responsabilité aux dimensions bureaucratiques » (Revet, 2022, p. 3).

La décision de la Cour Suprême du Bangladesh, en décrétant le rôle de la NRPC en tant que « *loco parentis* », renforce cette commission gouvernementale qu’elle avait portée à création lors de précédentes décisions (WP n° 3503/2009, National River Protection Commission Act, 2013). Il y a donc une forme de continuité, avec un renforcement des responsabilités de la Commission. Cependant, l’attribution de ce rôle de gardien à une agence gouvernementale effraie les associations de lutte contre la pauvreté et pour les droits de l’homme. Il n’y a pas d’outil de concertation ou de participation des populations locales qui soit créé, alors qu’elles habitent le long du fleuve et interagissent avec lui (pêche, aquaculture, constructions de protection, etc.) (Chandran, 2019). Par ailleurs, la Cour Suprême acte une volonté de simplifier la gouvernance de l’eau qui est actuellement très fragmentée entre de multiples institutions. En outre, la Cour Suprême impose une campagne massive de communication dans les entreprises et d’éducation dans les écoles afin de promouvoir le respect de la personne-Turag (Willems et al., 2021). Enfin, les amendes et les interdictions pour les délinquants de se présenter aux élections décidées par la Cour ont été annulées à la suite d’un appel contre la décision de reconnaître la personnalité juridique de la rivière.

En Espagne, la mise en œuvre de la loi n’est pas encore achevée. Certains décrets sont encore à venir. La Cour constitutionnelle, saisie par le seul parti qui n’avait pas voté la loi, a récemment confirmé sa validité. Cette loi institue trois organes : le Comité des Représentants, la Commission de Surveillance (les Gardiens), le Comité Scientifique. Le Comité des Représentants propose « des actions pour la protection, la conservation, l’entretien et la restauration de la lagune ». Il « surveille et contrôle également le respect des droits de la lagune et de son bassin ». La Commission de Surveillance « diffuse des informations sur la loi, surveille et contrôle les droits de la lagune et de ses bassins » (Ley 19/2022, 2022). Le Comité Scientifique évalue la qualité de l’écosystème, les risques et les actions de restauration. Cependant, et malgré le recours pour inconstitutionnalité de la loi par le parti populiste d’extrême droite VOX, un procès lié à cette loi sur une pollution est en cours (Doda, 2023). Dans ce cadre, différentes associations environnementales et collectivités territoriales sont appelées par le juge à s’exprimer au nom de la Mar Menor. Torre Schaub (2023) souligne à quel point de nombreuses actions n’ont pas pu aboutir précédemment, en raison du refus des tribunaux de reconnaître « l’intérêt à agir » des parties requérantes. La nouvelle loi permet de lever cet obstacle en conférant à « toute personne physique ou morale [...] le droit de défendre l’écosystème de la Mar Menor » (Auby, 2022). L’intérêt à agir est dorénavant ouvert à toutes les parties.

L’examen dans quatre contextes différents des motivations, des processus et des résultats opérationnels pour la reconnaissance des Droits de la Nature et de la personnalité juridique

d'écosystèmes aquatiques permet de dresser les bases du cadre d'analyse d'une approche comparative.

2.3 Le cadre d’analyse de la comparaison

Il s’agit à présent, dans un premier temps, de présenter l’approche comparative mobilisée dans cette étude, puis d’exposer, dans un second temps, les variables structurantes issues des cas avérés.

2.3.1 Méthodologie

Premièrement, une analyse complète de la littérature existante (publications scientifiques, documents politiques et littérature grise) a été menée, en particulier pour la détermination des variables clefs. Ecojurisprudence Monitor recense environ 300 – 400 actions liées aux Droits de la Nature et à la personnalité juridique⁸ et Putzer et al. (2022) en recense 369 dans plus de 35 pays. Dans la présente étude, le focus porte spécifiquement sur quelques modèles emblématiques qui sont repris et promus comme des réussites de l’opérationnalisation de la personnalité juridique. Une comparaison par distribution des cas (Rohlfing, 2014a) a été mise en œuvre. Les cas présentés précédemment ont été retenus car 1) ils incluent la création d’un sujet de droit lié à un écosystème aquatique ou une rivière spécifique, 2) des organes d’expression de la voix de la rivière ont été mis en place, 3) la mise en place de la personnalité juridique est perçue comme une réussite, 4) ils sont régulièrement mis en avant lors des discussions concernant la potentielle reconnaissance de la personnalité juridique du fleuve Rhône (entretien 2, 7, 16, 24). Enfin, chacun de ces cas sont traités dans la littérature par au moins quatre auteurs, ce qui permet de trianguler les analyses. Ces cas sont issus de parties du monde très différentes. Cela permet de mettre en place une comparaison de cas a priori très dissemblables (Vigour, 2005) : géographie et climats variés, pays occidentaux et pays du sud global, systèmes juridiques de droit commun et de common law, présence ou absence de Nations Premières. L’analyse porte ainsi sur l’émergence, dans des contextes différents, « d’un résultat similaire » (Barlatier, 2018) : la reconnaissance de la personnalité juridique des rivières Whanganui (Nouvelle Zélande), Atrato (Colombie), Turag (Bangladesh) et de la lagune de la Mer Mineure (Espagne). Le tableau 1 présente les caractéristiques principales de ces écosystèmes et des cartes de situation sont présentées en annexe 2. Il ne ressort pas de singularité de ces écosystèmes qui empêcherait une approche comparative « suboptimale » (Rohlfing, 2014b, p. 97). Ces comparaisons permettent, à défaut d’établir des liens de causalité, de construire des corrélations (Rohlfing, 2014a). Les cas de reconnaissance de la personnalité juridique des rivières dans des systèmes juridiques coutumiers (cas de la Klamath aux Etats - Unis) ou pluri-juridiques (cas de la Magpie au Canada) ne sont pas ici étudiés en raison de cette singularité. De plus, certaines populations de ces territoires ne sont pas au courant de l’octroi de la personnalité juridique, ce qui laisse à penser l’absence de mise en œuvre (Putzer et al., 2022). Enfin, la reconnaissance de la personnalité juridique de la rivière Marañon au Pérou est trop récente au moment de la rédaction de cet article pour être prise en compte.

⁸ <https://ecojurisprudence.org/>

Tableau 1 – Caractéristiques principales des écosystèmes analysés pour mettre en exergue les variables comparatives (Charpleix, 2018; Córdoba-Tovar et al., 2023; Rahman et al., 2013)

	Whanganui	Atrato	Turag	Mar Mineure
Longueur (km)	290	750	62	/
Surface du BV	7 382	35 700	1 160	1 600
Débit à l'aval m ³ /s	219	4 200	312 - 477	/
Usages principaux	- Navigation - Production d'électricité - Extraction sédimentaire - Transferts d'eau - Prises d'eau potable - Sports d'eaux vives - Agriculture	- Mines illégales - Agriculture paysanne - Navigation - Culturel	- Développement urbain - Agriculture - Extraction sédimentaire - Prises d'eau potable - Navigation - Pêche - Rejets	- Agriculture - Développement urbain - Tourisme - Pêche, - (anciennes) mines
Population riveraine estimée	54 000	664 000	Non connue (ordre de grandeur de plusieurs millions)	40 000 (été : 200 000)
Principaux acteurs de la gouvernance	Te Pou Tupua (face humaine de la rivière), Tupua te kawa (valeurs), gouvernement national, conseils régionaux et locaux	Les Gardiens de l'Atrato, le Ministère de l'Environnement, groupes armés	Ministère des ressources en eau, National River Protection Commission, et de multiples administrations	3 commissions, agence de bassin, Région, Communes

En parallèle, une analyse qualitative et approfondie a été entreprise sur le bassin hydrographique du fleuve Rhône. Les entretiens semi-directifs ont constitué la principale méthode de collecte de données, permettant de développer des relations facilitant l’engagement avec les principales parties prenantes au cœur des débats en cours. La phase d’entretien s’est déroulée du 20 septembre 2022 au 13 juillet 2024, donnant lieu à un corpus formé de quarante-deux entretiens. De part et d’autre de la frontière franco-suisse, un panel d’acteurs de la ressource en eau aux profils divers a été enquêté (institutions, associations, usagers, mouvements...). Les caractéristiques de ces entretiens sont présentées en annexe 1.

Enfin, l’observation participante a été intégrée de manière opportuniste afin de compléter les résultats des entretiens. Divers processus ont fait l’objet d’une observation active, et des conférences organisées par les principaux promoteurs de la personnalité ont été suivies (ateliers participatifs, réunions d’avancement ou de restitutions). La présence à certaines réunions publiques liées aux questions de l’eau, qui se sont tenues à Lyon, Genève ou dans les environs, a également été assurée. Ces réunions étaient organisées par des collectivités locales, des associations ou dans le cadre de procédures administratives. Enfin, ma participation active en tant que membre élu au processus assembléiste sur l’eau mis en place par la Métropole de Lyon depuis 2022 a contribué à enrichir le corpus de données.

L’approche tripartite de l’analyse de la littérature, des entretiens et de l’observation participative améliore l’enrichissement des données et permet la triangulation des informations provenant de diverses sources.

2.3.2 La mise en exergue de corrélations

Dans cette section, sont spécifiées les similitudes et les différences dans les modalités de reconnaissances des personnalités juridiques et de leur mise en œuvre. Cette caractérisation s’appuie sur les cas emblématiques présentés dans la première partie.

En premier lieu, les revendications de personnalités juridiques émergent au niveau local, en dehors d’institutions administratives. Il semble ainsi que les évolutions reflètent une pression des territoires riverains des cours d’eau sur des institutions de gestion ou des décideurs plus éloignés du terrain. Un rapport de forces s’établit entre des décisions locales et des décisions prises à des échelons géographiques et administratifs supérieurs. Il y a une évolution des gouvernances des entités naturelles. Perroud (2022) souligne ainsi que l’administration n’est plus au centre de la gouvernance mais que ce sont les populations riveraines. A propos de la Mar Menor, il considère que « c’est une victoire des citoyens contre l’État qui renouvelle profondément la conception du domaine » public naturel en se réappropriant sa gouvernance (T. Perroud, 2022, p. 4). L’État est dépossédé de son rôle de propriétaire⁹ qui lui réservait la valorisation du domaine public. Ces éléments caractérisent la variable « changement d’échelons géographiques et administratifs ».

En deuxième lieu, le processus de reconnaissance prend du temps et conclut - temporairement probablement - une séquence de décisions judiciaires, de tensions, d’évolutions juridiques ou discursives qui préexistaient à la demande de la reconnaissance de la personnalité juridique. En Nouvelle-Zélande, la contestation du droit colonial est ancienne, comme l’illustrent les

⁹ En France, l’État n’est pas propriétaire de l’eau du fleuve, mais du lit de la rivière quand elle est navigable. L’eau est patrimoine commun de la Nation. L’État est en charge, entre autres, de délivrer les autorisations d’exploitation. Afin de lever toute ambiguïté, la phrase devrait être « l’État est dépossédé de son rôle de gestionnaire qui lui réservait la valorisation du domaine public ».

discussions concernant la Whanganui présentes dans les rapports du Tribunal de Waitangi de 1999 (Bourgeois-Gironde, 2020; Deleuil, 2020). La création de la personne-Whanganui vise à apaiser les Maoris et réduire les tensions sociétales. Dès septembre 2014, des rapports signalaient la crise humanitaire le long de l'Atrato (Clavijo-Ospina, 2023). L'arrêt de la Cour constitutionnelle colombienne a adopté une approche holistique du dossier. Cependant, la préparation et la publication de décrets d'application ont différé la mise en œuvre institutionnelle de l'arrêt d'un an supplémentaire. La Cour Suprême du Bangladesh est saisie dès 2009 de la dégradation des cours d'eau. Elle est à l'initiative de la création de la NRPC. La dégradation de la Mar Menor, les phénomènes de pollution et d'eutrophisation ne sont pas récents. Les outils de conservation, tels que RAMSAR, Natura 2000, se sont accumulés (Sohnle, 2023) et des législations supplémentaires ont été adoptées en 2018 et 2020 (Vicente Giménez & Salazar Ortuño, 2022). Sans résultat satisfaisant, la justice a été saisie en 2017 pour infractions à la législation.

Il semble ainsi que la reconnaissance de la personnalité juridique se concrétise à la croisée de deux facteurs : l'existence d'une (ou plusieurs) crise(s) et l'échec des solutions classiques de résolution de cette crise. Après avoir constaté que les différentes solutions aboutissent à des impasses, un choix radical s'impose comme solution de dernier recours. Ces éléments caractérisent les variables « temporalité » et « crises ».

En troisième lieu, la reconnaissance de la personnalité juridique ne constitue pas une finalité en soi et se révèle plutôt comme un nouveau départ. O'Donnell (2021a) souligne que la personnalité juridique peut en réalité conduire les individus à se démobiliser pour la protection de ces rivières, ceux-ci croyant en sa performativité. Clavijo-Ospina qualifie l'arrêt de la Cour constitutionnelle de Colombie comme une « décision en mouvement » (2023, p. 498) dont l'exécution comporte « à vrai dire, plus de défis que de certitudes » (2023, p. 501). L'Atrato ne sera rétabli que dans 20 ou 30 ans (Clavijo-Ospina, 2023). La personnalité juridique entraîne sur ces rivières une réflexion stratégique à long terme sur l'aménagement des bassins versants. Ainsi, des outils de planification ou de contrôles sont mis en place, que ce soit pour l'Atrato ou la Mar Menor. Au Bangladesh, la Cour impose une éducation à l'importance des rivières, pour changer en profondeur et durablement la relation au fleuve.

En quatrième lieu, la mise en œuvre de la personnalité juridique, en plus du développement d'outils de planification, s'accompagne de la création d'arènes de participation. Des commissions sont instituées, et malgré leurs formats différents, ce sont toutes des instances de dialogue entre le pouvoir central (l'Etat) et les populations riveraines. Certaines des commissions représentent la face humaine de la rivière (Eckstein et al., 2019) comme sur la Whanganui, commission qui est une instance décisionnelle (Talbot-Jones & Bennett, 2022). Pour l'Atrato et Mar Menor, ces commissions jouent un rôle dans la planification ou l'évaluation du respect des droits de l'entité. L'ouverture de l'intérêt à agir (Art 6 de la loi du 22 sept 2022) et du droit à défendre l'écosystème de la Mar Menor donne un poids supplémentaire. Ainsi, dans le cadre d'aménagements et de projets liés à la rivière, les porteurs de projets sollicitent très en amont ces commissions, afin d'éviter tout blocage ou saisine de la justice (Cribb et al., 2024b). Il y aurait a minima une décentralisation de la discussion, voire de la prise de décision (Talbot-Jones, 2017). Cependant, le cas de la rivière Turag interroge : la NRPC est une Commission Gouvernementale, dont l'analyse de la prise en compte des avis des populations riveraines n'a pas pu être faite. En effet, la version anglaise du site web¹⁰ de la NRPC précise les fonctions de lutte contre les pollutions et de restauration des cours d'eau,

¹⁰ <https://nrcc.gov.bd/>, visité le 14/06/2024

mais aucune référence n’est faite à l’avis des populations. Ceci pourrait s’expliquer par une réticence du pouvoir central à déléguer certaines responsabilités à une institution créée à la suite d’une décision de justice. Il en résulte une inquiétude quant à l’éviction de la population par une application exorbitante du droit de la rivière face aux droits humains (O’Donnell, 2021a). Jolly et Naik (2022) soulignent que la NRPC n’est pas indépendante de l’Etat, principal responsable de la pollution des eaux. Dans leur recensement, Putzer et al. font remarquer que sur l’ensemble des 409 initiatives de mises en œuvre des Droits de la Nature qu’ils répertorient, aucune ne se situe dans des pays au régime autoritaire (Putzer et al., 2022).

Enfin, les cas étudiés ne démontrent pas une spécificité des systèmes juridiques et législatifs. Toutefois, une dextérité intellectuelle est nécessaire. Tout d’abord, la capacité à mettre à l’agenda la question de la personnalité juridique doit exister : initiative législative populaire en Espagne, saisine de la Haute Cour au Bangladesh ou en Colombie, processus législatif en Nouvelle Zélande. Il y a ensuite la possibilité d’intégrer une perspective différente de concevoir le monde dans le système juridique. Clavijo-Ospina (2023) parle de penser à l’envers. Revet (2022) met en évidence que la décision colombienne est l’aboutissement de décisions judiciaires précédentes, issues de l’évolution des doctrines de la Constitution de 1991. Il y a donc une filiation avec des cas passés ou des cadres juridiques supérieurs. Le juge ou le législateur, par le biais de l’interprétation, transforment progressivement les cadres en vigueur. Le traité de Waitangi de 1840 est revu à l’aune du contexte actuel de décolonisation. Torre-Schaub (2023) souligne que la loi de Mar Menor fait référence uniquement au cadre constitutionnel et à une autre loi, sans prendre en compte les mécanismes de coordination avec l’ensemble du corpus juridique. Elle estime que cette loi pourrait mener à plus de confusion. La variable « ordre juridique » est ainsi caractérisée par l’interprétation facilitée du droit dans les pays de common law et par l’importance du pluralisme juridique.

Le tableau suivant (Tableau 2) présente les caractéristiques des variables identifiées sur les rivières Whanganui, Atrato, Turag et la lagune Mar Menor.

Tableau 2 - Caractéristiques des variables identifiées sur les rivières Whanganui, Atrato, Turag et la lagune Mar Menor

	Whanganui	Atrato	Turag	Mar Menor
Echelons géographiques et administratifs	- Emergence au niveau local, ancrage dans un territoire, - Développement de la demande en dehors des institutions,			
Temporalité	Plus de 8 ans	Plus de 6 ans	Plus de 3 ans	Environ 6 ans
Crises	Crise sociétale - décoloniale depuis des dizaines d'années	Crises humanitaire, sécuritaire et sanitaire depuis au moins 2014	Crise écologique depuis au moins 2010	Crise écologique depuis au moins 2016
Objectifs initiaux	Demande des Maoris de recouvrer leurs droits ancestraux	Demande de jugements et mesures pour des solutions structurelles contre les crises	Condamnation du gouvernement pour inaction contre la réduction des lits mineurs	Changement du cadre juridique et association des populations à la prise de décisions
Arènes de participation locale	Perception d'une inexistence (avant). Mise en place de Te Pou Tupua et d'autres commissions locales de planification et prospection (après)	Inexistante (avant) Mise en place d'une Commission de Gardiens (après)	Existence non avérée (avant) Pas d'évolution (après)	Perception d'une inexistence (avant) Mise en place de 3 commissions (après)
Ordres juridiques	Common law	Droit civil romain	Common law	Droit civil romain

Sous le vocable de personnes juridiques (legal personhood en anglais), les variations sont importantes. Elles reflètent la réalité des territoires dont elles sont issues pour transcrire, tant bien que mal, des ontologies locales (Landivar & Ramillien, 2019; O'Donnell & Talbot-Jones, 2018; Salmond et al., 2019). Ces exemples peuvent être classés dans les animismes juridiques établis par Hermitte (2011), qui identifie l’animisme juridique à vocation autochtone (comme pour les rivières Whanganui ou Atrato), l’animisme juridique à vocation scientifique (comme pour la Mar Menor ou la Turag). Il convient de mentionner que l’animisme juridique à vocation religieuse ne s’est pas concrétisé à ce jour dans les personnes-rivières : la reconnaissance de la personnalité juridique du Gange pour des raisons religieuses a été annulée en appel par la Justice.

En conclusion, dans les cas présentés ci-avant, les juges ou les législateurs ont voulu insister sur le fait que l’Etat n’est pas le propriétaire des écosystèmes, mais endosse un rôle de gardien. L’Etat se doit de promouvoir la durabilité de l’écosystème afin de le transmettre aux générations suivantes, plutôt que d’agir en propriétaire, c’est-à-dire détenteur d’un pouvoir de destruction. Afin d’assurer une meilleure prise en compte des intérêts de ces écosystèmes, les juges et les législateurs ont renforcé le caractère démocratique de la gouvernance en associant les populations riveraines. Pour le cas du Bangladesh, la population avait plus confiance dans le directeur de la NRPC que dans le gouvernement pour défendre la bonne santé des écosystèmes, malgré le fait que la population ne soit pas associée à cette gouvernance. Dans le cadre de cette comparaison, ce cas pourrait être traité de divergent. Il y a un transfert de pouvoir de l’Etat vers les citoyens, ou à défaut vers des instances en cours d’autonomisation, parfois avec la capacité de prendre des décisions (Whanganui) ou a minima de défendre la rivière elle-même, si l’Etat ne le fait pas.

A partir de cette comparaison de cas typiques (Rohlfing, 2014a) d’écosystèmes aquatiques reconnus sujets de droit, il a été mis en exergue des relations de corrélations entre l’existence d’au moins une crise généralisée à l’échelle du bassin versant, une mobilisation populaire importante à l’échelle locale, des arènes faibles ou absentes de participation locale et la mise en place de la personnalité juridique. Il n’a pas été mis en évidence de corrélations ni avec les objectifs initiaux des démarches engagées ni avec le système juridique (common law ou droit civil) du pays.

2.4 Le cas du bassin versant du Rhône

A partir du cadre d'analyse construit sur les processus avérés de reconnaissance des Droits de la Nature et de la personnalité juridique, j'analyse dans cette partie la situation rhodanienne, qui s'apparente à un laboratoire vivant grâce aux processus en développement. Pour cela, je revisite les entretiens menés et les propos collectés à la lumière des cas précédents.

Le Rhône tel que nous le connaissons est le résultat des aménagements opérés à la suite de la seconde guerre mondiale. La partie française du fleuve a été significativement modifiée pour répondre aux besoins économiques et contribua alors à démontrer la grandeur française face à un fleuve capricieux (Bethemont, 1997 ; Pritchard, 2011). En Suisse, les modifications apportées ont également été profondes, visant à la fois la production hydroélectrique et à limiter les risques d'inondations (Bender, 2004). La main de l'homme valorise le fleuve qui apporte ainsi sa richesse aux territoires. Une gouvernance par des structures semi-publiques, avec une faible intervention de l'Etat s'est développée (Bréthaut & Pflieger, 2020b). L'organisation de la planification à long terme repose d'une part, côté français, principalement, sur le Plan Rhône et l'Agence de l'Eau Rhône Méditerranée et Corse (RMC), et d'autre part, côté suisse, sur les cantons. Les opérateurs et gestionnaires au quotidien sont les Services Industriels Genevois (SIG) et la Compagnie Nationale du Rhône (CNR) et doivent tenir compte des demandes d'autres usagers (navigation, irrigation, production d'électricité nucléaire, environnement) (Bréthaut & Pflieger, 2020b). Les Missions d'Intérêt Général (MIG), ajoutées au cahier des charges du concessionnaire CNR en 2004, renforcent la prise en compte d'autres usages. Elles sont remplacées depuis 2022 par le Plan 5Rhône qui, à travers le soutien financier ou technique de projets locaux, permet un retour sur les territoires rhodaniens des bénéfices liés à l'exploitation du Rhône français (CNR, 2024).

La gestion du Rhône reflète le cadre réglementaire des territoires traversés. Côté suisse, sa gestion répond ainsi à la fois au cadre fédéral et aux cadres des cantons traversés. Côté français, la politique de l'eau est impulsée par le Ministère de l'écologie et mise en œuvre principalement via le Plan Rhône et l'Agence de l'Eau qui co-financent des projets communaux, intercommunaux, ou d'échelons administratifs supérieurs. De puissants jeux d'acteurs, historiquement descendants, s'expriment à travers des processus hydrosociaux et impriment le paysage rhodanien (Comby et al., 2019).

2.4.1 Les démarches en cours

Différentes démarches de plaidoyer pour une personnalité juridique des entités fluviales sont en cours sur le bassin versant du Rhône : parlement de l’Isère¹¹, droits de la Durance¹², Appel du Rhône (Vallet et al., 2024). Des actions de réflexions sont initiées par d’autres acteurs, tels que Rivières Sauvages (entretien 3) ou la Commission Internationale pour la Protection des Eaux du Léman (CIPEL). Mon analyse porte sur les démarches liées au fleuve Rhône. Ce cas est spécifique à la fois par son étendue géographique, sa portée binationale, les caractéristiques des aménagements et l’ancienneté des démarches en cours.

Le programme d’actions de la CIPEL 2021 – 2030 arrive à la moitié de sa mise en œuvre (Commission Internationale de Protection des Eaux du Léman, 2021). L’action 1 de ce programme consiste à « explorer la capacité à donner la personnalité juridique au Lac Léman ». Cette action est issue de la réflexion avec la société civile lors de la préparation du plan d’action en Septembre 2019 (Vallet et al., 2024). La mise en œuvre de cette réflexion n’en est qu’à ses débuts d’après la CIPEL ou ses partenaires (entretiens 7, 13, 15, 18). D’autres priorités sont mises en avant par les membres du Conseil d’Administration pour éviter de se positionner sur ce sujet (entretiens 7, 13, 15).

ID-Eau, association suisse, a pour sa part développé deux actions complémentaires. L’association a d’abord lancé un « Appel du Rhône pour la reconnaissance de la personnalité juridique au Rhône » en 2020. Cet appel demande une telle reconnaissance afin de garantir les droits du Rhône à « exister, être préservé, se régénérer, évoluer, de manière à maintenir et garantir son environnement et sa biodiversité » (Pitaval et al., 2020). A ce jour, cet appel a recueilli environ 1500 signatures de particuliers et d’institutions. La Ville et la Métropole de Lyon l’ont signé en septembre 2021. Le Grand Conseil de Vaud l’a débattu en commission en septembre 2022 (Rapport de majorité de la Commission chargée d’examiner l’objet suivant: Postulat Rebecca Joly et consorts au nom Les Vert-e-s vaudois-e-s. Pour que le Canton de Vaud rejoigne l’appel du Rhône, 2022). Cette demande de reconnaissance de la personnalité juridique du Rhône est soutenue par des acteurs nationaux des Droits de la Nature (Wild Legal, Notre Affaire à Tous, des élus et élues).

ID-Eau a dans un second temps, au cours de plusieurs week-ends, réuni et fait réfléchir 25 habitants du bassin versant dans une auto-proclamée « Assemblée Populaire du Rhône » (APR) en 2022 (Vallet et al., 2024). Cette Assemblée propose, dans ses conclusions, une nouvelle forme de gouvernance guidée par trois valeurs : i) le respect des limites planétaires, ii) la prise en compte de l’interdépendance des entités vivantes et iii) le dépassement du fait transnational du fleuve. Cette gouvernance reposerait¹³ sur des Gardiens et Gardiennes qui sont « des personnes volontaires, résidentes sur le territoire rhodanien, impliquées, sans intérêt économique lié au Rhône avec une formation initiale sur les limites planétaires » (Assemblée

¹¹ <https://france3-regions.francetvinfo.fr/auvergne-Rhône-alpes/isere/grenoble/usage-de-l-eau-des-associations-environnementales-militent-pour-la-creation-d-un-parlement-de-l-isere-2837942.html>;

¹² https://sosdurancevivante.org/images/Droitsnature/Manifeste__SOSDV_23_06_2023.pdf

¹³ Le choix des temps et modes de conjugaison soulève débat : à ce jour, cette gouvernance n’existe pas, au sens de la définition problématisée au début de l’article, car elle ne recouvre pas l’ensemble des caractéristiques et que perdure la gouvernance « historique » avec les acteurs et règlements historiques. Cependant les porteurs de cette idée mettent en place tous les outils et actions décrites. Le conditionnel est donc utilisé pour la gouvernance elle-même, et le présent ou futur pour les actions en cours ou à venir.

Populaire du Rhône, 2024). Une implication d'autres parties telles que des professionnels, des experts, de juristes ou avocats est envisagée selon les sujets. Les rendus de cette gouvernance seront des constats, analyses et outils de sensibilisation. L'APR annonce que cette gouvernance pourrait recourir à l'outil de l'action en justice. La prise de décision se fera par consensus ou vote à la majorité absolue ou vote à la majorité simple. Cette gouvernance pourrait être saisie par tout citoyen ou association. La mise en œuvre de cette approche se fera tout d'abord à travers des « expérimentations territorialisées » consistant à s'impliquer sur des sujets locaux et proposer des solutions alternatives tout en promouvant la vision d'un « Rhône en commun ». D'ici trois ans, ID-Eau et les membres de l'APR procéderont à un bilan des expériences menées et le « confronteront à l'institution actuelle » (Assemblée Populaire du Rhône, 2024).

Plusieurs démarches liées à la personnalité juridique sont ainsi en cours sur le bassin versant du Rhône, à différentes échelles territoriales et administratives. Ceci s'explique peut-être par la taille étendue du bassin versant. La coordination entre ces démarches n'est pas perceptible. Certaines démarches parlent de « confédération des territoires rhodaniens » pour dépasser le fait national.

2.4.2 Temporalité

Les promoteurs de la personnalité juridique du Rhône s'inscrivent dans le temps long (entretiens 16, 19, 32). Il n'y a tout d'abord pas de précédent local en Suisse ou en France sur lequel s'appuyer. Il n'existe pas de requête jurisprudentielle en cours et les débats suisses n'ont pas abouti à des évolutions législatives (postulats 17.432 et 20.4497). Les démarches similaires sont relativement récentes, la plus ancienne étant liée à la personnalité juridique des glaciers en Suisse en 2017. L'approche actuelle consiste à caractériser l'existence d'un problème et l'absence de solutions adéquates, en dehors de la personnalité juridique (Vallet et al., 2024).

Le soutien et la mobilisation populaires sont également des constructions sociologiques qui prennent du temps. Aucun des enquêtés ne voit dans un avenir proche la personnalité juridique du fleuve Rhône être reconnue. L'appel du Rhône bénéficie aujourd'hui d'un soutien modeste. A titre de comparaison, l'initiative législative populaire de la Mar Menor a recueilli plus de 630 000 signatures en l'espace de neuf mois. Ce modeste soutien peut s'expliquer entre autres par l'absence de crise mobilisatrice, un désintérêt pour le sujet, la rupture hydrologique et écosystémique que représente le Léman ou l'absence de valeur performative de la signature de l'Appel du Rhône, comme le soulignent les enquêtés 16, 19 et 32. Ainsi, tous les acteurs reconnaissent que la difficulté pour que le Rhône voit ses droits et sa personnalité juridique reconnus réside dans l'absence de problèmes ou de crises affectant l'ensemble du bassin versant (entretiens 7, 31).

2.4.3 Une absence de crise généralisée

La mise en place de la personnalité juridique des rivières est étroitement liée à la présence de menaces, réelles ou supposées, sur les écosystèmes concernés. Lors des entretiens, les enquêtés font référence à l'étude de l'Agence de l'Eau RMC sur les impacts du changement climatique (Aubé, 2016b; BRLi, 2022) et les menaces que les enquêtés identifient sont liées au changement climatique et la réduction à venir des débits (entretiens 16, 23, 32). Une personne de l'administration suisse souligne que la menace d'un changement du régime hydrologique est perçue comme lointaine et analysée de façon différente de chaque côté de la frontière (entretien 23). Il n'y a pas de perception d'une menace ou d'une crise systémique transfrontalière. Côté suisse, l'urgence est l'augmentation de la production hydroélectrique pour tirer profit de l'augmentation des débits causée par la fonte définitive des glaciers. Les producteurs

hydroélectriques perçoivent là une opportunité économique (Weise, 2024). Côté français, le développement de nouveaux usages de l’eau est en discussion à l’aune de l’évolution du débit (discussions sur de possibles Réacteurs Européens Pressurisés - EPR, barrages, réseaux d’irrigation ou d’eau potable). La fiction du « fleuve inépuisable » est encore présente (entretiens 24, 32).

Il existe cependant de nombreuses controverses ou crises localisées : 3^e correction du Rhône, projet de barrage hydroélectrique Rhônergia¹⁴, pollution aux PFAs, extension du réseau d’irrigation régional BRL « Aqua Domitia » pour n’en citer que quelques unes. Ces sujets préoccupent les acteurs territoriaux et la population riveraine et pourraient à terme constituer des leviers pour que la personnalité juridique puisse s’imposer dans le paysage de la gouvernance. ID-eau semble avoir été approché pour accompagner la lutte contre le projet de barrage Rhônergia et avoir décliné cet accompagnement (entretiens 16, 35, 42).

Cette période, caractérisée par l’absence d’une situation d’urgence mais par de potentielles crises à venir, représente un moment opportun pour réfléchir aux évolutions de la gouvernance et du statut du Rhône (entretiens 7, 17, 32). Les tensions sous-jacentes ne se sont pas encore pleinement exprimées : tous les usages ont aujourd’hui accès à l’eau. La période actuelle offre ainsi encore un cadre de réflexion et de mise en œuvre d’une nouvelle gouvernance, en dehors de toute urgence.

2.4.4 Objectifs

La personnalité juridique du fleuve Rhône n’est pas avancée comme une fin en soi par ses promoteurs. Il y a tout d’abord une portée symbolique que toutes les parties soulignent, en permettant le passage d’objet-rivière à un sujet-rivière. « Le droit reflète le mode de pensée à un moment donné » (entretien 35) et la portée symbolique est forte et performative (entretien 32, 35). Une militante environnementale constate qu’« on ne s’adresse pas de la même façon à une chose et une personne » (entretien 35). En promouvant la personnalité juridique, il y a la volonté de « faire prendre conscience à tout le monde de notre relation et notre interdépendance au fleuve » (entretien 35). Ceci permet de questionner et repenser la relation au fleuve et d’avoir un regard décentré afin d’analyser dans les faits les impacts sur l’écosystème. Le terme de personne permet aussi de prendre conscience de la finitude : « le fleuve peut mourir » (entretien 31).

Il s’agit ensuite d’un moyen pour ouvrir des discussions sur des sujets plus vastes. Un militant environnemental reconnaît que « ce n’est pas la personnalité juridique qui est intéressante, mais l’ouverture du débat que cela permet » (entretien 25). Les processus de discussion, de mise en débat et à l’agenda politique de cette notion sont recherchés pour ouvrir des discussions sur l’atteinte des limites planétaires (entretiens 16, 42), le système économique (entretiens 16, 22), les processus décisionnels et démocratiques (entretiens 16, 22, 32, 39, 42). L’application des lois et la limitation des dérogations ou passe-droits seront renforcées (entretien 31), car le juge « mettra en balance les intérêts des différentes parties » (entretien 35). La forme de l’expression de la voix du Rhône est à inventer et il n’y a pas de propositions définitives (entretien 32, 35,

¹⁴ « L’État a fait connaître le 29 août sa décision de ne pas poursuivre le projet de construction d’un nouvel aménagement hydroélectrique sur le Rhône, entre Saint-Romain-de-Jalionas [Isère] et Loyettes [Ain] », a écrit la CNR dans un communiqué de presse en date du 30 août 2024.

42). Les enquêtés reconnaissent que le débat autour de la personnalité juridique permet de « faire monter en compétences » les citoyens sur ces différents sujets (entretiens 16, 32).

Enfin, certains enquêtés soulignent aussi l'intérêt de certaines organisations pour se (re)placer au centre de la gouvernance de l'eau ou au contraire se tenir à distance (entretiens 7, 13, 15, 18, 30, 31, 35). Sans remettre en doute les motivations profondes des promoteurs du concept, la création d'une offre de conseils par les consultants est parfois soulevée.

2.4.5 De nombreuses arènes de participation

Il existe différentes arènes de participation liées au fleuve Rhône. Bréthaut (2016) en analyse six : la CIPEL, la Commission Consultative pour la gestion de l'Arve et du Rhône, les opérations d'Abaissement Partiel du VERbois (APAVÉR), l'Agence de l'Eau Rhône Méditerranée et Corse, le Plan Rhône, le plan de gestion des poissons migrateurs. Certaines arènes sont aussi présentes au plus près du territoire, telles que les Commissions Locales de l'Eau (CLE) associées aux Schémas d'Aménagement et de Gestion de l'Eau (SAGE) (Barbier et al., 2022; Liziard et al., 2020), les Plans de Gestion de la Ressource en Eau (PGRE) ou les Projets de Territoires pour la Gestion de l'Eau (PTGE) (Roy, 2023). Chacune de ces arènes présente des caractéristiques de participations propres, de l'information à la co-production, en passant par la consultation ou la délibération (Bréthaut, 2016), avec des forces exécutoires juridiques différentes (Cour des Comptes, 2023). L'ensemble des usagers de l'eau est représenté afin de débattre et décider des politiques nécessaires à la satisfaction de tous et à la préservation à long terme de la ressource (Roy, 2023). De plus, 183 collectivités sont actionnaires de la CNR et s'expriment par un droit de vote correspondant pour les orientations stratégiques décidées en conseil d'administration. Trois comités de suivi de la concession d'aménagement, composés d'élus et des représentants des usagers, se réunissent a minima une fois par an afin d'échanger en particulier sur la mise en œuvre du contrat de concession et les questions environnementales. La personnalité juridique du fleuve n'est pas un sujet de discussion à ce jour dans le Comité de Bassin ni dans les arènes de participation de la CNR (entretiens 7, 18, 30, 32, 38, 41).

En dehors de la question de l'existence des arènes de participation, il s'avère difficile de caractériser « un peuple du Rhône » dont des représentants se positionneraient comme « la face humaine de la rivière ». Les enquêtés, indépendamment de leur statut, qu'ils soient Suisses ou Français, de l'amont ou de l'aval, parlent de leur territoire localement. Peu nombreux sont ceux qui expriment une vision globale du fleuve lui-même, avec lequel les relations sont généralement distendues. Ceci s'explique tout d'abord par les caractéristiques physiques du fleuve lui-même, un bassin hydrographique de surface importante, une rupture significative liée au Léman, et des découpages administratifs prégnants (deux pays, 3 cantons, 5 régions avec les affluents...) (entretiens 7, 25, 32, 37). La Suisse n'est pas tête de pont sur ce sujet : la notion du bassin versant est peu opérante (sauf à Fribourg où le Canton est moteur) (entretiens 23, 25). Un géographe souligne que la mise en scène du Rhône dans la littérature s'est progressivement tarie (entretien 24) et que les fêtes populaires rhodaniennes (les joutes ou les fêtes du Rhône) se sont rarifiées ces dernières décennies. La Maison du Rhône, située à Givors, est dissoute en 2014 malgré son rayonnement jusqu'en Suisse (entretien 25). Il y a donc eu, jusque récemment, une période de désintérêt politique et populaire pour le fleuve.

Toutefois, au cours des dernières années, de nouvelles interactions avec le fleuve se mettent en place. Tout d'abord, le développement de la Via Rhona favorise le vélo-tourisme le long du Rhône et permet de découvrir les territoires rhodaniens (entretiens 24, 41, Adam et al., 2018). A Genève, la baignade dans le Rhône est une demande en hausse (entretien 7). La métropole

de Lyon réfléchit aussi sur ce sujet, afin d’offrir de nouveaux lieux de baignade durant les périodes de canicules (entretiens 19, 32, Jame, 2023). Enfin, Lyon organise le festival Rhône-Saône, dont l’objectif est de recréer une culture des fleuves.

2.4.6 Ordres juridiques

Le Rhône s’écoule entre deux pays de traditions juridiques civilistes mais dont les fonctionnements institutionnels sont différents. La France a longtemps été caractérisée par un centralisme juridique et institutionnel important et une faible habitude des expérimentations locales (Poupeau, 2020). Il existe cependant une pluralité d’ordres juridiques liée au droit international, européen (Sauvé, 2014), ou infra-étatique (Hourquebie & Gervier, 2021). Une dynamique internationale de promotion des Droits de la Nature existe avec un plaidoyer mondial. L’ONU a lancé en 2009 le programme Harmony with Nature, qui inclut un inventaire des actions liées aux Droits de la Nature. Les promoteurs rhodaniens avancent le changement de statut d’autres écosystèmes à travers le monde comme justification, tout en reconnaissant la nécessité d’une adaptation au contexte territorial (entretiens 16, 31).

La jurisprudence de la Cour de justice de l’Union européenne a construit le principe de primauté du droit de l’UE sur les droits nationaux. Le Parlement européen et le Conseil Européen Social et Environnemental ont commandé des analyses et des rapports sur la mise en œuvre des Droits de la Nature (Carducci et al., 2020; Hervé-Fournereau, 2024). Il n’y a pas à ce jour de projet européen de directive ou de règlement qui porterait la personnalité juridique. Au niveau infra-étatique, la Province des Iles Loyauté de Nouvelle-Calédonie, inspirée par les ontologies kanakes locales, a reconnu dans son code de l’environnement la qualité « d’entité naturelle sujet de droit » pour certains requins et tortues. Le Conseil d’Etat, considérant que cette qualification relève du droit civil et non du droit environnemental, a statué sur l’incompétence de la Province dans ce domaine (Avis n° 492621 du Conseil D’Etat du 31 mai 2024, 2024).

En Suisse, les répartitions des compétences entre la Confédération, les Cantons et les Communes, sont caractéristiques d’un fédéralisme d’exécution (art. 46 de la Constitution) dans lequel la mise en œuvre de la législation incombe le plus souvent aux Cantons, en particulier dans le domaine de l’eau (art.76-4 de la Constitution). Dans la région frontalière, une quarantaine d’outils existe à ce jour pour la gestion de la ressource en eau (Bréthaut et al., 2024). La coordination n’est pas toujours évidente entre toutes les parties prenantes. Entre les cantons, les priorités peuvent varier et les projets remis en cause, comme l’illustre « le serpent de mer de la 3^e correction du Rhône¹⁵, reconsidéré encore très récemment » (entretien 39). Bien que signataires de la Convention sur l’eau¹⁶, « il y a une non-coordination entre la partie suisse et la partie française. On n’est pas dans l’esprit de l’accord d’Helsinki » (entretien 30) et les relations politiques sont compliquées (entretien 31) tandis que les relations techniques sont excellentes (entretien 31, 41).

¹⁵ Les études pour la 3^e correction du Rhône ont eu lieu entre 1996 et 1999 et les premiers travaux ont commencé en 2009 et sont initialement prévus jusque 2039. Le programme a été remis en cause en 2024 par le Canton du Valais Cf <https://www.vs.ch/web/Rhône> et <https://www.espazium.ch/fr/actualites/3e-correction-du-Rhône>

¹⁶ Convention sur la protection et l’utilisation des cours d’eau transfrontières et des lacs internationaux, dite Convention sur l’eau ou Convention d’Helsinki.

Le tableau suivant (Tableau 3) présente les caractéristiques des variables identifiées.

Tableau 3 - Caractéristiques des variables identifiées sur le bassin hydrographique du Rhône

Variables	Caractéristiques sur le bassin versant du Rhône
Changement d'échelons géographiques et administratifs	- Bassin hydrographique important - Foisonnement de démarches locales, à l'échelle du bassin versant et des sous bassins - Plaidoyer pour une confédération des territoires rhodaniens, par-delà les délimitations souveraines
Temporalité	- Inscription des promoteurs de la personnalité dans le temps long - Volonté de cristalliser certaines situations comme problématiques ou critiques
Crise	- Absence de crise sur le bassin versant à ce jour - Perceptions des menaces comme lointaines (impacts du changement climatique) - Existence de situations qui pourraient se transformer en crises
Objectifs	- Instrumentalisation de la personnalité juridique comme outil et non une fin en soi - Volonté d'ouvrir le débat sur les limites planétaires et d'associer les citoyens aux décisions
Arènes de participation locale	- Existence d'arènes de participation - Existence d'une demande de prise de décision plus locale, tout en tenant compte de l'échelle du bassin hydrographique - Absence de schéma ou mécanisme institutionnel pour exprimer la voix du fleuve
Ordres juridiques	- Centralisation de l'ordre juridique français qui laisse peu de place à l'expérimentation - Existence d'un pluralisme juridique au sein de la République française, en particulier dans les Pays et Territoires d'Outre-Mer - Existence de latitudes via le fédéralisme d'exécution suisse

2.5 Discussion et conclusion

Comme illustré dans la partie précédente, le bassin versant du Rhône constitue un laboratoire vivant pour analyser l’émergence de la personnalité juridique du fleuve et des enjeux afférents. Cinq éléments doivent être considérés pour une bonne compréhension du processus en cours.

Il apparaît tout d’abord que diverses justifications et rationalités sont mises en avant pour promouvoir cette évolution. Une analyse territoriale de la demande s’avère donc nécessaire. Contrairement aux exemples habituellement promus, il n’y a pas une société fracturée avec des descendants de colons d’un côté et des peuples premiers de l’autre. Le territoire rhodanien n’est pas un territoire abandonné ou en mal de développement. Il n’y a pas de crise écologique majeure au point de constater visuellement que l’écosystème se meurt. Les Droits de la Nature forment un concept qui « crée un idéal-type de ce vers quoi le monde devrait tendre », ce que Molle nomme les nirvanas (2008, p. 132). Les nirvanas mettent en avant des modèles qui sont disséqués et progressivement repris internationalement. L’institution de « face humaine de la rivière », nommée aussi Gardiens et Gardiennes, constitue une partie du modèle d’expression de la voix de la rivière, promu aujourd’hui par les activistes. Un narratif permet d’explicitier et de créer de la cohésion entre les modèles et le nirvana. L’analyse des processus sur le Rhône souligne l’absence actuelle d’un narratif structurant ou mobilisateur. La personnalité juridique apparaît comme un outil technique (entretien 24), qui vient d’ailleurs (entretien 25) et dont il faut construire le narratif. Les enquêtés soulignent la puissance du narratif à développer un regard décentré sur la nature, (entretiens 16, 24, 25). ID-Eau et l’APR visent la création d’un narratif persuasif à travers la mise en œuvre d’expérimentations.

Le deuxième élément est le soutien populaire qui s’avère être un facteur prépondérant des réussites des reconnaissances des personnalités juridiques. Les différents mouvements analysés soulignent que cette reconnaissance est toujours un mouvement initialement développé en dehors des institutions centrales ou territoriales et progresse vers les échelons de décisions plus globales. Il s’agit ainsi d’un processus de remise en question de la gouvernance actuelle. En France, indéniablement, les enquêtés demandent une prise de décision à un niveau de décentralisation plus élevé. Cependant, l’exemple du Bangladesh montre que la reconnaissance de la personnalité juridique peut servir le renforcement d’une administration étatique, sans renforcer la participation locale. En dehors du Bangladesh, la personnalité juridique a permis une meilleure association des populations locales aux politiques de développement territorial ou de l’eau. Mais le bassin versant du Rhône se distingue par de nombreuses arènes de participation (Barbier et al., 2022; Bréthaut, 2016), à l’instar de celles associées à l’Agence de l’Eau et ses outils de planification ainsi que de celles liées aux contrats de concession suisses ou français.

L’argument d’un manque de regard démocratique sur la gestion de l’eau et du fleuve n’est ainsi pas évident à la vue du nombre d’arènes de participation (Barbier et al., 2022; Buchs, 2016; Liziard et al., 2020). Cependant, ces arènes doivent être évaluées à l’aune de leur efficacité des processus participatifs (Bréthaut, 2016). La composition même de ces arènes dans lesquelles le poids de l’Etat est parfois prépondérant et les membres sont nommés par cooptation peut soulever des interrogations. L’absence de discussion sur la personnalité juridique indique que sa mise à l’agenda politique n’est pas encore effective. Selon un militant environnemental, cette absence de débat soulève des questions vis-à-vis de l’Agence de l’Eau ou de la CNR : si elles ont pour objet la protection du fleuve, ne devraient-elles pas être les promoteurs de la

personnalité juridique (entretien 25) ? En fait, les positionnements ne sont pas aussi tranchés. Une ancienne responsable d'un concessionnaire du Rhône a plusieurs fois exprimé son soutien à la personnalité juridique des rivières, tout en expliquant qu'à son avis, le Rhône n'est très certainement pas le premier fleuve sur lequel une telle innovation devait se mettre en place et qu'il fallait tout d'abord « en mesurer tous les effets collatéraux » (entretien 30). L'Agence de l'Eau RMC a été perçue, autours des années 2020-2022 comme totalement opposée à un tel projet, l'interprétant comme une critique directe de son travail, à la fois sur la réhabilitation du Rhône mais aussi sur la participation citoyenne (entretiens 7, 16, 24). Cependant, certaines questions soulevées par la personnalité juridique sont considérées comme pertinentes telles que le « renforcement de la capacité à agir et à ester en justice » ou la sélection des membres du comité de bassin « par cooptation » (entretien 34). Dans ce sens, l'Agence de l'Eau a lancé un processus assembléiste relatif aux grandes questions pour la mise à jour à venir du Schéma Directeur d'Aménagement et de Gestion des Eaux¹⁷ (SDAGE).

Le troisième élément concerne la participation du public. La présence d'eau en quantité et qualité, l'existence d'arènes de discussion (Bréthaut et al., 2021) et de circuits de financement permettent aux usages de l'eau d'être satisfaits une grande partie de l'année sans tension. Il a été exprimé au cours des entretiens 7, 23, 29, 32 que cette période d'eau en abondance se termine. Il faut dès à présent « réfléchir pendant que tout va bien » (entretien 31) pour anticiper des conflits d'usages et proposer une gouvernance qui les minimise. Le système actuel est déjà impacté par les changements des régimes hydrologiques et le sera de plus en plus. La personnalité juridique est perçue ainsi comme un vecteur d'amélioration de la participation des riverains et de renforcement de la démocratie participative au sein d'instances perçues comme trop jacobines (entretiens 15, 16, 17, 19, 24, 32). Une Elue locale indique que « l'Etat parisien central considère toujours que plus on est au niveau local, moins on défend l'intérêt général [...] et il n'a pas confiance dans ses services déconcentrés » (entretien 17). La représentativité et l'effectivité des arènes de participation actuelles doivent être questionnées tout autant que les critères mis en avant par l'APR pour s'auto-déclarer Gardien du fleuve. L'absence de liens économiques avec le Rhône prônée par l'APR reviendra à l'exclusion des discussions de certains acteurs, alors même que ces derniers tirent profit d'un fleuve en bon état, tels que les kayakistes, les pêcheurs ou les propriétaires des campings de proximité. Ainsi, la question des acteurs bénéficiant ou pâtissant d'une évolution potentielle de la gouvernance se pose. Les propositions de l'APR visent à remettre en cause l'équilibre des pouvoirs en place en promouvant les Gardiens comme (co-)décisionnaires. Cette dynamique soulève aussi des enjeux de souveraineté et d'ingérence entre les deux pays, en fonction des prérogatives qui seraient accordées aux Gardiens du fleuve dans le cadre d'une approche sur l'ensemble du bassin versant.

La mobilisation locale peut s'exprimer autrement qu'à travers des arènes de participation instituées. L'ouverture de l'intérêt à agir ou du droit de recours à tout citoyen est l'une des voies choisies par l'Espagne. Si l'Etat, censé être garant de l'intérêt général, venait à refuser de porter plainte à la suite d'une dégradation environnementale, la procédure judiciaire pourrait être mise en œuvre par des Gardiens et Gardiennes. La justice environnementale serait plus facilement accessible, en particulier si les frais de procédures sont pris en charge comme décidé pour la Mar Menor.

¹⁷ https://www.sauvonsleau.fr/jcms/e_29360/contribution-citoyenne-sur-les-grands-enjeux-de-l-eau

Le quatrième élément est le respect de la personnalité juridique elle-même. La mobilisation de commissions et de gardiens ainsi que la mise en œuvre de nouvelles relations avec les rivières à un coût humain, technique et financier. Une étude plus détaillée des circuits de financement et des systèmes de contrôle serait pertinente. En première approche, il ressort qu’un fonds n’a été mis en place que pour la personne-Whanganui.

Enfin, le dernier élément à considérer est la réflexion sur le contenu même de la personnalité juridique. Nous ne sommes qu’au début d’un chemin qui se compte probablement en années. ID-Eau, l’association la plus militante sur les droits du fleuve, reconnaît elle-même que la personnalité juridique n’est pas une finalité en soi et prévoit des expérimentations jusque 2027 avant de tirer des conclusions.

Les droits promus et les mécanismes pour les mettre en œuvre (voix du fleuve, nouvelle institution) sont les clefs des discussions à venir. Il y a peu d’enquêtés qui ont une vision des mécanismes institutionnels ou des profils-types de potentiels représentants du fleuve. C’est un champ à explorer (entretiens 18, 19, 32, 34), avec « des spécialistes [...] pour des mises en œuvre réelles » (entretien 29). Il serait pertinent de formaliser les droits substantiels et procéduraux afin de clarifier l’évolution institutionnelle proposée. Cette réflexion doit comprendre la coordination de tels droits avec le droit actuel. À la suite de la mise en œuvre de la Directive Cadre sur l’Eau, Gilissen et al. (2019) considèrent qu’un régime basé sur les droits de la nature pour la gestion des rivières dans l’UE serait une nouvelle étape utile et justifiée pour l’amélioration de l’état des écosystèmes aquatiques. La vision des promoteurs de la personnalité juridique est-elle une approche radicale consistant à démonter le système actuel ou se veut-elle incrémentale, en renforçant le cadre actuel ? Hervé-Fournereau (2024), comme certains des enquêtés (entretien 29), considère que la régression de la protection juridique de l’environnement est « loin d’être hypothétique ». Les droits de la nature permettraient au contraire de renforcer le principe de non régression du droit de l’environnement (Hervé-Fournereau, 2024 ; entretiens 24, 35). On voit poindre ici l’utilisation du droit comme outil pour contrebalancer les pouvoirs de certains acteurs. La personnalité juridique est aussi instrumentalisée dans le cadre de la révision de la loi sur l’eau du canton de Genève, afin d’obtenir des concessions sur d’autres sujets (entretien 7). Enfin, les discussions franco-suisse pour une meilleure concertation sur certains éléments de la gestion de l’eau ne semblent pas traiter de la personnalité juridique (entretiens 7, 15, 23).

Au cours de cet article, j’analyse la question suivante : comment, dans un cadre transnational, pour un fleuve anthropisé comme le Rhône, la personnalité juridique peut-elle faire évoluer la gouvernance du fleuve ? Pour cela, à travers les exemples étudiés, je caractérise la personnalité juridique du fleuve comme un mouvement ancré territorialement, dont l’émergence est progressive et réactive face à une crise ou une menace. Le soutien populaire est un élément clef alors même qu’il n’y a pas ou peu d’arènes de participation sur ces territoires. Les justifications variées mises en avant pour la personnalité juridique démontrent la plasticité du concept.

Afin de renforcer les corrélations, il pourrait être pertinent de qualifier l’intensité de ces paramètres, tels que la crise ou la participation du public (Bréthaut, 2016). Une piste de recherche complémentaire serait d’analyser les narratifs sur des territoires dont les rivières ont acquis la personnalité juridique, afin de mieux caractériser l’évolution du cycle hydrosocial (Cribb et al., 2024b; Linton & Budds, 2014; Mosquera-Guerrero & Krueger, 2024). En outre, une étude des financements et des mécanismes de régulations déployés pour accompagner la reconnaissance des personnes-rivières contribuerait à enrichir les débats en apportant des éléments de mesure de l’efficacité de ces évolutions. Enfin, l’analyse des échecs des processus

de reconnaissance des Droits de la Nature et de la personnalité juridique est faiblement développée. De telles analyses sont essentielles pour identifier les écueils rencontrés par ces processus socio-politiques

Appliquées au bassin versant du Rhône, les variables étudiées permettent de comprendre que les promoteurs de la personnalité juridique aspirent à ouvrir l'actuelle gouvernance, perçue comme trop technocratique malgré l'existence d'arènes de participation. Pour cela, ils cherchent à créer une dynamique populaire, se réapproprient les enjeux liés au fleuve et politisent les prises de décision. Certaines questions restent en suspens, comme la coordination et l'intégration des initiatives en cours sur des sous-bassins du Rhône au sein d'une démarche rhodanienne plus holistique.

3 The Legal Personhood as an Instrumental Tool for Reforming the Governance of the Rhône River¹⁸

Résumé

La personnalité juridique a été reconnue pour plusieurs écosystèmes dans le monde entier, suscitant une attention significative de la part de la communauté scientifique. Cette attention s'est traduite par la mobilisation d'approches ancrées dans des perspectives juridiques, institutionnelles ou ethnographiques. Les appels en cours pour la reconnaissance de la personnalité juridique du fleuve Rhône nous donnent l'occasion d'analyser les processus en cours dans un fleuve transfrontalier situé au milieu de l'Europe. Cet article se concentre sur la façon dont un tel concept est promu et a l'intention de se frayer un chemin dans l'agenda politique. Plus précisément, nous examinons deux promoteurs actuels de la personnalité juridique du fleuve Rhône : la Commission Internationale pour la Protection des Eaux du Léman (CIPEL) et ID-Eau. Nous en tirons cinq leçons essentielles : (1) la demande de reconnaissance de la personnalité juridique découle de la volonté des acteurs de changer les pratiques de gouvernance actuelles et de faire évoluer le paradigme productiviste vers un système de gouvernance plus décentralisé et inclusif ; (2) la personnalité juridique est présentée comme une solution à des problèmes qui n'ont pas encore été clairement définis ou identifiés, ce qui soulève des questions sur la manière dont ce concept peut être instrumentalisé ; (3) la discussion reste limitée à un petit nombre d'experts ; (4) la légitimité de ce débat doit être examinée ; (5) le concept de personnalité juridique doit être réinterprété pour s'intégrer dans les ontologies occidentales.

Abstract

Legal personhood has been recognized for several ecosystems worldwide, garnering significant attention from the scholarly community. This attention translated with the mobilization of approaches anchored into legal, institutional, or ethnographic perspectives. On-going calls for the recognition of Rhône River's legal personhood provides us the opportunity to analyze on-going processes in a transboundary river located in the middle of Europe. This paper focuses on how such a concept gets promoted and intends to make its way on the political agenda. Specifically, we examine two current promoters of the legal personhood of the Rhône River: the International Commission for the Protection of Lake Geneva (CIPEL) and ID-Eau. We identify five key lessons: (1) the request for recognition of legal personhood derives from actors' willingness to change current governance practices and to shift the productivist paradigm towards more decentralized and inclusive governance system; (2) legal personhood is presented as a solution to problems that have not yet been clearly framed nor identified, opening up thinking on how such concept may be instrumentalized; (3) the discussion remains limited to a small number of experts; (4) the legitimacy of this debate requires scrutiny; (5) the legal personhood concept should be reinterpreted to fit within Western ontologies.

¹⁸ This chapter is based on the article : Vallet, C., Bréthaut, C., Lussault, M., (2024), [The Legal Personhood as an Instrumental Tool for Reforming the Governance of the Rhône River](#), in *Water*

3.1 Introduction

On the pediments of the Genissiat and Seyssel dams, the inscription “Le Rhône au service de la Nation” (The Rhône River in service of the Nation) stands prominently. This maxim encapsulates the pivotal role that the Rhône River played in French economic development, particularly in the post-World War II era (S. Pritchard, 2011). Historically regarded primarily as a resource to be harnessed, the Rhône River boasts the highest number of infrastructures in France, including dams, hydropower plants, nuclear power plants, locks, and more, making it the river with the most extensive array of disruptions of the country (Bethemont, 1997). Upstream in Switzerland, the Rhône River serves primarily as a productive tool dedicated to irrigation and hydropower production. Dikes were constructed to utilize the floodplain as a foundation for economic development. Over the past two centuries, the river has not only been instrumental in the development of riverside lands, but also played a crucial role in the overall development of both Switzerland and France. Operationally, the management of the river is contingent upon a limited number of stakeholders. Two French entities, the Compagnie Nationale du Rhône (CNR—National Company of the Rhône River) and Electricité de France (EDF), along with a Swiss operator, the Services Industriels de Genève (SIG—Industrial Services of Geneva), intervene over river management. Endowed with concession contracts and/or placed directly under the supervision of public authorities, these entities retain the autonomy to self-organize and establish customized governance frameworks for managing water flows at the transboundary level. Until recently, public authorities operated mainly at the periphery of Rhône’s governance (Bréthaut & Pflieger, 2020b), often lacking a comprehensive understanding of how operators interact (notably through private law agreements) in addressing river management challenges. As a result, the historical development of Rhône River governance resulted in persisting opacity (Bréthaut & Turley, 2020), with riparian inhabitants frequently appearing disconnected from the river as a genuine ecosystem (Barthélémy & Armani, 2015).

Nevertheless, certain indicators suggest a shift in the perception of the river and its potential governance. Some voices are increasingly advocating for a paradigmatic transformation in how the Rhône is governed, urging for novel perspectives and applications of the river, as well as the establishment of a renewed relationship with the riverine environment. Proponents of these changes draw inspiration from instances where the legal personhood of rivers is perceived as a pivotal concept in reshaping established practices.

The concept of legal personhood is gaining traction in the realm of river management, with an increasing number of scholars delving into its nuances. Recent analyses scrutinized prominent cases, such as the Whanganui River or the Yarra River¹⁹ (O’Bryan, 2019; O’Donnell, 2021a; O’Donnell & Talbot-Jones, 2018). These studies shed light on diverse justifications for recognizing legal personhood. For instance, Eckstein et al. (Eckstein et al., 2019) emphasize how this notion facilitates the enhanced integration of the First Nation’s law, fosters a growing movement towards ecocentrism, underscores the valuation of river ecosystem services, and stimulates efforts to reconsider participatory processes in river management. The literature delineates various strategies for endowing a river with the status of a “person”. In practice, the translation of legal personhood for a river manifests through a spectrum of institutional setups. This ranges from the appointment of two guardians for the Whanganui River (O’Donnell & Talbot-Jones, 2018) to the formation of a collegiate body comprising approximately 15

¹⁹ As explained in the introduction of the manuscript and in the state of the art of this article, the Yarra River is not recognised by law as a legal person but as a living entity. The river does not have right and cannot stand, as a difference with the Whanganui River.

members for the Mar Menor in Spain (Vicente Giménez & Salazar Ortuño, 2022), and in the case of the Atrato River, the selection of 14 guardians from local communities. The establishment of legal personhood varies in accordance with contextual variables (Vicente Giménez & Salazar Ortuño, 2022). Legal personhood for a river can be thus considered as a legal fiction, defined as a “legal procedure according to which a situation different from or completely opposite to reality is considered to exist” (de Fontette, 1998). Such a procedure is as diverse as the contexts in which it occurs. It remains, as rightly pointed by several authors (Boelens et al., 2024; Immovilli et al., 2022; McNeish & Socha, 2024), highly political and permeated by power relations.

In this study, utilizing the Rhône River as a case study, we analyse a context where this concept slowly starts to impact the political agenda and focus on existing interventions that mobilize the notion of legal personhood of rivers to push for a governance change. Our contribution brings an additional perspective on existing literature as it centers on a case that is currently unfolding where legal personhood of rivers is promoted by certain actors as a new possible way forward. As such, our analysis focuses on current actors’ strategies and positioning towards the promotion of the right of nature approach. Specifically, we scrutinize the potential practical implications of this concept, its role in shaping prevailing discourses on river governance, and its instrumentalization aimed at restructuring a specific context that is historically deeply rooted in anthropocentric and productivist perspectives.

Our exploration is guided by the following research questions: How is the notion of legal personhood introduced to the political agenda? Why and how do actors employ this concept? How does the concept exert influence on river governance? What kinds of opportunities and obstacles are envisaged for the potential occurrence of such a paradigm shift?

To address these inquiries, we organize our contribution into three sections. Firstly (1), we provide an overview of the existing literature on the legal personhood of rivers, with a focus on contributions relevant to European contexts. Subsequently (2), we analyse the case of the Rhône River, concentrating on two sub-cases: firstly, the initiative led by the International Commission for the Protection of Lake Geneva (CIPEL), aiming to confer legal personhood to Lake Geneva; and secondly, the efforts spearheaded by the association ID-Eau through initiatives exploring new modalities to represent and express the interests of the Rhône River and its potential impacts on river governance. Lastly (3), through a comparative analysis of these two processes, we examine the current situation and draw insights for the implementation of the rights of nature more broadly.

3.2 State-of-the-Art

The discourse surrounding legal personhood for rivers evolved beyond the technicalities or feasibility of recognition (Bétaille, 2019) and is now centered on a vibrant debate about the concept's added value within the existing environmental and governance frameworks, the power dynamics induced by such paradigm shifts, and the diverse values and ontologies associated with promoting this approach (Boelens et al., 2024). In this paper, we will not engage with the philosophical debates around the relationship between nature and law or the influence of Western legal perspectives on framing our relationship with nature (Kinkaid, 2019; Rawson & Mansfield, 2018). Instead, we will focus on the practical challenges of operationalizing the concept. The rights of nature encompass “the right to exist, persist, maintain, and regenerate its vital cycle” for all forms of life in nature. However, the attribution of these rights initiates a complex implementation journey fraught with numerous governance and socio-political challenges.

Firstly (1), for rights to be effectively implemented and upheld, legal enforcement through the judicial system is crucial (O'Donnell & Talbot-Jones, 2018). Stone (1972, p. 458) delineates the legal standing of nature through three elements: “(1) [nature] can institute legal actions at its behest, (...) (2) in determining the granting of legal relief, the court must take injury to the nature into account, (...) (3) that relief must run to the benefit of it”. In the case of an ecosystem, and particularly for a river, legal standing involves the right to define and enforce contracts, as well as the capacity to own and manage property, constituting a formalized legal personhood (O'Donnell & Talbot-Jones, 2018).

Then, (2) this legal personhood necessitates a human representative who advocates for the rights of nature. Bétaille (2019, p. 13) terms this as the “rights of nature's aporia”, an inherent paradox embedded in the very essence of the concept. Indeed, law is a human construct, and for nature to benefit from it, it must navigate and accommodate human representations. Various authors (Espinosa, 2014) and legislative texts (such as the Ecuadorian constitution, and Spanish law related to the Mar Menor) assert that the rights of nature contribute to the reinforcement of biocentric perspectives. However, Bétaille argues that such a perspective remains predominantly anthropocentric, as the rights of nature also imply human obligations toward nature (Bétaille, 2019; Iorns Magallanes, 2021).

Despite the existing challenges, several contributions underscore the merits of the rights of nature concept. In recent years, there has been a noticeable increase in the recognition of legal personhood for rivers. Notable instances include the 2017 cases of the Whanganui and Yarra Rivers. More recently, in 2022, marking a landmark development in the European context, legal personhood was granted to the Mar Menor, a lagoon located in Spain.

These distinct cases exemplify diverse implementation processes. Revet (2022) contends that the recognition of the legal personhood of the Atrato River serves as a mean to safeguard the biocultural rights of the local population. While the Yarra River is acknowledged as a living entity, it lacks the right to stand in court (Eckstein et al., 2019). In contrast, the Whanganui River was accorded “all the rights, powers, duties, and liabilities of a legal person”. In the case of the Mar Menor, strong support from the local population, coupled with the voting by the national parliament on a popular initiative, prompted a policy change (Vicente Giménez & Salazar Ortuño, 2022).

The conferment of legal personhood is highly contingent on context. As evidenced by the Whanganui, Yarra, and Mar Menor cases, distinct legal pathways can lead to the acknowledgment of legal personhood. Behind each process, specific strategies and actors are involved, endeavoring to shape the evolution and operation of governance structures. These

recognitions of legal personhood result from continuous negotiations and trade-offs that involve power dynamics in constructing the human–nature relationship. In New Zealand, the recognition of legal personhood implies that the Whanganui River possesses self-ownership (Bourgeois-Gironde, 2020). Consequently, the Crown acknowledges that the river is not owned by anyone yet refrains from transferring ownership to the local Maori tribes. This process underscores opposition from the Indigenous community, challenging rules perceived as those of the settlers.

The persistent presence of power dynamics leads Sanders (2018) to view legal personhood as an entry point for managing conflicts between First Nations and settlers. However, few analyses focus on the negotiation phase preceding the conferment of legal personhood. With this contribution, our objective is to explore how proponents of legal personhood endeavor to develop influential storylines to reshape public discourse and instigate policy changes independently of the added value of the recognition of the legal personhood itself.

In pursuing this endeavor, we align with numerous contributions that delve into the transformation of an issue into a public problem (Hassenteufel, 2010; Neveu, 2017) and how the political agenda becomes influenced, and potentially defined, by the strategies of specific actors (Nakamura, 1987). Various authors conceptualized such processes. Neveu (2017) notably outlines five successive steps. First, the “identification” step involves a social or ecological fact being perceived as problematic by a promoter, who can be of diverse backgrounds such as scholars, NGOs, think tanks, or companies. These promoters are recognized as claims-makers (Neveu, 2017). The second step is the framing process, during which the promoter develops and refines the fact into a specific storyline (Hajer, 2002). This process aims to render the situation intelligible and highlight its problematic nature, often rooted in the local context, and aligned with local values and understandings, as described by Cefaï (1996) as “relevance frames”. Due to resource constraints, issues compete for visibility in the public forum. Once recognized as a problem, the set of solutions presented by the promoters undergoes scrutiny in the justification stage. A situation transformed into a problem will only become a public problem if it gains attention from the population or politics. This stage, termed “popularization” by Neveu (2017) and “mediatization” by Hassenteufel (2010), underscores the need for a sounding board, public interest, and potential policy action. Networking, media access, and social classes are pivotal parameters across these stages. The fifth and final stage is the politicization of the public problem, occurring when the problem becomes highly visible, a favorable political and ideological context exists, and action becomes viable. Kingdon (1984, p. 165) refers to this phenomenon as “policy windows”.

In alignment with Best (2003) and a constructivist approach, this process implies that almost anything can become a public problem, but the caveat is that it may not happen everywhere or at any time. Contrary to being a linear progression, this process typically unfolds in various phases conducted in parallel, with each phase influencing the others. The publicity of an issue often attracts new actors, consciously or unconsciously forming coalitions alongside the initial claims-makers.

As noted by Eckstein et al. (2019), the recognition of legal personhood for rivers is far from a straightforward process and can contribute to heightened tensions between involved stakeholders. Counter-claims-making, opposing new public policies, is a reality where opponents mobilize resources to resist any evolution or support a specific one. Consequently, the public problem may undergo reframing, with different agents transforming and reinterpreting the concept along the way. The legal personhood can potentially be instrumentalized, with the construction of the problem linked to the most influential actors capable of imposing specific storylines and framings (Hajer, 2002). As such, legal personhood

of rivers remains a profound field of contestations, political struggles, and power relations (Kinkaid, 2019). As noted by Immovilli et al. (2022, p. 576): “(...) *when dealing with rights of rivers interventions, questions should be advanced about the tensions and frictions that exist between rivers, surrounding nature, and people and their respective uses of and claims to nature, whether or not expressed in discrete rights or not*”.

In the subsequent section, we direct our analysis towards how the topic of legal personhood is brought to the forefront. Observing an increasing emphasis on this notion in the public debate, our analysis focuses on ongoing processes, determining the variables of such development, and examining the involved actors and discourses. Specifically, we explore how the notion of legal personhood for rivers is introduced to the political agenda, with certain actors hoping to change or evolve the existing governance system. To achieve this, we concentrate on two ongoing processes that highlight different attempts to frame water governance through the legal personhood lens. On one hand, we analyze the case of Lake Geneva, through which the Rhône River flows, where the International Commission for the Protection of Lake Geneva incorporated the notion of legal personhood into its 2021–2030 action plan (refer to Figure 1). On the other hand, we examine the efforts of ID-Eau, an association dedicated to securing legal personhood for the Rhône River. These two processes, at different stages and led by distinct actors, provide insights into how the notion of legal personhood can be employed to structure the political agenda. Additionally, they offer practical insights into the challenges associated with such processes.

Figure 1. The Rhône River basin and the CIPEL action area.



Modified from UNEP/DEWA/GRID-Europe 2007
The boundaries and names shown and the designations used on this map
do not imply official endorsement or acceptance by the United Nations.

3.3 Methodology

This study employs a multifaceted methodology encompassing various types of approaches. Firstly, we conducted a comprehensive analysis of existing literature (including scientific publications, policy documents, and grey literature). Subsequently, a qualitative, in-depth field analysis was undertaken. Semi-directive interviews served as the primary method for data collection, facilitating engagement with key stakeholders central to ongoing debates (see supplementary materials for the interview questionnaire). The interview phase spanned from 20 September 2022 to 25 January 2024, resulting in a total of 18 conducted interviews. The interviewees were selected on the basis of their public activities and their expected pro-legal personhood orientation. This selection allowed us to collect the arguments of the proponents of the concept. The average interview lasted approximately 1 h. The interviews covered two principal areas: (1) current issues pertaining to the Rhône River and (2) focus on the legal personhood of the Rhône River. This focus enabled us to inquire about the interviewees' discovery of the concept of the legal personhood of rivers, their knowledge, their comprehension of the concept, their visions and proposals regarding the legal personhood of a natural entity, and the various ongoing requests within the Rhône River Basin. Additionally, participatory observation was integrated to complement interview findings. We actively followed multiple processes, including those led by ID-Eau or CIPEL, and attended conferences organized by major proponents of legal personhood. The tripartite approach of literature analysis, interviews, and participatory observation enhances data enrichment and allows for the triangulation of information derived from diverse sources.

3.4 Results: Rhône River Governance: Evolving Priorities and Discourses

Bréthaut and Pflieger (2020b) delineate three distinct periods in the management of the Rhône River. First (1), spanning from 1879 to 1970, authors describe a period in which the Rhône is predominantly perceived and utilized as an instrumental tool for industrial production. On the French side, the establishment of the National Company of the Rhône (CNR) in 1921 underscores this period's objective to maximize the river's potential. During this time, the aim is to balance the needs and visions of key sectors, including (a) the production of electricity for street lighting in Paris and the requirements of newly developed train connections, particularly between major French cities such as Paris, Lyon, and Marseille, (b) the development of navigation as a hinterland of Marseille's harbor, and (c) the diversification of agricultural crops and irrigation practices in the south of France (Bethemont, 1997). As a result, the CNR boasts initially a diverse set of shareholders, including the City of Paris, the train company PLM, select industries, and representatives of local public authorities (Bethemont, 1997). This intricate structure aims to resolve debates that arose in the early 20th century regarding how to distribute benefits from the Rhône (S. B. Pritchard, 2004).

The industrialization of the French Rhône gains momentum after 1945, marked by the construction of 19 dams up to 1986. Pritchard (2011; 2004) emphasizes that in the post-WWII context, the Rhône and the hydropower production become pivotal for the reconstruction of the French nation. During this period, a "broad coalition of politicians, technical experts, writers, and left-leaning political parties and labor unions" supports this industrial discourse on river management, equating controlling and exploiting the Rhône River to the revival of the "grandeur of France" (S. Pritchard, 2011).

In Switzerland, this period is characterized by the progressive development of infrastructure against floods. Simultaneously, the surging energy needs prompt the construction of hydropower plants, and dedicated operators, such as the Industrial Services of Geneva (SIG), emerge through public-owned companies. Despite these developments, the governance of the Rhône during this phase remains heavily focused on production, described as monofunctional and primarily articulated around energy production (Bréthaut & Pflieger, 2020b).

Finally, this period is characterized by the establishment of the first arena for transboundary water cooperation. In 1963, the International Commission for the Protection of Lake Geneva was founded, providing a platform to address the deteriorating status of the lake's water quality. This marks the inception of a success story, as through the CIPEL, both states collaborate to achieve a substantial improvement in the water quality of the lake.

Then (2), from 1970 to 2000, the hegemony of hydropower encounters challenges from new actors, particularly with the emergence of the nuclear industry, which becomes a new priority for the French government. This shift in river use necessitates the involvement of a new operator, Electricité de France, and introduces new requirements for water allocation. Consequently, hydropower production must now accommodate the demands of nuclear power production, notably requiring specific water flows for base load energy production.

In addition to concerns regarding Lake Geneva's quality, this period witnesses a strengthening of ecological considerations. Following the construction of 19 dams along the French river course, the building of the Loyettes dam in 1986 faces significant resistance from environmental activists, ultimately leading to the project's cancellation. This reflects what Comby et al. (2019) describe as a movement towards bottom-up reactions, contrasting with the initial top-down development strategies centered around viewing the river as a tool for industrial production.

Finally (3), since the year 2000, there has been an observable shift towards a governance system characterized by complex rivalries (Bréthaut & Pflieger, 2020b). The Rhône River governance is evolving to encompass a broader range of uses, including, among others, drinking water, tourism, and ecosystem functioning. This transformation is evidenced by the reinforcement of legal frameworks, notably through the implementation of the European Water Framework Directive, and the formal recognition of a greater number of uses. The evolution of the Rhône over the last decades illustrates a departure towards considering “water as a valuable resource” (Comby et al., 2019, p. 1688). Since 2003, The CNR’s mandate has been expanded to include “missions of general interest”. The organization made a voluntary commitment to redistribute a portion of its profits through locally implemented projects related mainly to culture, tourism, or the environment. However, using the river to support production remains a significant structuring factor for Rhône River governance. New projects involving hydropower dams and nuclear power plants indicate that despite the existing concentration of energy production infrastructures in the basin, there is still untapped potential.

This evolution highlights how historically, Rhône River governance has been firmly anchored in top-down, command-and-control perspectives centered around viewing the river as a tool for production, termed by Pritchard (2011, p. 1) as an “envirotechnical landscape”. While the trajectory demonstrates the growing recognition of various uses over time, it also underscores how decision-making processes and priorities continue to revolve mainly around energy production and irrigation.

However, in this context, recent years also illustrated the emergence of legal personhood as a new narrative for considering the governance of the river. On one hand, this notion has been integrated into the action plan of CIPEL, the primary body for transboundary water cooperation in the Lake Geneva basin, which also pertains to the Rhône River. On the other hand, there is a noticeable increase in the number of actors referencing the notion, with the Swiss-based NGO ID-Eau leading a participatory process to promote this idea at the Rhône River basin level. We present hereby the two different approaches, focusing on the novelty of the processes, which led to the participation of key participants and to unexpected outcomes.

3.4.1 Legal Personhood in CIPEL Action Plan: A Paradigm Shift with Limited Resonance in Current Concerns

Established in 1963 as the principal authority for transboundary cooperation around Lake Geneva, CIPEL’s mandate revolves around four main activities: (1) organizing research-related to pollution, (2) recommending measures to reduce pollution, (3) preparing international regulations related to the lake’s quality, and (4) addressing other pollution-related questions (Convention constitutive de la CIPEL, 1963). CIPEL operates without the use of coercive power. Its activities include the formulation of recommendations, the issuance of guidelines, the undertaking of specific studies, and the establishment of a collaborative relationship with member states, through which it seeks to implement decisions on a voluntary basis. While centered on water quality challenges, its fourth mission allows flexibility to develop a wide range of activities relevant to the commission’s missions. CIPEL, an intergovernmental body, comprises civil servants and representatives from Swiss cantons, the French region, and departments, with no representation from local authorities such as municipalities. Its secretariat, led by a general secretary, employs three persons, supported by a technical sub-commission and a network of institutions and actors. Through its missions, the CIPEL allows “a significant degree of transboundary collaboration” and, since the sixties, its “actions have enabled enormous improvement [...] of the water quality” (Bréthaut & Pflieger, 2020b, p. 117).

Between March 2018 and September 2020, CIPEL formulated its fourth action plan covering 2021–2030. The process is mainly driven by delegations from riparian countries, which

established 27 strategic axes. The distinctive feature of this action plan is the participatory meeting with civil society, which took place on 24 September 2019. This meeting included environmental associations, local authorities, and the long-time French advocate of legal personhood, Erik Orsenna. Mr. Orsenna is a member of the Académie Française (the Académie Française is a prestigious French institution founded in 1635 that consists of 40 members dedicated to preserving and promoting the French language and literature by overseeing linguistic standards) who was invited to facilitate the debates thanks to his connections with some of the members of the CIPEL (entretien 13). The idea of granting legal personhood to Lake Geneva gained traction during this meeting and influenced subsequent steps. Thirty action sheets were prepared and submitted for consultation (40 answers as feedback were collected), leading to the approval by consensus of the action plan in fall 2020 during CIPEL's plenary session. As a result of the meeting with the civil society, the action plan includes a specific action to explore granting legal personhood to Lake Geneva, defining it as the "ability to hold rights and duties" (Commission Internationale de Protection des Eaux du Léman, 2021, p. 25). While the document acknowledges support from Erik Orsenna, civil society, and the IFGR foundation, the idea was primarily promoted by Orsenna during the participatory process (interview 13).

Despite being the first action mentioned, legal personhood is not a top priority for most partners (interviews 13, 18), and is considered exploratory with limited constraints for stakeholders (interview 7). Progress has been slow post-approval, which is attributed to reticence among civil servants, the need to acclimate to the concept, and the absence of a policy window (interviews 7, 13). Some interviewees expect civil society to hold CIPEL accountable for results. In this context, the emergence of ID-Eau as a strong advocate for legal personhood for the Rhône is seen as a crucial driver. Indeed, several existing Swiss environmental NGOs, which are part of extra-parliamentary discussions on environmental subjects, are not radical enough to fight for such a subject (interview 7). Yet, grouping people under the legal personhood banner is challenging within a governance system that has not faced significant crises in the last decades. So far, the productivist perspective, symbolized by the maxim "The Rhône River at the service of the Nation," remains challenged only by a minority of actors (interview 7).

3.4.2 ID-Eau: A Pioneering Advocacy Organization

ID-Eau, a non-governmental organization founded in June 2018 and headquartered in Lausanne, Switzerland, stands at the forefront of advocating for innovative management tools for the Rhône River. Comprising less than 40 members, ID-Eau is deeply committed to direct democratic processes and embraces the principle of respecting planetary boundaries as a fundamental criterion and assessment matrix for its initiatives (seminar "Political Ecology of Water", third session "Rights of Rivers" with F. Pitaval and A. Farinetti on 15 May 2023). The organization is structured with a governance body known as the Direction Committee, consisting of six members as of the information available on its website as of 19 October 2023. On 18 September 2020, ID-Eau officially initiated the "call for the recognition of legal personality for the Rhône River" (Pitaval et al., 2020). Notably, by 23 November 2023, an online petition associated with this cause garnered approximately 1400 signatories, encompassing not only individual citizens, but also support from various NGOs, companies, and institutions such as the Lyon Metropolitan area and the Town of Lyon. The petition put forth by ID-Eau outlines four fundamental rights deemed essential for ensuring the Rhône River's capacity to defend itself: the right to exist, the right to be preserved, the right to regenerate, and the right to evolve. This proactive stance by ID-Eau exemplifies its pioneering

role in shaping discourses and advocating for transformative governance structures for the Rhône River.

In 2021, as a continuation of its earlier call, ID-Eau took a significant step by establishing the “Popular Assembly of the Rhône River”. It promoted its initiative as the “First transnational approach to defining the new rights of the Rhône”. The assembly comprises approximately 25 randomly selected inhabitants from both France and Switzerland, with the intention of representing the diverse population within the river basin. The methodology for selecting participants to the panel has not been made explicit. While we learned that the selected inhabitants should not have direct economic links with the river itself nor be promoters of the legal personhood (seminar “Political Ecology of Water”, third session “Rights of Rivers” with F. Pitaval and A. Farinetti on 15 May 2023), it was not possible to be in contact with the company that selected the panel. Except the objective of having a gender balance representation, we do not know the specific criteria used (age, location, profession...). Functioning as the technical secretary of the assembly, ID-Eau organized five working sessions over an 18-month period, offering support and facilitating communication and exchanges between members. To ensure independence and uphold the assembly’s position, a supervisory body of five members was instituted. Additionally, a consultative council consisting of 10 members was formed to provide guidance in the operational process. Members of the council, whether Swiss or French, possess expertise in democratic processes, legal personhood, and ecosystems. They are affiliated with universities, work as consultants, or are associated with non-governmental organizations. The assembly operates within a theoretical framework grounded in four key theories: social ecology, rights of nature, bioregionalism, and territories in transition. Described as “democratic, participative, and assemblyist,” the assembly’s reflection process is designed to culminate in the establishment of a “Confederation of the Rhône bioregions” and a redefinition of rights, transitioning from the right of reparation to the right of preservation (seminar “Political Ecology of Water”, 3rd session “Rights of Rivers” with F. Pitaval and A. Farinetti on 15 May 2023) (APR website (<https://www.assembleepopulaireduRhône.org/d%C3%A9marche> on 12 December 2023)). ID-Eau articulated a participation mandate to guide the assembly’s activities. This mandate encompasses:

- A brief presentation of the malfunctions of the Rhône River,
- A clear statement of ID-Eau about its aims to make the Rhône’s governance as example,
- The list of the rights of the Rhône (the right to exist, the right to regenerate and to protect himself against any destructive activity),
- A logical conclusion to involve the riparian inhabitants to analyze and make recommendations about the governance to protect the ecosystem.

The assembly should answer the main following question: “How can we help the Rhône River to act and make itself heard to defend its own interests and those of its watershed/ecosystems?” and the sub questions:

- Who is the Rhône River and what is our link with it? What are its roles and uses in the watershed (today and for future generations)?
- What impacts and threats weigh on the Rhône?
- What new (democratic, legal, etc.) tools or processes should be in place to fight against these impacts and threats?
- Who can represent the Rhône and be its guardian?

ID-Eau commits to support the recommendations and ideas of the Popular Assembly of the Rhône, and to work towards implementation with local decision makers. In addition, ID-Eau commits to lobby the law makers. Between July 2022 and October 2023, four working sessions

of three days were organized. The sessions took place in different cities across the Rhône basin: Lyon, Geneva, Sablons, and Arles. The session topics included the following:

- The first session aimed to establish the assembly and engage in team-building activities. It focused on explaining the citizens' ability and responsibility to act. Discussions included outlining the work plan, setting milestones, and considering the methodology, guest speakers, and potential areas of focus.
- The second session focused on diagnosing the Rhône River. Key questions explored during this session were "Who is the Rhône River? How is it doing?" Participants studied intrinsic characteristics, such as sediments, and engaged in discussions about transboundary governance.
- The third session provided participants with the opportunity to role-play as if they were the Rhône River. The session emphasized the development of tools and a biocentric vision.
- The fourth session, held during the "Agir pour le Vivant" (Act for the Living) festival, centered on the guardianship of the Rhône River. The theme revolved around democracy and how to implement it, including discussions on participatory, direct, and/or territorial democracy.

Over the three days of each session, a series of talks has been organized to enable the panel to gather information from various stakeholders, including scholars, activists, artists, practitioners, and policymakers. Site visits and walks were also arranged to provide participants with a first-hand understanding of relevant issues. Supporting volunteers were mobilized during these sessions to furnish the panel with well-informed responses to key questions that might arise during working sessions and discussions. To maintain momentum between sessions, an online platform was made available to panel members. ID-Eau initially targeted to provide the assembly with the ability to interpret the concept of legal personhood in alignment with the perspectives of First Peoples, making it relevant within European societies. The organization's current focus is now more on building the capacities of the members of the panel for them to propose an evolution of the river governance, including outside the current institutional set up. Recognizing that popular support is crucial for a change in the governance paradigm, ID-Eau is engaged in long-term efforts, hoping to gain acknowledgment to speak "on behalf of the river" (interview 12). While awaiting the opportunity to advocate for significant public policy changes (seminar "Political Ecology of Water", third session "Rights of Rivers" with F: Pitaval and A. Farinetti on 15 May 2023) (interview 7), this approach, aimed at laying the groundwork for the recognition of legal personhood, may cause frustration among some supporters due to the perceived lack of visibility and immediate results (interview 12).

3.5 Discussion and Conclusions

Our empirical analysis emphasizes the current significance of legal personhood for rivers within a European context. The attention directed towards the Rhône River exemplifies this growing interest and underscores the diverse motivations prompting various actors to strategically position themselves to influence political agendas and reshape prevailing considerations within existing governance frameworks. In the subsequent section, drawing from our earlier empirical analysis, we identify five key lessons about the operational dynamics of the process and the influential variables at play.

Firstly, the initiatives undertaken by CIPEL and ID-Eau are geared towards elevating considerations for the hydrosystems themselves, pushing for a shift towards a new paradigm. Given the productivist history, the communities along the Rhône River have largely been disengaged from its governance (Bethemont, 1997; S. B. Pritchard, 2004). The ongoing processes underscore the necessity of a renewed connection with the Rhône River itself, even though the advocacy for legal personhood involves a limited number of actors. Reappropriating the river is a gradual and intricate process. Initiatives such as the development of cycle routes such as “ViaRhôna” along the French course of the Rhône River aim to (re)establish links between the population and the river while enhancing knowledge about the ecosystem. However, despite improvements in social connectivity, there are challenges in increasing knowledge about the Rhône ecosystem itself (Adam et al., 2020). Moreover, as more actors seek a role in governance structures, discussions on the hierarchy of use are likely to become more complex. The potential for conflicts may rise with the growing number of stakeholders. Considering the three phases outlined by Bréthaut and Pflieger (2020b), it is worth considering whether the call for legal personhood recognition could mark the commencement of a fourth phase, leading to more polycentric and bottom-up governance systems.

Secondly, the Rhône River is not presently confronted with significant challenges. While there may be imbalances and potential future obstacles, it can be affirmed that the Rhône River generally possesses sufficient water with acceptable quality, well-established public policies, and operational actors that gained in-depth knowledge and know-how about the system. Currently, there is minimal opposition to the existing river governance, dominated by a select number of actors who effectively utilized the river following their mandate. The Rhône River does not currently pose any major public problems that are of concern to riparian inhabitants or society at large. CIPEL and ID-Eau, through their discourses, do not explicitly identify or characterize any emblematic issues necessitating a modification of existing public policy. Instead, these actors brought legal personhood to the forefront of public discourse as a pre-emptive solution to issues that are not yet apparent, using it as a political tool to garner attention and influence the agenda.

Thirdly, beyond this inner circle, the debate or questioning of the recognition of legal personhood is infrequent. As observed, this matter is only brought up by a very restricted number of actors who are gearing up for the potential opening of a policy window (Kingdon, 1984). The parallel requests made by CIPEL and ID-Eau contribute to a perception of a coalition of discourses (Hajer, 2002). Notably, the same specialists or spokespersons, such as Erik Orsenna and Valérie Cabanes, are involved in both processes (CIPEL and ID-Eau). However, there remains limited interaction between the two organizations.

Fourthly, the legitimacy of such a debate warrants scrutiny. On one hand, ID-Eau seeks to mobilize the citizens of the Rhône River, aligning with the approach of the Climate Convention established in France by President Macron as a democratic exercise to formulate a national strategy against climate change (Reber, 2020; Van Lang, 2020). While the work undertaken by

ID-Eau is commendable, it has not yet culminated in the publication of results. Moreover, the democratic legitimacy and representativeness of the recommendations put forth by 25 non-elected citizens may be subject to question. On the other hand, the Secretariat of CIPEL advocated for a strengthened democratic decision-making process in the development of its latest action plan. It proposed involving municipalities and NGOs through a charter for implementing the action plan, yet this suggestion was not endorsed by the two member states of the Commission.

Finally, the various actors acknowledge that the concept of “legal personhood” originates from a different worldview. Although the concept may share common roots with efforts in Colombia or New Zealand to achieve greater justice in decolonization processes, its implementation varies. In Europe, a reinterpretation of the concept is necessary to align with Western ontologies. This reinterpretation may already be underway in Spain and commenced on the Rhône River. The rights recognized for the rivers also vary. The rights promoted by the Appel du Rhône do not correspond to those in the Universal Declaration of the Rights of Nature (UNDRN) (International Rivers et al., 2020). The UDRN advocates for seven fundamental rights such as “be free of pollution” or “maintain lateral or longitudinal connectivity”. In contrast, the Appel du Rhône presents rights in generic terms such as the “right to exist, to be preserved”. Furthermore, no analysis was conducted on the potential risks, benefits, or drawbacks of the rights or legal personhood in our European contexts. The proponents of the legal personhood of the Rhône River have yet to present a compelling argument in favor of the evolution of the status, particularly in the context of the existing river governance structures.

Our contribution, focusing on the Rhône River case, delineates ongoing processes where legal personhood is being utilized to challenge the current governance system and increasingly influence the political agenda. This process, supported by a limited number of actors with no clear issue identification, raises several questions that we discuss in this piece. As of now, despite the growing discourses on legal personhood, we observe no significant changes in the governance system. Key decision-makers seem confident that there will not be any major paradigm changes. However, both CIPEL and ID-Eau appear to be preparing for potential opportunities to act. For an event to result in a paradigm shift, Birkland (Birkland, 1998) demonstrates that at least one actor must be prepared for the event and willing to use it to pursue policy change. Additionally, it is important to consider the types of opportunities and hurdles that may arise in the process of achieving a paradigm shift. According to various actors, a paradigm shift is currently unlikely due to the strong, unbalanced distribution of power that disadvantages less powerful actors. Our analyses raise critical questions about the legitimacy and effectiveness of rights of nature approaches in a heavily industrialized context where, for the moment, rights of nature remain far from being perceived as a solution for the ongoing ecological crisis.

4 Extractivism, Ecocentrism and Democracy. Imaginaries around Rights of River and Legal Personhood of the Rhône River²⁰

Résumé

Dans le contexte des crises écologiques, les droits de la nature et la personnalité juridique sont promus comme des solutions potentielles. Les études précédentes se sont concentrées sur la mise en œuvre contextuelle, juridique et opérationnelle. Dans cette contribution, la question est posée de savoir comment la personnalité juridique est matérialisée à travers les imaginaires de ce que la rivière devrait être. Je présente d'abord les trois imaginaires mobilisés : l'extractivisme, l'écocentrisme et la démocratie. Je propose ensuite trois hypothèses qui sont ensuite testées à travers les discours des acteurs du Rhône, un fleuve transfrontalier hautement industrialisé où certains partisans de la personnalité juridique sont actifs. Je démontre que l'imaginaire extractiviste est bien institué, tandis que l'imaginaire écocentrique peut être considéré comme révélateur d'un programme économique et politique global. Les promoteurs des droits de la nature préconisent de nouveaux processus décisionnels qui remettent en question l'imaginaire démocratique. La conclusion est que les droits de la nature et la personnalité juridique pourraient être un moyen de réenchanter nos démocraties occidentales.

Abstract

In the context of the ecological crises, Rights of Nature and legal personhood have been proposed as potential solutions. Previous studies have focused on contextual, legal and operational implementation. In this contribution, the question is posed of how the legal personhood is materialized through imaginaries of what the river should be. I first introduce the three imaginaries mobilized: extractivism, ecocentrism and democracy. I then put forward three hypotheses which are subsequently tested through the discourses of actors on the Rhône River, a transboundary highly industrialized river where some proponents of the legal personhood are active. I demonstrate that the extractivist imaginary is well instituted, while the eco-centric imaginary can be seen as indicative of a comprehensive economic and political program. Promoters of the Rights of Nature are advocating new decision-making processes, which challenge the democratic imaginary. The conclusion drawn is that the Rights of Nature and legal personhood could be a way to re-enchant our Western democracies.

²⁰ This chapter is based on the article: Vallet, C. (forthcoming) Extractivism, ecocentrism and democracy imaginaries arounds Rights of River and Legal Personhood of the Rhône River, *Political Geography*

4.1 Introduction

The concept of legal personhood for natural entities is gaining worldwide recognition. There are currently more than 300 initiatives pertaining to the Rights of Nature (RoN) that are in progress²¹ (Putzer et al., 2025). These include petitions, municipal ordinances, legal projects, and lobbying actions. These developments can be traced back to the seminal papers of Stone (1972), Hermitte (1988), and Leimbacher (1990). The incorporation of legal personhood and RoN in the legal framework has occurred through various avenues, including the Constitution of Ecuador (Tanasescu, 2013), legislation in New Zealand (Te Awa Tupua Act, 2017) and Spain (Ley 19/2022, 2022) or through court decision in Colombia (Clavijo-Ospina, 2023), to name only a few of them.

The recognition of these rights has given rise to a number of questions. Some analyses focus on the processes of agenda setting and legal recognition (Espinosa, 2014). O'Donnell & Talbot-Jones (2018), Revet (2022), Vicente Giménez & Salazar Ortuño (2022), have decrypted the mechanisms used to express the voice of the river. Understanding the fit and misfit of these innovative institutional arrangements is another area of investigation (Sohnle, 2023). Bourgeois-Gironde (2020), Cárdenas & Mestokosho (2022) review how RoN and legal personhood counterbalance a previously neglected vision of the world and the river. Petel (2024) issues a cautionary note regarding the redistribution of power. The reflection of First Nations' ontologies in RoN is a topic of contention, with arguments both for and against (Chaturvedi, 2019; Eckstein et al., 2019). Finally, the consequences of recognizing these rights and conferring legal personhood have been subjected to scrutiny (Cribb et al., 2024a; Wesche, 2021).

The establishment and subsequent implementation of these novel legal frameworks have been a protracted process. Time is identified as a crucial factor for building necessary consensus between parties (Eckstein et al., 2019). Processes are indeed not straightforward. For instance, the Whanganui Law is the result of many years of discussion. In Spain, the far-right political party Vox contested the law before the Constitutional Court, asserting that it violated the right to private property. However, twenty-three months later, the Constitutional Court validated the law. These complex and time-consuming processes are the results of the challenges that RoN do to our understanding of who should participate in decision making and how. In alignment with the assertion made by O'Donnell et al. (2024) that RoN “must focus on articulating the why”, we should enforce our analysis of meaning making. In this framework, I notice that imaginaries have been overlooked. The purpose of this article is to initiate a discussion on the role of imaginaries in facilitating a radical transformation in river management (Moore & Milkoreit, 2020).

I center my reflections on a transboundary highly industrialized river: the Rhône River, one of the powerful waterways originating from the Alps. The river has undergone extensive structural modifications over several decades, including the construction of numerous dams and dikes. The river is subject to significant exploitation for the generation of hydroelectric and nuclear power for both Switzerland and France. The governance of the Rhône River is primarily the responsibility of public or semi-public actors. Bréthaut et al. (2020b) have identified three distinct phases in the river's governance history. At the outset, the governance was monofunctional with the generation of hydroelectricity at heart. In the 1970's, France initiated the implementation of its electric nuclear power production plan, which led Electricité de

²¹ <https://ecojurisprudence.org/dashboard/?map-style=political> visited on December 12th, 2024

France (EDF – Electricity of France), the nation’s electro-nuclear producer, to integrate the river governance. As a result of the plan, the river basin has become among the most nuclearized in the world. In the 1990’s, as environmental concerns increased, governance underwent a transition towards a more polycentric model, characterized by competition and a diversity of uses.

In this context, certain actors are currently endeavoring to promote the recognition of the legal personhood of the Rhône River. This growing momentum of the legal personhood perspective has resulted in several initiatives (Vallet et al., 2024). Primarily, an online petition for the recognition of the Rights of Rhône has been initiated by an environmental association, ID-Eau. Second, a self-named “Popular Assembly of Citizens” has been established by the promoter of the aforementioned petition to discuss the current river governance and propose evolution. Third, the 2020-2030 strategic document for the management of the Geneva Lake includes an action to “explore the capacity to give the legal personhood to the Geneva Lake”. Furthermore, several other initiatives have emerged at the level of tributaries. Concurrently, prevailing institutions appear to be adopting a more passive stance. In light of this, I have decided to examine the case of the Rights of Rhône and its imaginaries, as a living lab, rather than focusing on an already acknowledged river-person. This approach will facilitate an in-depth exploration of contemporary governance imaginary, the relationships between society and the river, and the potentialities for a transition towards alternative imaginaries. It sheds some light on future-making processes.

In the present article, my objective is to unpack imaginaries underpinned by legal personhood on the Rhône River basin, their influences on the hydrosocial cycle (Linton & Budds, 2014) and our human-water interplay. Water is not merely a mineral resource but rather, it is socially and materially constructed, thereby expressing dynamics of power (Molle, 2012; Swyngedouw et al., 2002). In such a framework, I ask the following research questions: in a context where the Rhône River is a strategic asset for both Switzerland and France due to its numerous uses, how is the legal personhood of the river and the debates on the river persons materialized through different imaginaries of what the river and our society are and should tend to be? How are built and rebuilt our relations to the Rhône River ? How are emerging imaginaries promoted by alternative narratives? How do these imaginaries question the governance of the river, influence environmental and political decision-making and, challenge the established power?

The article presents the following sections. First, I present the elements of the framing theory and the concept of imaginaries. Second part characterizes the methodology. Third, I delve into three imaginaries: 1) the imaginary of inexhaustible resources and extractivism, 2) the ecocentric imaginary and 3) the democratic imaginary. The final part presents general perspectives regarding the transformative potentialities of the RoN, through reinforcement of democracy with ecocentrism.

4.2 State of the art and research hypotheses

The subsequent section delineates the state of the art of three imaginaries I mobilize. These imaginaries are as follows: i) the extractivist imaginary, ii) the ecocentric imaginary, iii) the democratic imaginary. Thereafter, I present three corresponding research hypotheses (RH).

Jasanoff and Kim (2015, p. 19) define imaginaries as “collectively held, institutionally stabilized, and publicly performed visions of desirable futures (or of resistance against the undesirable).” They characterize imaginaries as “animated by a shared understanding about social life and social order attainable through, and supportive of, advances in science and technology” (Jasanoff & Kim, 2015, p. 4). In his analysis of social imaginaries, Castoriadis posits they are co-constructed on technical, organizational and social systems (Castoriadis, 1975; Cina, 2021). The concept of imaginary is inherently dualistic, encompassing both individual and societal dimensions. Individual and societal imaginaries are embedded and co-constructed, and imaginaries are embedded and co-constructed with our world. Imaginaries possess the capacity to exert a disruptive influence on our societies and institutions. They induce profound or unanticipated shifts that deviate from conventional, linear, causal explanations supported by historical context, social constraints, or actor-centered histories (Jasanoff & Kim, 2015). Castoriadis (1975) conceptualized the dynamic nature of the imaginary through “the social instituting imaginary”. This concept underscores the perpetual transformation of the prevailing “instituted imaginary” by the “radical imaginary” through its alternative narratives and discourses. Jasanoff & Kim (2015) identify four stages in the evolution of imaginaries. The initial stage, termed “origin”, emphasizes “the capacity of individuals and groups to think things differently from what was previously seen or thought” (Jasanoff & Kim, 2015, p. 322). The subsequent stage, “embedding” involves the integration of “new ideas into cultures, institutions and materialities” (Jasanoff & Kim, 2015, p. 323) which transforms imaginary as a social practice. The development of new ideas invariably competes with prevailing ones, thereby characterizing the stage of “resistance”. The final stage, “extension”, is characterized by the result of the unconventional imaginaries to “gain traction, acquire strength and cross scale” (Jasanoff & Kim, 2015, p. 323). The radical imaginary’s capacity to disrupt the present and shape the future is contingent upon its ability to transcend the boundaries of the instituted imaginary. Jasanoff and Kim (2015, p. 14) underscore the notion that the imaginary is a pivotal concept “to clarify why, at significant forks in the road, societies opt for particular directions of choice and change over others and why those choices gain stability or, at times, fail to do so”.

4.2.1 RH1 – A vibrant extractivist imaginary of the river

At the Universal Exhibition of Paris in 1889, Bergès promoted the potential of the “waterpower” and its harnessing, employing the metaphor “white coal” (*la houille blanche*) to enhance the imaginaries of engineers. This was done in direct competition to the pivotal role of the coal and steam engine in the advent of the first industrial revolution. Bergès advocated for the accessibility of water coming from “glaciers and springs that, every year, are replenished and become eternal” (Mirande, 1925, p. 52). The objective was to galvanize policymakers, engineers, and the workforce to develop infrastructure, including the construction of dams for the generation of hydroelectricity (Mirande, 1925; Sylvestre, 1925). To further strengthen the social fabric and the epistemic community, the journal “*La Houille Blanche*” was established in 1902. Its inaugural editorial interwove technical progress with economic development and

social benefit within a novel socio-technical imaginary. Initially, the Journal focused on Alpine rivers (Côte, 1902), and it has facilitated discussions about the optimal exploitation of the Rhône River.

In 1933, in a different context and on a different continent, the “hydrologic cycle” was discovered (Linton, 2008). This paradigm posits water as an immutable phenomenon. The process of evaporation, transport, precipitation, runoff, infiltration and discharge up to the sea is taught as “the natural pattern of circulation of water” (Thomas, 1956, p. 544). The concept of a continuous water cycle has led to massive infrastructure works, fostering the understanding of water as an inexhaustible resource that can be extracted (Molle, 2012).

In her study of the Rhône River, Pritchard (2011; 2004) unpacks the diverse imaginaries that were mobilized for the development of the Rhône. In the aftermath of World War II era, France found itself in a state of exhaustion, endeavoring to sustain its position as a leading global power. In order to facilitate a rapid recuperation of France’s former “grandeur”, harnessing the Rhône’s hydraulic power was posited as a matter of both national and technical imperative. France was confronted with electricity shortages, prompting the implementation of the legal and regulatory framework established before 1933, including the establishment of the Compagnie Nationale du Rhône (CNR – Rhône National Company), in charge of the Rhône’s development. The Rhône River was perceived as a formidable entity, necessitating control and mastery. A coalition of “politicians, technical experts, writers, left-leaning political parties and labor unions” was formed (S. B. Pritchard, 2004, p. 766). This discourse is encapsulated in slogans such as “Rhône serves the Nation”, which are displayed on the pediments of several dams. The discourse of modernity, economic development and state sovereignty, intricately interwoven with nature’s domination is also present in other contexts (Menga, 2015). Presently, there are over 20 dams on the Rhône itself, with a significantly greater number on its tributaries. The potential of “white coal” is almost fully harvested. The utilization of river potentialities extends beyond the realm of hydroelectricity production, encompassing a diverse array of uses including water transfer, irrigation, transport and navigation, dilution and dispersion of pollution, cooling or heating the water. These activities are present along the course of the Rhône River and its tributaries (Etat des lieux du bassin Rhône-Méditerranée, 2019).

These observations underscore the prevailing perception of the Rhône River as a resource supported by an extractivist imaginary. I understand here water extractivism as “the practice to singularize and standardize water into the category of “resource” in order to master it and extract as much economic value from it as possible” (Stensrud, 2019, p. 144). In the context of the rise of RoN, my first hypothesis is as follows: “if the extractivism imaginary is still vibrant, then it is the current instituted imaginary and it is embedded with power”.

4.2.2 RH2 – An ecocentric imaginary on the rise?

The second imaginary mobilized in this article is that of eco-centrism, which is predicated on the question of the place of the human beings in the world, or, from an eco-centric perspective, the place of the “more-than-human” in the world (Rodríguez-Garavito, 2024, p. 313). This concept aims to overcome the gap between nature and culture (Descola, 2005). It advocates for ecological egalitarianism among all species. One of the fundamental principles of ecocentrism is the inherent value of Nature itself, irrespective of the services it provides to human societies (Thompson, 2001). This concept unites various discourses, encompassing environmental and land ethics of Leopolds (1949), ecotheology of Berry (1987), and ancestral protection of Mother Earth by First Nations (Espinosa, 2014). Leopolds (1949) approach emphasizes an ethic of cooperation with the environment and self-limitation for the human being.

This imaginary posits that the ecological crises are due to the domination of Nature held by the humans (Espinosa, 2014; Thompson, 2001), a vision denounced as the result of Christian (Ruether, 2012), Cartesian, or Western liberal ideologies (San Román & Molinero-Gerbeau, 2023). The imaginary draws on deep ecology and ecofeminism. It engages in discourse surrounding the characteristics of the Anthropocene. Vuillerod (2021) offers a compelling perspective, revisiting various ecofeminist scholars (Mies, Merchant, Federici, Ruether and Plumwood) and arguing that the domination of nature has developed in parallel with domination of women. He posits the Anthropocene as Androcene and contends that its resolution is contingent on achieving gender equality through the deconstruction of patriarchal social organizations.

Furthermore, Espinosa (2014, p. 397) presents a robust critique of the notions of “property rights as an institution mediating nature and human interactions and reformulates nature from ‘right-less’ to ‘right-bearing’”. The eco-centrism imaginary is at odds with the sustainable development concept. By advocating for payments for ecosystem services to offset perceived “market failures” (Espinosa, 2014, p. 397), sustainable development in fact reinforces the property rights on which these payments are based. Bekessy and al. (2018) observe that the notion of ecosystem services is inextricably interwoven with the process of commodification of Nature. Dancer (2021) presents a complementary perspective, repositioning the understanding of Nature by the sustainable development as a natural capital. Moore (Moore, 2017, 2018), establishing parallels between unpaid domestic women’s labor and the appropriation of nature for free (or a very limited cost), contends the necessity for the capital to continue to grab nature unimpeded.

The environmental legal framework is also subject to criticism from the eco-centric viewpoints. According to Dancer (2021, p. 26), the former is “based on intra-species legal relations between humans” while ecocentrism focuses on the human relationship with the Earth. As an alternative approach to the existing legal framework, Cullinan (2011) proposes the concept of wild law. He refers to our domination over nature as “eco-apartheid” and characterizes us as oppressors.

Eco-centrism is thus a fundamental change of mindset and paradigm, focusing on our interdependency links and relations to nature, instead of perceiving it as resources to be exploited. It has been integrated into numerous acknowledgments of the rights of rivers. For instance, the preamble to the Law for the recognition of legal personhood to Mar Menor and its basin ²² states its objectives as “achiev[ing] the effective protection of nature and of the human cultures and ways of life that are closely associated with”. Similarly, it asserts that “human beings [are] an integral part of nature and not as a being intended to dominate it”. The law acknowledges the detrimental effects of ecosystem degradation on human health, emphasizing the necessity for an “ecocentric interpretation of our legal system” (preamble of the Law 19/2022). Ecocentrism fosters a symbiotic partnership between humans and other living and non-living entities, ensuring mutual benefit.

Critics of ecocentrism often emphasize the exceptionality of humans and assert that our rights should not be subordinate to those of nature. Sach (2023) argues that RoN are unfeasible and even dangerous, potentially leading to a more polluted environment.

Ecocentrism has thus two complementary facets: on one side, it promotes a (re)new partnerships Nature – Human and on another side, it strongly criticizes existing approaches. My second hypothesis is the following. If ecocentrism is an act that empowers invisible and excluded groups of population, including more-than-humans, then it is not just a movement of thought but an economic and political program which challenges the Anthropocene era.

²² (Ley 19/2022, 2022)

4.2.3 RH3 – A way to reenchant the democratic imaginary

Democracy, as a social practice, is the third imaginary examined in this article. Ezrahi (2012, p. 3) defines “political imaginaries [as] fictions, metaphors, ideas, images or conceptions that acquire the power to regulate and shape political behavior and institutions in a particular society”. In both France and Switzerland, predominant form of democracy is representative, with Switzerland exhibiting a notable degree of direct deliberative democracy. Zask (Fourniau et al., 2022) underscores the difficulty of achieving the ideal balance between these two forms. The cornerstone of representative democracy is predicated on the political imaginary of trust between the citizens and their elected representatives. Through a fiction, the “will of the people” is expressed by their representatives (Blondiaux, 2021). Consequently, democracy is conceptualized as the collective power of the people (Ezrahi, 2012). Blondiaux (2021) and Tormey (2015) observe that this political fiction has recently become less functional. Public trust in institutions and processes has reached low levels (Rouban, 2023). A pervasive dissatisfaction with contemporary democracies has been documented (Kriesi, 2020), with some arguing that democracies might perish (Levitsky & Ziblatt, 2018) or come to an end (Blondiaux, 2021; Runciman, 2018). Ezrahi conceptualizes contemporary democracies as being inundated by the theatricality of the representatives, positing that this transition from modern to postmodern democracies can be attributed to the radical transformation in “the formation of the very modern imaginaries of reality and agency” (Ezrahi, 2012, p. xi). In order to address the aporia of the representative democracies and to re-enchant the democracy itself, Blondiaux (2021) advocates for a deliberative and participatory democracy.

Berlan (2016) examines the spectrum of citizen mobilizations, ranging from co-management to contestation and all the nuances in between. A multitude of expressions of discontent manifest through street demonstrations or occupations of contested project sites (Bès et al., 2015; Laugier, 2024; Petel, 2020). Fourniau (2022, p. 155) observes the emergence of “new political actors: the citizens as residents” through these mobilizations. These actors develop a narrative of not being victims of a social and territorial injustice, but of being representatives of a wrong done to democracy. Engaging in such actions has enabled citizens to establish a presence in political and scientific discourses, compelling the initiation of public debates, whether institutionalized or not, and the articulation of issues that had been previously overlooked (Fourniau et al., 2022). As director of the Commission Nationale du Débat Public (CNDP – National Commission of Public Debates), Mrs. Jouano notes that such debates can take unanticipated forms, diverging from the expectations of technicians or policymakers. These public debates play a pivotal role in the mitigation of conflicts and tensions. In essence, citizens establish public spaces, both physical and virtual, that empower them to wield authentic critical influence through a process of a permanent siege power (Aubert, 2019; Habermas, 1962). Larrère (Fourniau et al., 2022) conceptualizes the public debate as a transition from technical discussions to social discussions about a project. This shift introduces the citizens as a third actor into the decision-making process. These citizens partake in discussions that are otherwise dominated by experts on one side and decision-makers on the other one. By engaging in this way, citizens empower themselves, reclaiming the mandates previously entrusted to their representatives, and participating in the decision-making process. This shift, therefore, prompts a transition from a delegative democracy to a dialogic democracy.

In this regard, Taylor (2002) outlines the role of media outlets, including newspapers, television programs, and social networks, as common spaces for discussion and public debate. These media outlets assume a pivotal role in the functioning of a democracy by propagating ideas and analyses, thereby contributing to the development of a shared understanding and sense of belonging among citizens. Media transcend territorial distances. This intertwined relationship

between territory, media and democracy, in which each exerts an influence on the other, has been conceptualized by Debarbieux (2015) as “a space of imaginaries”.

The River-person is expressed through a representation system that is yet to be articulated. Certain actors are creating a space for a public debate by launching the discussion about RoN and legal personhood of the Rhône. I posit that if the concept of legal personhood of Rhône creates a public debate, then it is not only promoted as a tool against the ecological crises, but it serves also as a tool for re-enchanting modern democracies.

4.3 Methodology

Within the political geography framework, this empirical investigation is based on qualitative methodology through discourse analysis (Hajer, 1997). It combines interviews, document analysis and observatory participation to ensure the triangulation of information. First, 29 interviews were conducted from September 2022 to December 2024. Interviewees were selected based on their public activities, encompassing the diverse water uses along the Rhône River across different geographical scales with representation of both French and Swiss participants to reflect both perspectives (table 1). A semi-directory questionnaire was developed to guide the interviews (Brinkmann, 2020). The purpose of the discussion had been explained previously to the interviewees, who provided their consent prior to participation. Second, the document analysis encompassed official guidelines pertaining to water, newspaper articles and legal documents. A range of websites was also consulted. Finally, observatory participation took place during the year 2024. I participated in various pre-investigation public meetings related to the potential construction of a French dam named Rhônergia, which were organized by the CNDP.

Table 3 – Profiles of the interviewees

Activities	Nationalities		Total
	French	Swiss	
Elected representative	4	2	6
State	2	1	3
Economic user	2	1	3
Non economic user	6	3	9
Academia	1	/	1
Other	5	2	7
Total	20	9	29

4.4 Three discourses facing the Rights of the Rhône

In the subsequent section, I present the empirical data and discourses that constitute pieces of the imaginaries. First, I present the discourses associated with the Rhône as an inexhaustible resource. Second, the interviewees’ points of view on the Rights and the legal personhood of the Rhône are presented. They highlight the approach for a renewed human – nature partnership. Finally, I present the data pertaining to a more inclusive decision-making process on the river.

4.4.1 The myth of an inexhaustible resource

First, the interviews were initiated with an inquiry regarding the issues pertinent to the Rhône River. The primary sentiment is that its contemporary state is a consequence of historical developments, encapsulated by the notion that "the Rhône River serves the Nation." The respondents articulate their perspectives using a range of expressions including assertions of non-respect for the Rhône River in France (interview 1) to descriptions of it as "hyper-artificialized" (interview 2), "corseted" (interview 3), or "enslaved" (interview 4). The interview 5 posits that the Rhône is akin to an "anti-river". These various assertions are founded upon the "fiction of an inexhaustible river", according to the respondent 5. A second sentiment is that some users have overstepped the law through special privileges. As articulated by a former responsible of a concession on the river, "Laws [regarding minimum flows or water temperature] are explicit, and laws are not applied. There's such a lobby that's exercised, such a strike force, by the lobby exercised by industrialists or even by politicians, that it is hard to request the applications of the laws" (interview 3). The presence of pollutants in the Rhône, the release of water at temperature that exceeds authorized levels, or artificial water level variations are all subjects of considerable contention among respondents from environmental associations or elected representatives (interviews 4,6,7). Respondent 6 considers that the regular condemnation of the Swiss administration in the context of the rights of appeal launched by the associations demonstrates the administration's failure to respect the law.

In a second time, respondents expound on the ramifications of climate change. Indeed, a series of studies and events have prompted inquiries into the various actors regarding the Rhône and its waters. The stakeholders have acknowledged the findings of the study on climate change impacts (BRLi, 2022) including the projected evolution of the future flow, with increases of up to +30% during winter and decreases of up to -30% during summer (interviews 4,5,10). Respondent 11 expressed that Swiss dam actors consider that they will experience notable impacts by the late 21st century, a consequence of the full melting of the Rhône Glacier. In the interim, they focus on increasing the hydroelectricity production, with higher flows resulting from the complete melting of the glacial ice (Perroud, 2024; Weise, 2024; interview 22). On the French side, actor 4 emphasizes that the anticipated impacts will occur by 2050 and that adaptation is urgently needed. However, an interviewed representative of farmers contends that agriculture has already been impacted by climate change for more than 20 years now (interview 13). However, most of the respondents acknowledge that the anticipated modification of the hydrologic regime will precipitate "conflicts over uses... and hard ones even" (interview 10). The same actor further asserts that the only solution is "to save water, to save water, to save water" (interview 10). The farmer contends that exploitations have been engaged in this saving process for the last 20 years. Having already achieved the pinnacle of optimization in the farming sector, he advocates for water-saving measures by other users and the initiation of irrigation projects (interview 13).

In a third time, the respondents establish links between the present situation, the future hydrology regime of the Rhône and numerous projects that have emerged or been reinvigorated. Swiss actors discuss about the modification of the third correction of the Rhône (interviews 6,7,12). The riparian actors of the Geneva Lake express concerns regarding the evolution of the ecosystem's temperature. Moreover, projects concerning the development of building heating or cooling systems utilizing lake's water have given rise to questions (interviews 14,15,16). Some Swiss actors have expressed a reluctance to comment on the utilization of water downstream of the border (interview 11). However, the announcement of the construction of two European Pressurized Reactor (EPRs) on the French Rhône has prompted a legal challenge by the Geneva Canton before the French Court. This announcement has also given rise to questions within the French community (interview 17), and the mandatory public hearing has

recently been initiated. In a proximate location, in September 2024, the State announced that it is putting an end to the Rhône dam feasibility studies and that construction will not go ahead. This dam had been initially part of the agreement to extend the duration of the concession of the development of the Rhône by the French State to the CNR. However, during the preceding interviews I held, no respondent expressed definitive support for this project and several respondents expressed concerns that it would nullify outcomes of years of river restoration and renaturation (interviews 2,4). Further downstream, various actors, including the President Macron, have proposed new water storage or water transfer options. The farmer representative (interview 13) expressed support for allocating the full historic water quota to the farming sector, despite its previous partial utilization. He notes the availability of water from the Rhône River, stating that it is not at a critical stage. He also highlights the inconsistency of banning new water intakes for irrigation in the middle Rhône while allowing water transfer to the Pyrénées or possibly up to Barcelona. The farmer asserts that the Aquadomia transfer indicates adequate water availability.

However, the majority of respondents express concerns, reservations or opposition to some or all of these projects. The interview 3 states that “We will not be able to allocate an equivalent volume of water to all parties simultaneously”. Another respondent articulates concerns regarding the technical solutions for increasing the water quantity, such as desalination, viewing them as “techniques at prices that are unreasonable, with deleterious ecological consequences and unaffordable expenses” (interviews 17). This cost-related concern possesses the potential to impede the development of novel initiatives, as evidenced by the following excerpt from the interview 18: “Aquadomia or desalination might be affordable for drinking water, but it is surely not for the farmers”. Furthermore, some participants highlight the incompatibility of river protection and energy transition (interview 6). An elected representative asserts that these novel initiatives encompass “unthinkables” that make it possible to avoid questioning existing models and production systems (interview 4). In the context of the challenges posed by climate change and the escalating demand for water, some respondents advocate for a re-examination of the utilization of water, recognizing that this process necessitates a timeframe of 10 to 15 years to define and implement a novel model (Interviews 3,4).

Through these interviews, we observe that conflicting and incompatible perspectives on its future management are raising. While some actors advocate for new water infrastructure and welcome new users, others emphasize the need to fundamentally restructure water usage patterns over the next 10-15 years.

4.4.2 The ecocentric imaginary

During the interviews, several respondents articulated a first set of narratives about the Rhône River as living entity. The legal personhood of the Rhône River is regarded as a “new philosophy” (interview 19) for interacting with the river and “questioning the relationship with vital elements and the place we give them” (interview 4). “The elements that establish the relationship between [...] local residents [...] and their river” should be embedded in the governance system (interview 8). The concept of a living entity, as articulated in interview 3, further underscores this notion, asserting that acceptance of this living entity entails acceptance of “its fatal outcome: when we do not treat it well, everything that is living can die [...]. Rivers are living entities; thus, rivers can die. [...]. The same interviewee, confronted to the question “Do you think the Rhône could disappear one day?”, has an affirmative answer, “although not in the immediate present”. Constructing on the word “ecocide”, opponents to the Rhône dam created the neologism “rhonicide”²³ to qualify the contested and now abandoned project

²³ <https://www.facebook.com/StopBarrageRhône>

and its negative impacts. Two of their mottos were “Let’s save the living Rhône River” and “we are the Rhône”, as presented in picture 1. The assertion that the Rhône River is a living entity capable of articulating its concerns is further substantiated by the statement that it “speaks through the sigmata of our uses. [...] While the river’s voice may not be identical to our own, the river speaks through its evolution, the loss of biodiversity, the ecological continuity, and the consequences of its enslavement” (interview 4).

Picture 1 – Demonstration in front of the city hall (2024). www.facebook.com/StopBarrageRhônergia. From left to right “Stop the dam” (with a play on word: in French, barrage has both meaning stop and dam), “We are the Rhône River”, “let’s save the living Rhône River”



For a number of respondents, recognizing the Rhône as a living entity will foster acceptance of necessary protections and, consequently, acknowledge legal personhood. As articulated by one employee of the Swiss administration: “as long as people have not become aware of the fact that there is a living ecosystem called [the Rhône River] and that needs this or that functionality to be able to continue to live, I think that we will not be able to move on to the notion of legal personality because it is a notion that comes after. People must first understand that we are addressing a living ecosystem as a living being” (interview 8). One participant offered the following perspective: “I therefore find that the fact of stopping to consider this whole river or its watershed as something from which one can draw infinitely, destroy, etc... and moving on to the side of recognizing that it is a personhood, giving it legal personhood, because it is alive and that, like any living being, it needs to be protected” (interview 3). To conceptualize the ecosystem as a living entity, the techniques of a role-playing game were employed during a 3-day workshop within the Assemblée Populaire du Rhône (APR – Popular Assembly of the Rhône). APR is a citizen assembly of 25 participants established by ID-Eau to imagine a river governance for the river itself. One participant (interview 17) underscores the benefit of decentering their viewpoints, feeling as part of the ecosystem and understanding the need for protection.

However, “giving substance to the links of interdependence with the living” (interview 19) is not a narrative prevalent among the interviewees. One interviewee (interview 8) asserts that “We have lost these primordial links”, while “the First Nations are actually immersed in their ecosystems”. Despite the assertion that “Our waterways are the earth's blood system,” and the recognition that humans are interdependent and interconnected with this system,” waterways are perceived “as a landscape rather than what irrigates ecosystems” (interview 4). A president of an association who advocates for the RoN considers that “We don't have the fantasy of regaining a lost relationship, but just becoming aware of the ties we have, and building a legal framework around that” (interview 21).

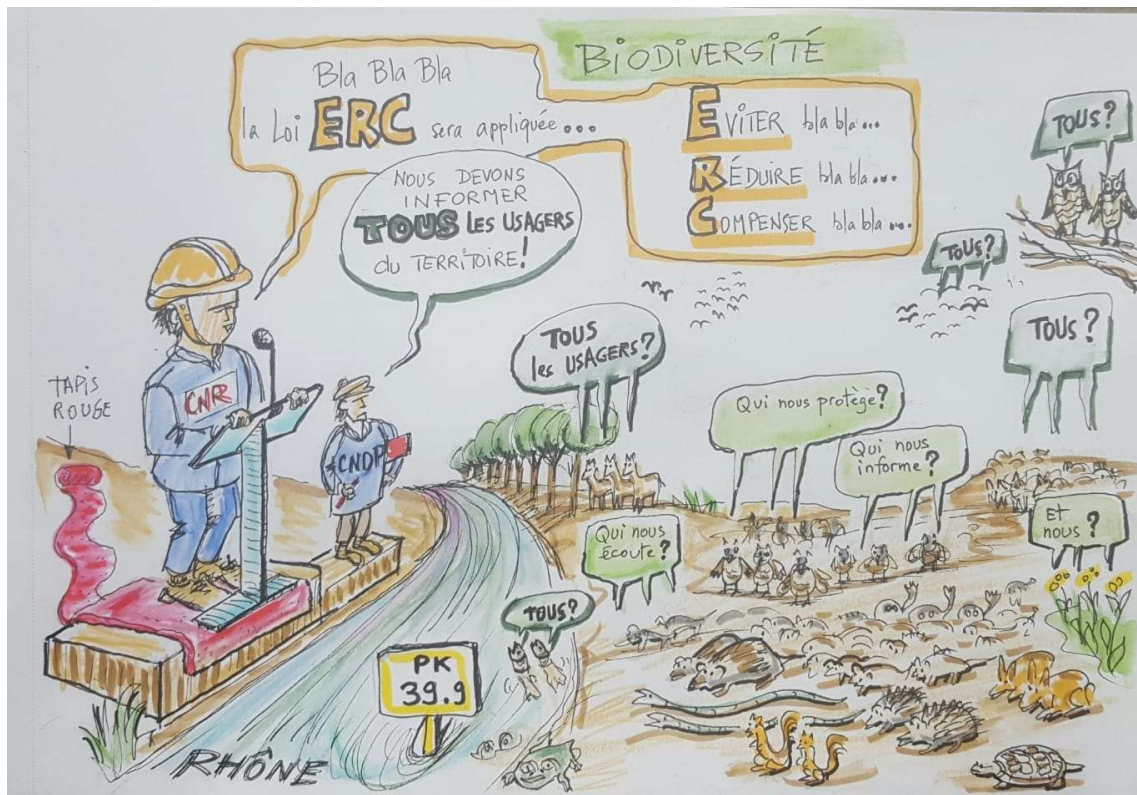
A second set of narratives, articulated during the interviews 19 and 21, portray the environmental framework as prioritizing the management of the exploitation of water resources over their preservation. This perspective positions the environmental legal framework as one of exploitation and domination of nature, while respondents (interview 21) support a framework of human-nature relationships and partnerships. Interviewee 1 encapsulates the concept of legal

personhood of nature as not pertaining to human laws but to natural laws stating “Legal personhood confers legal rights upon non-humans, thereby posing a significant dilemma concerning the fundamental nature of law itself. This notion is thus of interest, as it prompts us to consider the preeminence of human law over the laws of nature that govern the world. The integration of physical and natural laws within our societies is a beneficial endeavor” (interview 1). From their understanding, the existing approach requires a change of paradigm (interview 2).

A third set of narratives regarding the ecocentric imaginary pertains to the concepts of private property and the commons. France’s 1992 Law acknowledges that water is as common good and according to all participants, “CNR is not the owner of the Rhône” (interview 3). Furthermore, stakeholders also contest the assertion that the State could be its owner, stating “it is a common good, which means it belongs to me as well as to my neighbor and anyone else” (interview 3). Some respondents express the aspiration that legal personhood will enable the triumph of the commons over private property interests (interviews 8 and 19). A promoter of the Rights of Rhône-Person (interview 19) describes himself as a radical anarchist, against private property and capital forces. Finally, one participant from a Swiss association (interview 6) articulates a sentiment that it could facilitate the reopening of accesses to the Geneva lake, which are currently restricted by numerous affluent proprietors. However, this same respondent acknowledges the necessity for restrictions to manage access to these “newly common places” to ensure the conservation of fauna and flora.

Finally, respondents content that it would lead to a better balance of interests between humans and nature, and not an increase in conflicts between these interests (interview 2). For instance, respondent 20 asserts that no one targets dismantling existing dams or nuclear power plants. Interviewee 3 acknowledges that the legal personhood of the Rhône would not impede the construction of new dams. The same respondent offers the following perspective on the matter, citing an example from a non-European context: “the legal personhood of a river can help to fight against the forces, I'd say, at work and still at work today, even though we know how to build dams to respect a river, who don't give a damn, who largely sit on it and build dams without respecting anything”. In the fields, ID-Eau and APR have not joined the local opposition to the Rhôneenergia dam and the legal personhood has not been an argument during the public debate surrounding the project. Nonetheless, the opponents of the dam have voiced concern beyond the economic and technical aspects. They interpret “users” as all living entities that rely on the river (fig 1), encompassing more than just the human community.

Figure 4 - Drawing realised during one of the pre-investigation public meetings related to the potential dam construction (2024). CNR man “The Law ARC will be applied.... Avoid, Reduce, Compensate”. CNDP man: “We have to inform ALL stakeholders of the territory”. Fishes, birds, other animals, plants: “All stakeholders? All? Who listens to us? All? Who protects us? All? Who informs us? And us?”. (author: M. Sarat, <https://www.facebook.com/marc.sarat/photos>)



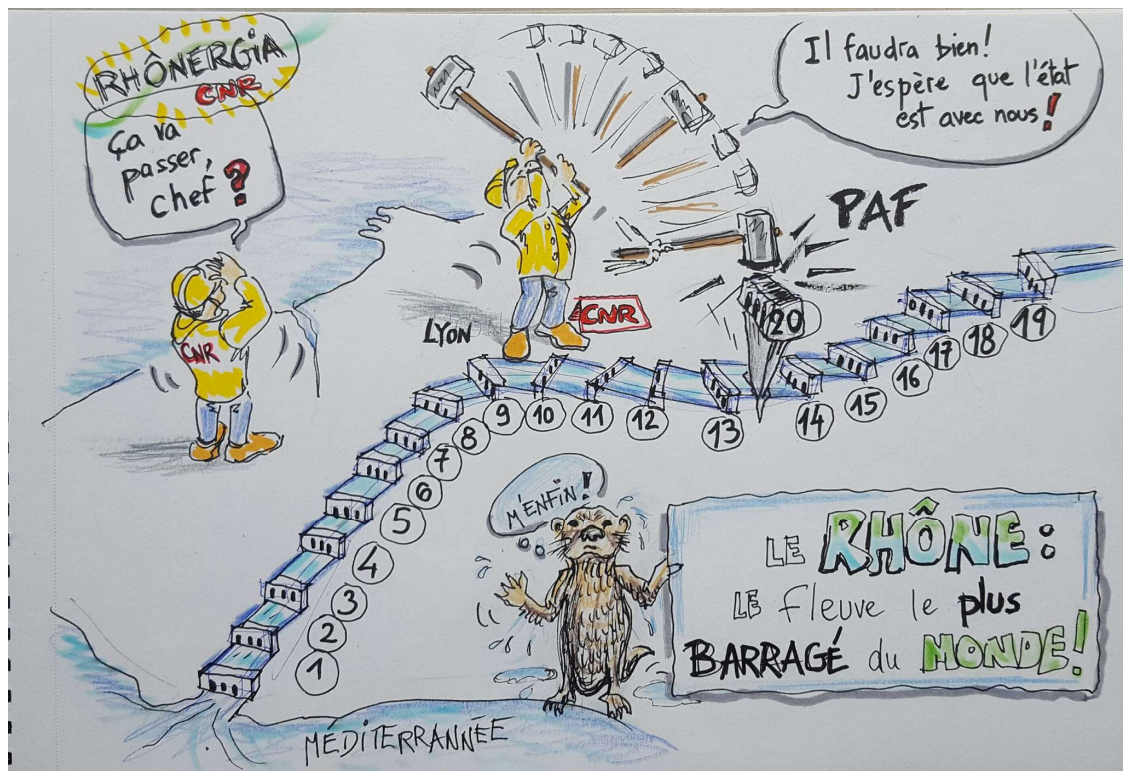
The interviews reveal a variety of perspectives on the Rhône River as a living entity, leading to the acknowledgement of a better protection. Rather than creating conflicts between nature and human interests, respondents posit that these perspectives offer the possibility to achieve a better balance between the interests of all parties, including non-humans. It aims to a renewed partnership between human beings and more than human entities.

4.4.3 Democracy, political and social imaginaries

A variety of discourses emerge concerning the water management actors. The majority of the respondents (interviews 17,18,22,23,24) acknowledges the limited familiarity of the Agence de l'Eau Rhône Méditerranée Corse (AERMC – Water Agency of the Rhône Méditerranée and Corsica) among the general public. The AERMC is a French administration that oversees an impressive budget to finance water-related actions and long-term planning. The Water Basin Committee, informally referred to as the “Water Parliament” (interview 24) is even less well-known. It is the deliberative body of the Water Agency and it is composed of three colleges representing all water users. An individual employed by the Water Agency (interview 18) presents me the modifications to the membership structure, which entail an augmentation in the number of seats allocated to associations and a diminution in those allocated to departments. The nomination of the members is conducted through co-optation, or as an internal matter with no electoral process in place (interview 18). Stakeholders have not been able to list the criteria for such appointments (interview 18). The stakeholders' views regarding the functioning of the Water Basin Committee are divergent. Some stakeholders believe that this forum empowers discussions and decision-making through voting processes, reflecting the predominant perspective of the colleges of local authorities and local users (interviews 10,15,18). The responsible of an environmental association (interview 20) even considers that it is the best possible set up, as compared to its equivalent in other countries. In contrast, one member of the Water Basin Committee offers a dissenting perspective asserting that: “The Basin Committee doesn't work. It's hyper-institutional, run by the State. It's a venue where issues brought have already been addressed and prepared in places other than the Basin Committee. [...] In fact, we couldn't care fewer about members' thoughts. It's the balance of power that's considered [...]. The so-called Water Parliament does not exist. [...] It is an institutional stage whose strings are pulled elsewhere.[...] The Basin Committee is not set up for discussion” (Interview 4). Furthermore, the interviewee 15 asserts that “the central Parisian State perpetually perceives that the closer one is to the local level, the less one prioritizes the general interest. [...] But neither does the State have confidence in its decentralized services”. In contrast to this perspective, the Water Basin committee is regarded as a forum in which to negotiate and amend the national water policy and program established by the State to align with the territorial interests (respondent 18). The endorsement of the 2025 water-related planning documents (SDAGE - Schéma Directeur d'Aménagement et de Gestion des Eaux) by the unanimous vote of the members of the Water Basin Committee, including the College of the State Representatives is put forward as a demonstration of the robustness of the decision-making process (interviews 18). However, a significant proportion of interviewees express reservations regarding the national vision and the disregard by the State for the water-related planning documents (interview 25). Locally, on the specific case of the RhôneRégia dam, opponents of the project feared the temptation of a coalition of actors State-CNR to impose it, against the local opinions expressed by the associations or elected representatives (fig. 2).

Skepticism is also expressed by the interviewees 10 and 3 regarding the role of the State at the scale of the international Rhône River basin. Negotiations are under the responsibilities of the Ministry of Europe and Foreign Affairs (interviews 10), and respondent 4 fears the exclusion of the environmental aspects of the negotiations. The other deliberative assemblies or water operators have acknowledged having no authorization to participate in this discussion (interviews 3,4,10,14,16,18).

Figure 5 - “The Rhône River, the world’s most dammed river”. Drawing realized during one of the pre-investigation public meetings regarding potential dam construction (2024). Left man: “Will it be okay, boss?”. Right man: “It will have to. I hope State is on our bord”. (author: M. Sarat, <https://www.facebook.com/marc.sarat/photos>)



On the other side of the border, in Switzerland, a lack of coordination is pointed out. The concept of a “river basin” is rarely mentioned in the discourse (interview 20). The management of water resources is primarily conducted at the local level (interviews 11,20). To address the challenges posed by such a system, one federal administration employee (interview 11) expresses her dream for a water agency approach, akin to the French one. An interviewee from the French administration (interview 1) asserts that the French-Swiss discussions on the Rhône have provided the federal government with an opportunity to interfere in the competencies of the local cantons. The federal level has consulted the cantonal levels and ensured their agreement on any items in the draft agreement between the two countries (interviews 8,11). Interviewees 1,11,26 underscore that the subjects of Rights of River and legal personhood have not been addressed during international negotiations.

In summary, respondents regard water management to be excessively intricate in both nations, though for different reasons. In France, interviewee 24 has identified the administrative millefeuille as a contributing factor to the fragmentation of responsibilities, enabling elected officials to circumvent their own “lack of political courage”. In Switzerland, respondent 7 observes that politics interfere excessively in certain aspects, disregarding the willingness of the people or the opinions of the technicians and paradoxically generating criticism of “lack of political willingness” (interviews 14,20). The intricacies of this situation are further compounded by the challenges inherent in coordinating the actions of the 33 institutions involved in water management across transboundary territories (interviews 1,11).

In response to the query regarding the potential agency of the Rhône River as a legal person, a substantial proportion of respondents reports a lack of definitive answers, as the matter has not been a subject of consideration (interviews 14,19). However, a prevailing consensus emerges

among respondents emphasizing the necessity for initiating a debate on the subject (interviews 8,19,20,24). The prevailing opinion among respondents is that the establishment of such an agency should be invented through discussions and collective consensus-building process. The mobilization of civil society has been put forth as a potential solution to the issue (interviews 4,14,19,22). To circumvent the pitfalls and distrust associated with representative democracy, promoters favor a direct deliberative process (interviews 4,19,4,28), through the establishment of seats for Nature at the Water Basin Committee (interview 28), the convening of a citizen assembly (interviews 4,19) or an expansion of the rights of appeal (interview 27). However, a Swiss elected official (interviewee 12) cautions that “direct democracy leads to extreme slowness”.

Conversely, another respondent (interview 19) voices skepticism regarding the efficacy of the current system which has led us to what he calls a degraded situation. A radical shift in perspective, characterized by a departure from institutional frameworks, is advocated for (interview 19). Interviewee 20 posits that if the Water Agency had accorded priority to the interests of the Rhône River itself rather than those of lobbyists, it would have addressed the subject of river’s rights long ago. Conversely, some interviewees contend that the interests of the Rhône River are already adequately protected by the Water Agency. They acknowledge the potential for enhancement in the management of the river. However, respondent 10 does not consider legal personhood to be a pertinent solution to the existing challenges, asserting that civil society is adequately involved in the decision-making process.

A last set of discourses is related to the legitimacy of the citizens to participate in the decision-making process. Participants of the APR (interview 22) acknowledge that they were initially dubitative about their competencies to discuss water-related subject perceived as technical. According to them, the different 3-day sessions gave them the opportunity to develop their expertise and to build their legitimacy. An elected official (interview 4) reminds that popular education is fundamental for any democracy. Another official (interview 12) underscores the need for an independent press of good quality to support public debate and expresses doubts about its evolution in the coming period.

The interviews reveal water management as complex challenges in both France and Switzerland, with concerns about institutional effectiveness, transparency, and public participation. While some stakeholders advocate for giving the Rhône River legal personhood and increasing citizen involvement in decision-making processes, others believe existing structures are adequate but need improvement.

4.5 Discussion and conclusion

In this section, I revisit my research hypotheses, and I broaden the scope to encompass more general perspectives.

The first hypothesis is “if the extractivism imaginary is still vibrant, then it is the current instituted imaginary and it is embedded with power”.

First, I have demonstrated that a common understanding of the present context exists among the stakeholders. It is acknowledged that the Rhône River has undergone significant transformations and anthropization. Both France and Switzerland have benefited from harnessing the river’s hydraulic power, contributing to their economic development. While actors acknowledge the Rhône’s fulfillment of societal expectations to date, they also recognize negative impacts, encompassing pollution, reduced sediment transport, or increased water temperature. The respondents concur on the impending and significant challenges that lie ahead. The Rhône as we know it today will be different in an (un)certain period of time. Due to climate change, its quantity, quality, temperature and biodiversity will change drastically. Facing this diagnosis, actors hold divergent views on the actions to be implemented.

Second, in the face of the projected drastic reduction in water availability, some respondents advocate for the development of new infrastructure while others propose a radically different vision. The former appear to advocate for the continuation of business as usual, with some limited modifications. From their perspectives, the Rhône River, has the capacity to withstand the construction of additional dams, water transfers, new nuclear power plants and a channelized riverbed. The augmentation, or at least the maintenance, of water quantity can be achieved through the reuse of treated wastewater, salinization or water transfers. The escalating water temperature due to climate change can be mitigated by the new water-saving processes of nuclear power plants or incinerators. These technical fixes are solutions to overcome the crises. These narratives are encapsulated by the extractivist imaginary, a vision supported by powerful actors, such as the French central state, EDF and the Swiss dam operators. By discontinuing certain projects, such as the Rhônergia dam, these actors seek to advance their broader agenda: the cancellation of the Rhônergia dam was a strategic move to mitigate potential adverse impacts on the construction of the EPR on the Bugey site²⁴. This decision can be examined through two complementary lenses. First, under the nation’s best interests approach, the EPR project has been prioritized over Rhônergia. Second, it can be understood through the lens of actors’ coalition. Unlike the coalition depicted on fig 2, this coalition is made of State-EDF and not State-CNR highlighting power competition between the two main primary actors on the French Rhône: EDF and CNR.

In addition, the feasibility study on the legal personhood of Lake Geneva has remained stagnant. Despite France and Switzerland’s endorsement of this measure, it has never been a subject of substantial discussion among the parties. The feasibility study could thus be interpreted as a concession to civil society while maintaining the extractivist agenda. This phenomenon of states and administration schizophrenia is noteworthy. Since February 2022, an unchallenged discourse on the energetic independence and sovereignty has emerged in response to the Russian invasion of Ukraine.

²⁴ https://www.lemonde.fr/economie/article/2024/09/01/le-projet-d-un-nouveau-barrage-sur-le-Rhône-est-abandonne-a-cause-de-la-construction-d-epr2_6301022_3234.html

These observations provide further credence to hypothesis one, which posits that the extractivist imaginary supported by powerful actors remains prevalent along the Rhône River.

The second hypothesis states that “If ecocentrism is an act that empowers invisible and excluded groups of population, including more-than-humans, then it is not just a movement of thought but an economico-political program which challenges the Anthropocene era”.

The RoN discourse emphasizes the interconnectedness of humans and non-humans, asserting that the well-being and future of humans are inextricably linked to their ecosystem. The slogan “We are the Rhône River” symbolizes this concept, aiming to make visible riparian inhabitants and non-humans. Furthermore, it signifies that the river’s interests are synonymous with those of the riparian community, emphasizing a reciprocal relationship where actions affecting the river directly impact the community.

This signification delves deeply into the ontological inquiry of sense-making within human societies and environmental rights: what do we – as society – want with and for Nature? It provokes a fundamental reexamination of our societal concepts of property rights and their various interpretations, encompassing bundles of rights (Schlager & Ostrom, 1992), bundles of power (Ribot & Peluso, 2003) and commons.

Another aspect lies in the future. Even though many respondents use future tense about the evolution of the Rhône, very few invoke the “future generations” – a commonly invisible actor. I however believe it is an Ariadne’s thread in any discussion about future.

Finally, eco-centrism challenges the very essence of law, posing the question: can law establish an egalitarian relationship with nature instead of an economic one? This prompts a critical inquiry into the sequence of actions: should legal recognition of the river as a personhood be prioritized to support its preservation, or should we acknowledge the inherent living characteristics of the ecosystem to establish legal personhood?

These questions highlight the shift of paradigm that eco-centrism aims to provoke. It is an economic and political program in which RoN are a piece of operationalization. As such, it opens a public debate and leads us to the third hypothesis.

The third hypothesis is as follows: “if the concept of legal personhood of Rhône creates a public debate, then it is not only promoted as a tool against the ecological crises, but it serves also as a tool for re-enchanting modern democracies”.

The approach of harnessing the Rhône River is perceived as a top-down strategy resulting in a prevalent sentiment of exclusion from the decision-making process among French elected officials and the riparian populations. These groups do not seek consultation or co-construction; rather, they aspire to direct decision-making processes as co-decision makers. The reflections of citizens through assembly processes underscore the significance of their mobilization. Following briefings and capacity-building, collective intelligence yields unanticipated outcomes (Fourniau et al., 2022). Citizens have demonstrated a propensity to interrogate data presented by technicians or officials as indisputable facts and incontrovertible facts. For instance, the challenge to the doxa of unceasing growth in mobility in the future has broadened the debate on the necessity to generate an increasing amount of electricity for utilization by electric vehicles, and, consequently, on the necessity of additional power-generating plants. The concept of legal personhood gives rise to inquiries regarding decision-making processes, power relations and the nature of democracy. It can be argued that this concept is subversive or even insurrectionist (Berlan, 2016), particularly through the promotion of a “confederation of rhodanian territory” or bioregions. Vanier (2015) shows how citizen engage with various

territory boundaries in novel ways, challenging administrative units and their governance. Citizens' knowledge can be increased and new knowledge, or truths as per Foucault's understanding, developed through – transboundary - assemblies. Hermitte (2018) advance the concept of scientific-based legal animism (“animisme juridique à base scientifique”) which involves the mobilization of science to inform decision-making processes. This concept provides a foundation for further discussion of a “democratic-based legal animism”.

Hypothesis three is thus confirmed: legal personhood serves also as a tool for reenchanting our modern democracies and this at different scales.

I have contributed through this study to the ongoing debates on the Rights of Nature and the legal personhood by examining the deep values and motivations of various actors, taking the example of the Rhône River. Coming back on Castoriadis' classification of imaginaries (1975), the extractivist imaginary can be classified as an instituted imaginary. It also fits Jasanoff et Kim's definition (2015) as a socio-technical imaginary. The democratic imaginary, despite its current tensions as deliberative or representative, could be classified as an instituted imaginary. The eco-centrism imaginary, as a radical imaginary, creates tensions to find its way and become, maybe and over time, a social instituted imaginary or even an instituted imaginary. Or it will simply vanish.

These imaginaries are inextricably linked to the concept of river imaginaries (de Jong et al., 2024), which is predicated on the combination of the concept of socio-technical imaginaries, hydrosocial territories (Boelens et al., 2016), epistemic communities and truth regime. Rights of Rivers challenge our established river imaginaries by introducing an alternative understanding of rivers. Advocates of this concept seek to establish a new epistemic community by legitimizing citizens' understanding and revising truths. It challenges the knowledge production processes and how to associate citizens' sciences. Here remains a vast expanse of interdisciplinary research to be explored and cultivated, including on the substantive and procedural rights to be acknowledged to the river.

In this context, the extractivist maxim “the Rhône River in service of the Nation” assumes a renewed significance. Rhône, as an agent, by expressing its will through a reborn governance, has the capacity to re-enchant democracy and to reconstruct relationships with Nature.

5 Conclusion

The conceptualisation of this research project emerged in 2020 – 2021, with the official initiation of the project taking place in May 2022. Initially, I proposed an investigation into transboundary water governance, with an assessment of this governance using engineering and scientific indicators. After a round of discussions, this proposal was considered too general. I am grateful for those critics that, let me be honest, gave me the opportunity to develop a more original research project. I then came back with the idea of the legal personhood of a transboundary river in Europe – idea that garnered a higher level of support. At that time, discussions regarding the concept of Rights of Nature were not so common in Europe, with limited coverage by the media. I believed it was regarded as too exotic for “the Old and secular Europe”, due to ontological and legal reasons. Notwithstanding, on certain rivers, discourses and actions concerning the Rights of Rivers were already emerging. The debates organised by the Parliament of Loire or on the Tivugnanu River were part of this emerging trend. Since that time, the movement for the Rights of Nature has gained strength on a global scale and locally, in Europe, in France and in Switzerland. While the website [ecojurisprudence.org](https://www.ecojurisprudence.org) provides a list of initiatives related to RoN, it is certainly complicated to enumerate all of them. For instance, an online petition has collected since September 2023 more than 25 000 signatories in support of the Rights of Garonne²⁵. In the Canton of Luzerne, an initiative to enshrine the Rights of the Reuss Riss²⁶ through the modification of the Constitution is currently being prepared. Some activists are advocating for the Rights of the Mediterranean or the North Seas. The initiation of a European Citizens’ Initiative regarding RoN by other activists prior to the end of 2025 is a subject under discussion. While these various initiatives do not constitute an irreversible paradigm shift towards the Rights of Nature, they do create a dynamic situation. It is therefore the responsibility of scholars to engage with this socio-political subject in order to develop knowledge and provide elements of understanding.

The aim of this conclusion is fourfold: first, to disseminate the findings of the PhD research (section 5.1); second, to emphasise the contributions to the academic knowledge and literature (section 5.2), third, to pave the way for future research (section 5.3) and fourth to present some considerations as policy recommendations (section 5.4).

²⁵ Protégeons les droits de Garonne, <https://www.change.org/p/prot%C3%A9geons-les-droits-de-garonne>, April 24th, 2025

²⁶ <https://www.r-reuss.ch/index.html>

5.1 Summary of the doctoral research

5.1.1 Research findings

Various findings have been presented in each chapter. In order to provide a more comprehensive overview, I present hereby three global findings: the potential (r)evolution of our relationships with the Rhône, the difficulties involved in conceptualizing the legal personhood, and the roles of the actors.

The first set of findings concerns the **Rhône River itself and our relationships with it**, which are characterised by complexity. Various studies have underscored the profound interconnection between the Rhône and the society (Bender, 2004; Bouleau, 2014). Bréthaut & Pflieger (2020b) have identified three phases of the governance of the Rhône. The initial phase is distinguished by a limited number of water uses, predominantly in the domains of agriculture, hydropower generation and flood management. This period lasted up to 1970. A second phase is identified, spanning from 1970 and 2000, based on the end of the hydropower monopoly. The development of the nuclear production challenged the previous established water uses. The last phase is characterized by the emergence of complex rivalries involving a multitude of users and commenced in 2000's. As indicated in chapter 3, we note the potential emergence of a fourth phase (Vallet et al., 2024). It would be found on the integration of new user(s) and a more ecocentric approach. At this stage, the potential representatives of these new users are unclear, would it be the Rhône River, the citizens, or the riparian inhabitants. Whilst the present situation may appear to be stable with limited local crises or controversies, this may not be indicative of future trends. As the well-known adage asserts, "still waters run deep". Indeed, it is important to acknowledge that the Rhône system is subject to numerous pressures and tensions. All actors anticipate an escalation of tensions due to declining water availability, deteriorating water quality and an increase in the number of users. The sole outstanding question appears to be the point in time at which the rupture of this equilibrium will occur. It should be noted, however, that the process might already be underway. Chapter 2 underlines the long-standing existence of arenas of discussion about the river, in comparison to other cases. Chapter 3 exemplifies the request made for a different relationship with the Rhône. Chapter 4 provides a comprehensive analysis of the networks of deep values held by the interviewees, as demonstrated through various imaginaries. The aforementioned statements indicate a certain degree of ambivalence with regard to the ecological crises, the significance of democratic values, and the necessity of water for various uses including the production of clean electricity, drinking water or irrigation. A common trait is the acknowledgment that the Rhône had been forgotten by the population or officials for several decades and is now experiencing a renewed interest. Evidence of a renewed connection with the river can be perceived through the interactions between citizens and institutions as CNR or the Water Agency, or the organisation of events such as *Mémoires du Rhône* and *Festival Rhône-Saône*. The variety of interactions and events raises the question of the substance of the Rhône as both the Rhône-River and the Rhône-Person. To illustrate this point, it is pertinent to consider the manner in which the geographical definition of the legal entity is provided in both cases of the Mar Menor and the Whanganui. The legal person is defined as encompassing the biogeographical unit and various aquifers in relation to the lagoon in the case of the Mar Menor (art 1 of the law on Mar Menor statute). The Whanganui River is defined as "the body of water [...] from its headwaters to the mouth, [...] all tributaries, [...] all lakes and wetlands connected continuously or intermittently [...]" (art. 7 of Te Awa Tupua Act). In the "Appel du Rhône", however, there is currently no geographical delimitation of the Rhône River or ecosystem. It is notable that the Rights of the Rhône do not explicitly include the tributaries or the fluvial groundwaters as beneficiaries. The

proponents of the Appel du Rhône however highlighted during the interviews their comprehension of the Rhône encompassing its tributaries. Moreover, the river-persons legislation encompasses cultural or metaphysic elements. The Mar Menor Law, in its preamble, acknowledges the lagoon as element of the cultural identity of and the strong emotional attachment by the inhabitants. Te Awa Tupua is defined as the “Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements” (art. 12). It is evident that the relationship between humans and rivers is regarded within the framework of these legal entities, encompassing both cultural and metaphysical components. By way of comparison, the “Appel du Rhône” envisages the intricate relationship between humans and river through the lens of the future generations and their survival. This formulation, to a certain extent, elucidates the absence or dissolution of the cultural rhodanian identity. However, the “Appel du Rhône” does not engage the cultural component in efforts to safeguard the River, nor does it mobilise the legal personhood to protect or revitalise the rhodanian culture.

A second set of findings pertains **to the concepts of legal personhood and Rights of Rivers**. Chapter 2 provides a comprehensive overview of the broad adaptability of these concepts through their implementation in other regions worldwide. The promotion of these concepts is driven by a diverse array of motivations. The most notable instance is that of Whanganui River, which has not been recognised as a river person due to ecological concerns but to solve a decolonisation conflict (Cribb et al., 2024b). It is not inconceivable that the request for the legal personhood of the Rhône River results in unexpected discussions and outcomes. The recognition process is characterised by a bottom-up approach, which has the capacity to disrupt the established water governance. This prompts questions for the actors involved in water governance, particularly in light of the numerous consultation processes in place across the rhodanian territories, encompassing a variety of formats and executive forces. Indeed, the concept of the Rhône-person remains unidentified by the predominant actors of the governance of the Rhône and has been promoted by actors at the periphery of the decision-making process. In addition, the CIPEL has not yet initiated the action of the feasibility study, despite the fact that more than half of the implementation period of its action plan has elapsed. This prompts further enquiry into the underlying causes of the delay. Furthermore, the research study reveals a lack of familiarity with the concept of the river-persons among several actors. Moreover, it appears that some stakeholders are not even aware of the request for such recognitions. On one hand, it is comprehensible that ID-Eau’s approach may not be widely known due to its voluntary development outside of the institutions. On the other hand, it is intriguing that the action of CIPEL remains under-the-radar among French and Swiss water governance bodies, despite the fact that some of their representatives sit on CIPEL’s decision-making body. This discrepancy underscores the challenge in aligning national, regional and local state administrations and highlights the potential for inconsistencies. States should not be considered as one single, monolithic actor. In addition, the absence of proposals for the legal mechanism of the Voice of the River demonstrates that the process is still in its infancy. The emerging plea for the Rights of Nature while deferring detailed operationalisation for future discourse could be a means to maintain openness to both discussion and operationalisation options. This operationalisation is not currently the subject of discussion. Appel du Rhône puts forward four substantive rights: “the rights to exist, be preserved, regenerate and evolve, so as to maintain and guarantee its environment and biodiversity for both present and future generations”. While it is certainly difficult to ensure implementation of these substantive rights, this will be done only if procedural rights exist and are implemented. These procedural rights correspond to the aforementioned operationalisation. It appears that a number of queries have not been addressed. First, it is necessary to establish the meaning of the substantive rights. For instance, how is the “right to be preserved” characterised? Second, who or what institution(s) will monitor the

substantive rights and if they are infringed? Ultimately, by which procedure and to which party may the river claim infringement of its rights? Discussions should encompass the importance of enforcement mechanisms, penalties and financial resources. Finally, parallel approaches, such as the expansion of existing rights of appeal, could be investigated.

The third set of finding concerns **the actors themselves**. As for today, the Rhône-person himself²⁷ cannot be identified to one or several actors. Various actors present themselves as the Rhône's guardians, without any legal impacts. Other actors assert their commitment to its protection. A third group would recognise the benefits they derive from it. However, none of them really presented themselves as "the voice of the Rhône", despite the slogan "we are the Rhône", adopted by opponents of the Rhôneergia dam. In general, contestation to the prevailing water governance may not be particularly intense, and support for alternatives through the Rights of Nature is just beginning to emerge. The present study reveals that the debate on the Rights of Rhône (and the Rights of Rivers in general) is, at present, confined to a select group, although this group is growing. The legitimacy of the actors who are raising the question warrants rigorous scrutiny. ID-Eau is cognizant of this, and its actions are orientated towards building support and its legitimacy. Simultaneously, the APR demonstrates the interest of randomly selected citizens and their aptitude for developing skills. Through seminars and workshops, participants of the APR have increased their knowledge and accountancies to water issues. Education is a pivotal factor in cultivating informed citizens who can engage in the decision-making process and subsequently making well-informed decisions. As a reminder, a survey undertaken in 2018 revealed that 52 % of the French population believed that the urban water cycle is a closed one, meaning that they believe the wastewater is treated to produce drinking water (Macé, 2018). This demonstrates an absence of perception of water through the water cycle and thus an inability to envisage the globality of the challenges. Furthermore, initiatives such as APR underscore the necessity for a process that is embedded in a long-term perspective. The successful realisation of this endeavour is contingent upon the possession of substantial financial resources. ID-Eau is committed to maintaining its independence from private entities and officials by declining their financial support. Its commitment has led to challenges in financing the logistics of the APR, resulting in delays between some of the workshops. The issue of financial resources is of a crucial importance in the pursuit of a dynamic or original democratic process. Moreover, it is worth to note the organisation of two sessions on the Rights of Nature and legal personhood of natural entities at the French National Assembly in May 2025. These two sessions demonstrate that some elected officials perceive interests in the concept of the RoN. They result in higher visibility of the concept of the RoN. The key point is the positioning of other decision makers and the publicization of the debate. These sessions represent a progression of the introduction of the RoN into the political agenda, especially that one of them was organised under the patronage of the President of the National Assembly. Finally, within the water governance context, one could point out "an elephant in the room": Electricity of France (Electricité de France, EDF). The production of electricity by EDF is primarily derived from two sources: hydroelectric power from dams mainly constructed on the Rhône tributaries, and nuclear power plants situated along the Rhône River itself. Hence, EDF is one of the major water users in the Rhône River basin, but it was rarely mentioned during the interviews. This discretion should be challenged on the following two grounds. First, it is important to remember that France possesses a certain volume of water in the Geneva Lake, as a result of the Emosson Convention (Convention d'Emosson, 1964). This volume of water corresponds to water originating in the French watershed of Arve and partially transferred to

²⁷ The Rhône River is masculine in French, thus I opt here for a male person also.

fill the Emosson dam, which is located in Switzerland. In circumstances where there is insufficient water available in the Rhône, France has the option of mobilising this “slice of water” through a request to Switzerland to open the gates of the Seujet dam situated at the outset of the Geneva Lake. There are operational agreements in place between EDF, CNR and SIG to mobilise the French waters of the lake should EDF require them to cool its nuclear power plants. These agreements are of technical nature. It could be pointed out the lack of public debates concerning the prioritisation of this water to EDF and not to other users. The second reason pertains to the authorisations granted by the French administration to EDF during periods of intense droughts. Under these exceptional conditions, authorisations have been accorded to EDF to release waters that exceed regulatory standards, especially in terms of water temperature. This decision is made to the detriment of other users, including the ecosystem or irrigation, with one more time limited public debates. It appears that some French actors consider the prioritisation of cooling nuclear power plants as a matter of paramount importance, without the necessity for public debates. One interviewee suggested that an alternative solution to exceed the norms would be to request that electricity users reduce their consumption during drought periods. However, the interviewee concedes that the State will not impose such demands on its citizens, despite the fact that it does so for water usage. The interconnection between electricity and water may not be evident to the general population. This enhances the pivotal roles of both science and education toward the population. Understanding the complexity of the water-nexus and making it accessible to the citizen is possible and could induce unexpected choices and solutions.

Having established the main conclusion, the following section specifically addresses the research question.

5.1.2 Discussing the hypothesis and answering the research questions

The overarching research question of this thesis is “In a transboundary context, characterized by different institutional and legal frameworks, how do actors and coalitions of actors reappropriate the concept of legal personhood and to what extent do they reopen the governance of a river?” It has been operationalised through three subquestions which are discussed below.

The first research subquestion is as follows : “What are the key drivers contributing to explain the emergence of this notion?”. I proposed the following hypothesis **H1 “In a context characterised by the strong presence of public policies and a productivist vision of the environment, the notion of legal personhood and its operationalisation is instrumentalised, questioning the legitimacy of ongoing and / or upcoming water governance schemes ».**

Chapter 2 establishes key factors that have led to the establishment of legal personhood in other river basins. A salient finding of this chapter is the broad adaptability of the concept. In the case study of the Mar Menor, the request for the recognition of the legal personhood is explicit from the outset and related to the fight against eutrophication. In contrast, in the other cases, this recognition is contingent on negotiations or legal judgements concerning decolonisation, security and development issues. The common thread that runs through these examples is the instrumentalisation of legal personhood as a problem resolution tool, underscoring its contextual nature in relation to prevailing issues. It is therefore essential to characterise the situation in question. This characterisation necessitates the active social construction of a public problem to overcome. In the cases of Whanganui, Atrato, Turag and Mar Menor, the problems can be identified, respectively as decolonisation, security, river disappearance and eutrophication. A further salient point of chapter 2 is the necessity to demonstrate the

inadequacy or irrelevance of the other proposed solutions. The concept of legal personhood is regarded as “the ultimate solution”. In this spirit, chapter 3 focuses on the promoters’ strategy to construct the problem. While various problems, crises and controversies exist along the Rhône River, this chapter demonstrates that the construction of the problem to which the legal personhood would appear as a solution has not been achieved yet. Moreover, the demonstration that no alternative solutions exist remains to be substantiated. Consequently, the utilisation of the concept of legal personhood for the purpose of problem creation or crisis enhancement appears to be ineffective.

Second, chapter 2 demonstrates that the river-person mechanism can nurture the establishment of forums of discussion, with the notable exception of the Turag River. These forums manifest in diverse forms. While these novel avenues of participation are instituted “on paper”, their social, substantial and procedural efficiencies should be assessed (Bréthaut, 2016). Conversely, Switzerland and France have numerous such forums (Barbier et al., 2022; Roy, 2023), although concerns have been raised regarding their number and associated costs (Blatrix & Méry, 2019). The objectives of the CIPEL and ID-Eau should be perceived as a politicisation of the question of the water management. The organisation of a one-day seminar on the action plan for the next ten years by CIPEL provided an opportunity for municipalities and associations to engage in the decision-making process regarding a fundamental document. As a matter of facts, these municipalities and associations are not formerly associated to the lake management. CIPEL has now a mandate to implement the feasibility study on the acknowledgement of a legal personhood to the lake. It remains to be seen whether this feasibility study will create opportunities for enhanced stable participation of the municipalities and NGOs in the decision-making process through the mechanism of the legal personhood. Furthermore, this action potentially serves to expand the scope of CIPEL’s mandate established in 1963. The official mandate of the CIPEL pertains to the quality of the lake and not to its governance. Depending on the recommendations of the feasibility study, the CIPEL could promote an opening of the established governance in order to integrate other actors, including local authorities or groups of citizens, and favour a more inclusive decision-making process. Currently, it could be noted that the CIPEL has probably a decision-making process less inclusive than the Swiss authorities and the French water agency. Meanwhile, ID-Eau advocates for a radical vision and seeks to catalyse a paradigm shift through the Appel du Rhône, the concept of guardians and the establishment of APR. The objective of this initiative is to demonstrate that collective intelligence can yield innovative solutions. Furthermore, by empowering citizens to engage in the debate, ID-Eau attempts to demonstrate that certain issues, currently unthought, are of interest to citizens and should be publicly and politically discussed. These observations lend support to hypothesis H1 which asserts that within a context characterised by the strong presence of public policies and a productivist vision of the environment, the notion of legal personhood and its operationalisation is instrumentalised, questioning the legitimacy of ongoing and / or upcoming water governance schemes.

A further question pertains to the potential instrumentalisation of the Rights of Nature and legal personhood for individual reasons. The thesis focuses on actors as a group of persons. The analysis of individual motivations, such as career plans, professional evolutions, and the development of business has not been realised. Nevertheless, it could be contented that promoters of the river-persons may have personal interests at stake. The promotion of novel concepts may, in the future, engender business opportunities. It can be mentioned here that some of the key members of ID-Eau are also managers of an environmental consulting firm. Such individual narratives are more typically the subject of ethnographic research. These accounts focus on the individuals who have played a pivotal role in the paradigm shift or evolution that has occurred. The reflexive analysis of the Judge Felipe Clavijo (2023), who drafted the Colombian decision on the Atrato River, is an illustration of this point.

The second research subquestion is “How are the actors able to bring the concept of legal personhood on the political agenda?”. I proposed the following hypothesis **H2 “In the case of the Rhône River, the debates around the legal personhood contribute to the (re)politicization of the governance process in a context strongly structured by historically technocratic and engineering approaches. In doing so, the legal personhood participates to renew the public debate around issues of public participation and democratic process”**.

In order to discuss this hypothesis, it is necessary to draw attention to several salient facts. First, the debates initiated by respectively the CIPEL and ID-Eau do not possess the same characteristics. On the one hand, the action “to explore the feasibility study to acknowledge the legal personhood of the Geneva Lake” stems from a seminar with the local authorities and the civil society. It can appear as facing politico-administrative delays. This action is neither a priority nor represented in the political agenda. The CIPEL is a technico-administrative body, without a political role. It mobilises technical experts and the representatives in the board of the Commission have a mandate from their respective administration bodies. This action has yet to reach the political sphere. On the other hand, the initiative of ID-Eau has been gaining traction within various circles. Its petition has been deliberated in various elected assemblies. It has resulted in endorsements by certain local authorities while others have declined to give any support. In addition, several initiatives of declarations for the rights of rivers are under discussion or been published for other watercourses, both within the Rhône hydrographic basin and beyond. To a certain extent, the recent increase in the number of such declarations could raise the question of the existence of a friendly competition and emulation between the proponents of these types of declarations. Moreover, the initiative of the Popular Assembly of Rhône has also challenged some routines. While it cannot be said that its creation is a model for other protagonists, it reinforces a conversation about how to engage citizens in water management and the decision-making process. At the local level, Lyon Metropole has initiated an assembly of water users with the objective of collectively formulating decisions. The political support is robust, with the involvement of three vice-presidents. The AERMC has also initiated the establishment of a panel of citizens, with the objective of elaborating on the main challenges of the water management. In this latter case, the integration of the citizens’ recommendations remains ambiguous. While the technical experts are willing to promote them, the Basin Committee, which is the political organ of the water agency, appears to be more reluctant. The context of mobilisation has undergone several changes, evolving from an invitation by the President of the Basin Committee to a classic technical meeting organised by the technical departments. This switch of position underscores the complexity of assembly of citizens and the distrust of elected officials toward the participative democracy. As Blondiaux (2022) reminds us, “participatory democracy” has been a contested and instrumentalized concept since its emergence in the middle of 20th century. He asserts that the objectives of the participation of the citizens are i) to modify the relations of power within the society, ii) to increase the influence of citizens excluded from the decision-making process or iii) to make elected officials accountable for their acts. Subsequently, officials are reluctant to engage in a process that is beyond their control, and which may yield challenging or unexpected outcomes.

On a national scale, it is evident that the discourse surrounding the concept of Rights of Nature is gaining increased prominence, despite the fact that the discussion does not specifically address the Rhône. National or federal representatives are discussing the concepts of RoN and legal personhood. Notably, in Switzerland, the subject reached the Federal Parliament in the context of glacier protection. The conclusion of this discussion was that the concept is unnecessary as glaciers are already protected by existing conservation tools. In France, the dissolution of the National Assembly in June 2024 has resulted in the deferral of preliminary

discussions, which have been rescheduled for April and May 2025. In addition, the municipality of Paris has granted honorary citizenship to the Seine River in February 2025²⁸ and has initiated in March 2025 a citizen assembly-based process to envisage the future of the river²⁹, its uses and status. At the European level, the discussion has been initiated by various EU Members of Parliament through the command of studies. The European Social and Environmental Committee has directed an analysis, culminating in the formulation of a draft EU Charter of the Fundamental Rights of Nature in 2019. Since then, the EU Parliament underwent an electoral process, resulting in a renewal of the Members of Parliament. Despite the Green Party's endorsement of the concept, there is no evidence to suggest that the issue remains on the EU political agenda.

The preceding findings underscore the politicisation of the debates surrounding the legal personhood of the river. This discourse is not confined to legal or technical realm. These findings serve me to validate hypothesis H2, which posits that the discourse surrounding the legal personhood of the Rhône River contributes to the (re)politicization of the governance process within a context strongly structured by historically technocratic and engineering approaches. In doing so, the legal personhood participates to renew the public debate around issues of public participation and democratic process. Nonetheless, the generalisation of this hypothesis remains impossible. Bellina (2024) examined the implementation of the Mother Earth concept in Bolivia. She traced the evolution of the concept, from the Constitution to the operationalised laws 300 and 71. The article demonstrates that the Rights of Nature as applied leads actually to a depoliticization and a neutralisation of political conflict. In her case study, Bellina contends that RoN have led to the displacement of subject of “public dissensus to a techno-managerial consensus” (Bellina, 2024, p. 324) and a strengthening of the State's monopoly of power. Her conclusion drawn therein underscores the imperative to engage into further conversations to comprehend the socio-political processes resulting into the recognition of nature as a legal person.

The third subquestion is “to what extent does this new paradigm modify the conditions of the integrated governance of a transboundary river to overcome the various scales?”. I proposed the following hypothesis **H3 “The legal personhood of a river offers a common frame of reference making it possible to link the institutional frameworks and to mitigate the fragmentation. In doing so, the debate aroused offers an entry point facilitating the implementation of a transboundary governance of an international river”**.

This doctoral research constitutes a pioneering study in the field of legal personhood of a natural entity at transboundary level. The literature has hitherto failed to address this particular case. I believe that the following conclusions can be drawn on the modification of the transboundary governance. First, the majority of the participants demonstrated a fragmented perception of the river. This perception is plural in nature. Inhabitants conceptualise the Rhône through the lens of their respective local sections of the river. During the course of the interviews conducted, the riparian inhabitants of Lake Geneva frequently discussed about the lake itself and did not refer to the Rhône River. Administrative bodies or power producers might have a more global vision, albeit often constrained by national boundaries. CNR or AERMC perceive the Rhône as French, having interests mainly downstream of the Chancy-Pouilly dam. The Valais Canton has limited concerns about the Lake Geneva – and even less regarding the Camargue delta. Simultaneously, the Camargue delta expresses a modest interest for the Rhône in the Valais. Conversely, the

²⁸ <https://www.paris.fr/pages/paris-accorde-la-citoyennete-d-honneur-a-la-seine-une-reconnaissance-historique-30150>

²⁹ <https://www.paris.fr/pages/convention-citoyenne-seine-30402>

term “the French-Swiss Rhône” is employed in discourses should the entire river be referenced. This fragmentation is pervasive, including in various academic studies. Consequently, two postures of local actors regarding legal personhood can be distinguished. In the course of the interviews, a number of participants expressed support for the legal personhood of “their own section”, such as the legal personhood for the Lake Geneva or for the wild Rhône at the location of the now-cancelled Rhône-énergie dam project. However, this approach would lead to further institutional and governance fragmentation. Conversely, other participants advocate for the legal personhood of the entire river or even of the entire river basin. The concept of a bioregion or confederation of Rhône territory has been evoked as a possibility for transcending the administrative boundaries of the states. In general, this leads me to hypothesise that the fragmentation of comprehensiveness of the physical landscape due to different experiences, analyses and imaginaries of the territory is one of the major difficulties for any attempt to reorient the government of living spaces.

Second, the analysis of the fragmentation based solely on the national borders or on the “Rhône section” is insufficient in itself. As emphasised in Chapter 4, it is not feasible to categorise water users based on their imaginaries. Extractivism, ecocentrism and democracy are imaginaries that transcend the confines of water user groups and national boundaries. These imaginaries are shared by various users at varying levels of intensity. The disparities observed among groups of similar users across nations are less pronounced than those encountered among different water user groups within a single nation.

Third, for approximately a decade, there have been ongoing discussions and negotiations to develop a more integrated river management at the bi-national level. It is anticipated that these negotiations will culminate in the establishment of two separated agreements, one pertaining to the entire Rhône River and the second one specifically focused on the Lake Geneva. Most of the interviewees have invoked the secrecy of the negotiations to not disclose further information about the content of the potential future agreements. Nevertheless, it seems that the agreements would primarily address technical aspects, with the potential for political elements to be incorporated subsequently, should the need arise. These processes suggest that the ministerial levels in France and Switzerland conceptualize more the Rhône River as a single entity than the local territorial actors do. However, national administration officials expressed limited awareness concerning the request for the recognition of the Rhône-person during the interviews. According to some of the interviewees, it is likely that this issue has not been included on the agenda during the negotiations of the transboundary agreements concerning the Rhône River or the Lake Geneva. Consequently, it can be acknowledged that the legal personhood remains absent from the toolkit of transboundary river management on the Rhône.

Fourth, the practicalities of establishing one international legal personhood have not been analysed nor discussed. As Torre-Schaub (2023) explains, the legal mechanism must fit within the legal system. Within the context of the Rhône, this implies the integration into two distinct legal systems. France is a highly centralised country. The norms of water quality are established at the national level and implemented at the local level. Conversely, Switzerland is a highly decentralised country. The federal level establishes the principles and legislates on the protection of water and the Cantons implement it with a significant degree of flexibility. As a result, it is common for the thresholds regarding physical and chemical parameters to differ on each side of the border. The establishment of substantive rights, such as the right not to be polluted, might be feasible. Nevertheless, the operationalisation of such rights through technical regulations could present significant challenges. In order to overcome the aforementioned difficulties, it would be necessary to establish a form of “technical jurisprudence” by technical working groups. Harmonisation should thus be targeted from the inception. Moreover, the democratic systems are organised differently, with a greater degree of local decision-making

power in Switzerland. The procedural rights, such as the right to appeal, vary considerably between the two countries. Any attempt to standardise these procedural rights would undoubtedly give rise to adverse normative and legal debates, given the divergent legal backgrounds and historical contexts of the two countries. In an effort to circumvent these challenges, two potential courses of action can be envisaged. First, each country could recognise the Rhône-person within its administrative boundaries. This approach would inevitably perpetuate the prevailing legal and managerial discontinuity. Second, an overarching authority could be established to bridge the two different legal frameworks, such as a River Basin Organisation. This possibility is not currently included in the political agenda.

Finally, it is highly improbable that international law will establish a framework for river-persons or the Rights of Nature within the foreseeable future. The issue of environmental concerns remains a matter of national sovereignty and the utilisation of multilateralism in addressing these issues is subject to criticism. Furthermore, the prevailing paradigm within the domain of international economic law is one that advocates for the optimal utilisation of natural resources (Gilbert, 2023). Nevertheless, it is noteworthy that the General Assembly of the UN has adopted numerous resolutions under a framework designated “Harmony with Nature” since 2009. These resolutions aspire to establish a new relationship with Nature based on a non-anthropocentric perspective. Notably, the concept of “Rights of Nature” was introduced³⁰ in the final declaration of the 15th Conference of Parties (COP 15) of the Biodiversity Convention in 2022, held in Montreal (Kunming-Montreal Global Biodiversity Framework, 2022). However, it appears that this concept has not yet had a significant impact on discussions within the UNECE Water Convention. As a member of the UNECE Water Convention’s implementation committee, I can also confirm that this subject is not currently under discussion in this forum. The incorporation of the RoN into international law may not be achieved through new treaties, which are complex and time-consuming to sign, ratify and then implement. Conversely, as in cases of recognition of the RoN in national legislation, it is conceivable that international law may undergo a process of reinterpretation. It is evident that a number of concepts on which their reinterpretation has led to the acknowledgment of the RoN at national level, such as “biocultural rights”, “future generation”, “the right to a healthy environment”, “protection of biodiversity”, are present within international law. The reinterpretation of these concepts within an international framework has the potential to result in the recognition of the RoN. In relation to the binational agreement previously discussed concerning the management of the Rhône River, it is conceivable that certain actors lend support to the reinterpretation of concepts through case law in the direction of a RoN approach.

In conclusion, there is an ongoing process to establish a common frame of reference regarding the Rhône. This common frame is being established on technical grounds by decision-makers who appear to be either unaware of or reluctant to the Rights of Nature and legal personhood. These decision-makers are indifferent to potential evolution toward the recognition of the Rhône-person within the international framework. Conversely, local initiatives currently lack the negotiation leverage to drive the establishment of a common frame at the international river basin. In view of these considerations, I find myself compelled to reject hypothesis H3 which argues that “The legal personhood of a river offers a common frame of reference making it possible to link the institutional frameworks and to mitigate the fragmentation. In doing so, the debate aroused offers an entry point facilitating the implementation of a transboundary governance of an international river.”

³⁰ There is only one mention, however. Cf Section C, Art 7.b

5.2 Contributions to the literature and research's limits

5.2.1 Contributions to the academic knowledge

The following insights may prove conducive to the enhancement of the theoretical framework employed in this thesis.

5.2.1.1 *A Europeanisation of the concept of the Rights of Nature?*

First, the concept of the Rights of Rivers no longer exclusively pertains to regions where First Nations communities are present or undergoing decolonisation processes. There is an ongoing reinterpretation of storylines to align with European ontologies. Two of them appear to be particularly effective. First, ecocentrism is employed as a rationale to protect the Rhône River (or the Mar Menor lagoon). This approach challenges the Descartes' cogito and the naturalist ontologies identified by Descola (2005). Within European societies, it contributes to the deconstruction of the nature / culture gap. This deconstruction challenges our mechanical understanding of the natural world. However, this does not correspond to the storyline developed in New Zealand or Colombia. It can be hypothesised that this European storyline is founded on an egalitarianism belief with strong roots in Europe, which was totally absent at Descartes's time. The second storyline is the democratic one with higher integration of citizen's and local official's points of views. While it could appear as an opposition to Hermitte's proposals (2018) of legal animism based on scientific knowledge, I consider that democracy and sciences can support each other. The absence of a finalised proposal for the institutionalisation of the legal personhood could be understood as part of this reinterpretation within European ontologies. Supporting the Rhône-person concept without giving a final institutional set up participates to the possibility of reinterpretation of its implementation, for instance through an environmental ombudsman or extending the possibility of legal standings. The reflection should also fit within the existing regulatory frameworks. Torre-Schaub (2023) issues a warning that the existing tools must not be neglected, and that the incoherency of the legal protection system must not be increased. With regard to the Mar Menor case, I point out that the recently passed law 19/2022 contains no references to key legislation, such as the European Water Framework Directive or its transposition laws.

5.2.1.2 *Being innovative and playing with the rules*

Second, this study highlights the adaptability and innovation exhibited by some actors. The APR is founded on citizen conventions and the comparison to the Climate Convention organised by M. Macron is regularly made (at least by ID-Eau and its supporters). The NGO employs thus an institutionalised mechanism to substantiate its argumentation, thereby seeking to enhance its perceived legitimacy. The NGO's actions are undertaken in strict compliance with legal regulations. No radical actions have been implemented nor mobilisations undertaken in accordance with a civil disobedience approach. Despite this, the process and the resulting debates remain radical in nature. The action of CIPEL, which included a one-day event with local municipalities and civil society, is part of the framework of informal rules. It is important to note that there was no obligation to organise such an event, nor any legal interdiction to do so. Nevertheless, it is argued that this event has created a unique and unprecedented opportunity, which has yet still to be concretised through the feasibility study itself. Following the conclusion of the co-construction of the action plan, a number of members of the Board of Management of CIPEL have accepted the feasibility study.

Furthermore, Knoepfel (2017) posits that actors involved in the policy process can mobilise up to ten various resources to support their participation within the process. Financial resources are one of such resource. It is noteworthy that the APR process was protracted due to its insufficient financing resources, as attested by multiple interviewees. The budget of ID-Eau is

not publicly available, but a rational assumption can be made that ID-Eau is less financially robust than other actors, such as CNR or the Water Agency, which have greater financial resources at their disposal. This prompts the question of the emergence of ideas with limited financial support and their ability to persist over an extended period of time, particularly given the acknowledgement that the recognition of the Rhône River would require a considerable timeframe. Moreover, the APR process is presented as a means of building legitimacy through the promotion of citizens' ideas. Within the Knoepfel's resources frame, the APR process can be analysed as mobilisation of knowledge and human resources, thereby strengthening ID-Eau's resources. Anggraeni et al (2019) bring out that the question of financial resources related to the participation is rarely the subject of academic analysis. Through their literature review, they suggest that the lack of financing could result in marginalizing the voiceless, while the participation process officially targets the exact opposite. The APR example poses the question of a framework to support the development of new citizens' initiatives and ideas.

5.2.1.3 Constructing the public problem by new actors

Third, it is hypothesised that the Rhône-person challenges the prevailing water governance models, which opens a field of questions. I believe that the findings of this research can offer valuable insights into the first steps of the policy process, meaning the construction of the public problem and the introduction into the political agenda. Chapter 3 discusses the strategy for establishing the political agenda, which represents the initial phase of the policy process cycle. I demonstrate the absence of adequate characterization of a crisis. This deficiency hinders the establishment of a comprehensive array of the actors in presence and their putative roles. It consists of at least characterising the potential winners and losers of the possible evolution of public policies. Furthermore, the actors involved in the processes of public policy formulation and implementation strategically seek to include or exclude other actors in order to support their argumentation. As Knoepfel (2019) observes, this process is typically underpinned by technical and legal justifications, eschewing political arguments. In contrast, the present thesis demonstrates that certain actors, notably those who advocate for the Rhône-person, employ a multifaceted argumentation, encompassing technical, democratic and political dimensions to frame the discourse. Conversely, other actors primarily employ technical and legal arguments. Moreover, the Rhône River as an object, is already part of the socio-technical-political discussion. We are thus assisting to the extension of the lists of actors to be part of the policy process: ID-Eau and the Rhône – person. The conceptualisation of the later as an agent could inform future research, particularly with regard to elucidating its role in the public policy implementation processes. The paradigm shifts that might be occurring on the Rhône River would be the outside part of the iceberg. Indeed, the paradigm shift, should an ecosystem be officially associated in the decision-making process, is more extensive. This could be extended to other rivers or ecosystems. This shift would not only transform the water management of the Rhône but also unveil novel perspectives on the decision-making processes and democratic governance. This paradigm shift has the potential to challenge our fundamental assumptions about the identity and values of Western human beings.

5.2.1.4 A critical hydropolitics study

The final output of this study is the embeddedness of issues and evolutions. Historically, water management in Europe has been approached from a technical perspective. This study demonstrates that water and its uses are political issues. It is therefore imperative to recognise the interconnection between water management and political decisions, which in turn impacts the health of our democracies. This study aligns with the existing body of literature on critical hydropolitics (Sneddon & Fox, 2006), which characterises simplified discourses on contexts, actors, and ecosystems as concealing unconsidered issues and power relationships that benefit to certain actors while disadvantageous to others. The development of responses to the question

“who gets what, when, where, why and how ?” necessitates not only a focus on states as actors (Rogers et al., 2023). Research should also encompass non-state actors (Bréthaut & Rodriguez Echavarria, 2024) in order to comprehend reterritorialization of water management and bottom-up decision-making processes. It is imperative to acknowledge the significance of all water users, including the Rhône River himself in order to revitalise our democracies.

5.2.2 Challenges and limitations of the research

During the course of developing the study, a number of challenges and limitations were encountered. Beyond the limitations already addressed in each individual chapter, it is important to consider the following more general limitations.

First, the inherent complexity of analysing a living laboratory must be acknowledged as a potential limitation of the study. The situation and the context vary. For instance, specific events can exert disproportionate impacts in the short term, while over a longer period, they may be regarded as negligible. The initial interviews were conducted during and following the 2022 droughts, which impacted both France and Switzerland. The final interviews were conducted in the summer of 2024, subsequent to substantial floods in the Valais and Vaud regions, though these were barely perceptible in the French Rhône. This temporal variation is likely to have influenced the interviewees’ accounts of the challenges they faced. Recognising the role of bottom-up processes in shaping the Rhône-person discourse, it was anticipated that intertwined discourses between legal personhoods and local controversies would emerge. However, controversies surrounding the Rhôneenergia dam or the PFAs have not explicitly articulated an argumentation grounded on the Rhône-person. This outcome aligns with the second hypothesis. Nevertheless, I had to ascertain that no sudden evolutions would be overlooked. This has necessitated a more in-depth analysis of the prevailing context, encompassing an analysis of the actors’ strategies and an assessment of their strengths and weaknesses. The dynamics of a paradigm shift or incremental modifications cannot be fully embraced as of today.

The analysis of the APR process from an insider’s perspective was the second limitation. The assembly convened for the first time few months after the inception of this project research. I proposed to be part of the process as an external observer in order to integrate within the research project the skill development of the participants. ID-Eau declined this proposal on the grounds of perceived non-objectivity on my side and the potential undue influence I could have on the participants. The organisation deemed my involvement to potentially compromise the integrity of the process, thereby enabling external parties to challenge the assembly’s recommendations. The establishment and testing of hypotheses concerning the knowledge creation within the APR would have been highly pertinent, with the exploration of diverse avenues in the field of knowledge. This situation necessitated a clarification of my positionality in order to demonstrate my academic objectivity and rigour. I therefore take this opportunity to reiterate my personal values and background.

The present project has been co-financed by AERMC, Index Projet and initially by CNR. In an effort to ensure that the project’s implementation was not unduly influenced by any potential biases, the final partnership was established with IAGF instead of CNR. The constitution of this research consortium has not contravened the concept of academic liberty, which is defined as “the full independence and complete freedom of expression in the research activities” (art 952.2 of the French education code). Moreover, it has been an opportunity to facilitate some interviews or to access to resources. However, this co-financing arrangement prompted the proponents of the legal personhood to initially label me as a researcher from these institutions that are under their criticism. Furthermore, my professional background as a water engineer

working abroad led me to advocate for the establishment of water agencies and to promote the integrated water resources management model. My doctoral journey has entailed in a progressive deconstruction of these approaches (Biswas, 2008; Molle, 2008). Nevertheless, the present proposal for this subject demonstrates indeed that I am a social subject inscribed in social reality which is not entirely extra-territorial (Castel, 2000). I acknowledge being impacted by climate change and ecological crises. I place significant value in democratic societies to establish consensus as a means of problem resolution. These values have been instrumental in designing the concept of this research study. However, the pursuit of *Wertfreiheit*, as articulated by Weber has been a guiding principle. This concept, understood as the ‘non imposition of values’ (Pranchère, 2025), has been a central tenet in research methodology. In this manner, at the inception of this project, the primary thoughts were to assess the legal personhood as an engineering toolkit for the elaboration of solutions and as a citizen participatory framework. The articulation of my position underwent a gradual process, necessitating an extended period of dialogue with various actors. It is my conviction that throughout my PhD journey, I have conducted objective research founded upon empirical evidence. Nevertheless, it is important to acknowledge that the research is initially nurtured by who I am (Pranchère, 2025).

A third identified limit of this project is the difficulty of including all relevant participants from the various scales. A first category of participants which I have been unable to include in the interview panel is the European and international decision-makers and activists. European MPs or decision-makers have not been interviewed. Their legislative and normative activities, particularly with regards to water, nature or energy directives and regulations, significantly influence the regulatory framework of the Rhône River. However, this limitation has been counterbalanced through available documents and reports prepared at the European level (Carducci et al., 2020; Hervé-Fournereau, 2024). A second category of missing participants is constituted by the inhabitants themselves. Interviews have been primarily facilitated through “instituted bodies”. While some inhabitants did contribute to the understanding of the processes, it should be noted that these individuals were already engaged in the water management.

This research ultimately gives rise to the limitations inherent in the nature of the ontology itself. The legal personhood of natural entities challenges the relationship between nature and culture, human beings and their environment. To a certain extent, this work calls into question the established classification system and promotes the combination of categories in a novel way. The fundamental theme of the subject is the examination of the intricate connections and interrelationships between the river (or any ecosystem) and human beings. The question therefore arises as to how the right and the society as a whole might reflect these interactions in order to give them a status. Concurrently, as elucidated in the Chapter 1, there has been an evolution in my professional trajectory, from a discipline of “science of nature” to a discipline of “science of culture”. Furthermore, the methodology I intended to employ is of a qualitative nature based on an hypothetico-deductive perspective. However, during the implementation phase, I employed elements of inductive approaches. These various elements (namely dualism in the object of research, continuity in my professional course joining two opposite ontologies, and association of inductive and deductive approaches) lead me to question the essences of the categories of the positivist ontology versus the constructivist ontology. I thus concur with the position of other scholars (Descola, 2005; Despret, 2021; Frappart et al., 2023) regarding the ongoing debate on the possibility of a mixed ontology or a plural ontology. It would be particularly ironic to posit an opposition between positivism and constructivism when the

subject of my thesis is part of the discussion to overcome various dichotomies, such as the nature – culture one. The paradigm shift engendered by the rights of nature has the potential to precipitate a transformation in the manner in which we conduct scientific research and the cognitive framework the underpins it. Should our presence and relationship to the world be different, it is reasonable to hypothesise that the manner in which we conduct science must also be different, and that this will involve the use of hybrid ontologies. Therefore, I would suggest that mobilising positivist ontologies, new ontologies or non-western ontologies for the study of legal personhood would provide valuable contributions to our understanding of the various facets of the impacts of natural entities and their legal personhood on society.

These limitations permit to put forward numerous prospective avenues for future research, which are outlined in the subsequent section.

5.3 Future research horizons

The theoretical framework of the Rights of Rivers and concept of legal personhood open a broad research agenda, which may appear impressive at first glance. I set out below four research axes, without the intention of establishing a comprehensive research program. I propose first to unpack the potential roles of the coalition of actors at the national, European or global scales. I suggest then that Latour's concepts on hybrids and "Parlement des Choses" provide tools to analyse the evolution of the status of the rivers. The third research axis is the role of scientists and engineers in particular within the concept of "Parlement des Choses". Final research axis concerns the relationship between the tryptic property rights / commons / rivers.

5.3.1 The spectrum of advocacy coalition?

This research establishes the context of the various direct actors involved in the discourse of the legal personhood of the Rhône. The findings of this case study indicate an absence of coordination and communication among proponents on the one hand, or among opponents on the other hand. However, it has been observed that some individuals are engaged in both the Rhône River and other river basins. In view of these findings, it is reasonable to hypothesise that an "inter-territorial" coalition of proponents could exist, given that the RoN discourse is gaining traction in other French and Swiss river basins. The formation of such coalitions is grounded by shared policy core beliefs and coordination strategies over a significant period of time (Jenkins-Smith et al., 2018). Consequently, a complementary research axis could be explored, namely the interactions between the discourses and their promoters from different territories and regions. The imaginaries of ecocentrism and democracy are most probably shared with proponents of other French or Swiss regions – or even in Europe. The question arises as to whether these imaginaries can be considered as deep beliefs, as understood under the Advocacy Coalition Framework.

On a worldwide scale, I believe that the question of a coalition is also pertinent. In this regard, scholars have predominantly focused on local case studies or have made comparisons between a limited number of cases. However, understanding the potential role of key individuals, organisations or coalitions at the international level has not been the subject of investigation. The existence or absence of such coalitions would reveal the hierarchy of beliefs, as coalitions are formed around them. Furthermore, it would be beneficial to ascertain the existence of any platform that advocated for the RoN and to understand their underlying beliefs and motivations. The exploration of these questions could offer valuable insights into the worldwide rapid

development of the RoN since the 2010's. This investigation is also pertinent with respect to the dubious actors or opponents of the Rights of Nature.

5.3.2 A “Parlement du Rhône”

During the course of the PhD, only a small number of references were made to Bruno Latour's thesis. However, I argue that the structuration of both empiricism and theoretical frameworks concerning the Rights of Nature would benefit from further integration of Latour's concepts.

Latour (2006) contests the common idea that the “Western world” is modern. He defines modern as a set of two practices which, to remain effective, must be kept distinct. First, the traduction process is defined as the mixing of hybrid entities made of nature and culture. Second, the purification process consists of the separation of nature and culture. The modernity is predicated on this dualism. He contends that the implementation of purification processes can be traced back to the works of Boyle and Hobbes. This evolution has been characterised by the emergence of what is now recognised as Western rationality (Vries, 2018). This process entails the establishment of a dichotomy between institutions dedicated to scientific pursuits and those devoted to political interests. The former pertains to the concepts of the power of “Nature”, encompassing objects, raw natural facts and natural sciences. In this domain, the pursuit of scientific knowledge is undertaken by individual engaged in scientific research. The latter domain, as Latour contends, pertains to the power of “Society” and encompasses the human activities, values, politics and culture. This is the domain of politics. However, Latour challenges this dichotomy, arguing that it is in fact an illusion. We are only implementing the traduction process which results in the creation of hybrid entities, while acting as if we were implementing the purification process. Consequently, there is an inherent contradiction between our actions and organisational structures, on the one hand and our perceptions of these actions and structures, on the other. The denial of our incoherence and the hybrids' existence results in the failure to incorporate them into actions and policies by acknowledging their visibility and representativity. Latour invites us to recognise this illusion and to overcome it through a new political system by the establishment of a “parlement des choses” (Latour, 2018). The concept entails the extension of the democracy to non-human entities which would be politically represented. “The parlement des choses” would comprise two chambers. The upper house would possess the power to consider. The lower house would have the power to order and prioritize the proposals with the objective of ensuring their institutionalisation. The concern of such parliament should be the “quasi-object”, a concept of object at the intersection of science and politics. Latour further elaborates on this concept by introducing the actor-network theory. He demonstrates that objects are capable of putting action in motion. Consequently, the objects are considered as actants. I believe that complementarities exist between the legal personhood derived from law and the actant concept derived from sociology. It opens up a research agenda that explores the Rhône-person, an entity with legal personhood recognised as an actant. The theoretical framework developed by the philosopher could be utilised to illuminate ongoing socio-political processes.

5.3.3 The roles of scientists and engineers

The theory of rights of nature represents a significant challenge to the legal ontologies, our worldviews and our democratic processes and representativeness. I suggest that this theory will also challenge the relationships between citizens on one side and scientists and engineers on the other. The dualism between nature and culture identified by Descola (2005), and to which Latour aimed to overcome through the “parlement des choses” and Hermitte through “the legal animism based in scientific grounds” has permeated the manner of conducting scientific research. The unpacking and understanding of nature mechanisms have been delegated to scientists and engineers (Latour, 2018). Expanding upon the example of the environmental flow

concept, Rodriguez (2023) demonstrates that the notions should encompass not only scientific knowledge but also vernacular knowledge and uses. The concept of environmental flows is defined by the World Bank (Brown & King, 2003) as the “flows to maintain the essential water-dependent ecological services”. This encompasses the satisfaction of all river users, including fish, plants and human beings. In her study, she emphasises the conflict of comprehension between a dam constructor and the riparian inhabitants. The former considered that leaving 10% of the water flows would meet the World Bank criteria. In contrast, the inhabitants understand the environmental flows as encompassing the preservation of community activities, such as swimming in natural pools. The concept of environmental flows is expressed differently in these two cases, with the threshold being defined by either 10% of the flow or the presence or absence of water in natural pools. This particular example initiates the discussion on the integration of “community knowledge” with “scientific knowledge”. The discourse on the Rhône-person will have to explore the methods to mediate the rights through “scientific thresholds and aggregates”. This process has been on-going for the last twenty-five years within the EU-Water Framework Directive regarding the characterisation of the “good ecological status”, but mainly without citizen participation. As a remainder, the Appel du Rhône proposes to recognise to the Rhône-person the “rights to exist, to be preserved, to regenerate, to evolve, to maintain and warranty its environment and biodiversity” (Pitaval et al., 2020). To enforce them, it would probably need to be declined through practical threshold. As these rights are proposed by NGOs and civil society, they would be associated to their scientific characterization. This could potentially lead to a re-evaluation of the concept of citizen participatory sciences. According to Houiller et al. (2017, p. 418), these forms of scientific knowledge production are defined as ways in “which non-scientific-professional actors, whether individuals or groups, actively and deliberately participate”. This manner of doing science should be more than merely mobilising citizens to collect data through engineering tools. It should also encourage the integration of citizen vernacular knowledge into engineering and scientific research, encompassing the definition of problems or the establishment of the research protocol (Le Crosnier et al., 2013). In the context of water, this approach is a call to strengthen the hydrosocial cycle (Linton & Budds, 2014) not only in terms of the relationship between water and society, but also in the manner in which researchers and technical bodies analyse the society, including “hard sciences” that deal with notions of water quantity and water quality.

5.3.4 The river and the property

One question that transcends this work is the applicability of the rights of river and its added value. I believe that depending on the institutional crafting (Ostrom, 2008) or bricolage (Cleaver, 2002), it can have democratic benefits. From ecological point of view, the question remains. What would mean the right for the Rhône to flows?

The central theme of this thesis is grounded around the recognition processes of the legal personhood of the river, changing its status from object to subject so it can legally stand. This approach mirrors the on-going socio-political debates and processes surrounding the Rhône-River. However, it should be noted that certain legal scholars have proposed the mobilisation of other tools with the objective of overcoming the distinction between subject and object. In her work, Vanuxem (2020) revisits the concept of easement rights and the role of commoners in the context of property law. She asserts that rights can be assigned to things without the intermediation of human agency, through the rights of servitudes. She contends that property might not be only a bundle of rights (Schlager & Ostrom, 1992) or a bundle of power (Ribot & Peluso, 2003) of subject-persons on object-things. Vanuxem proposes an alternative conceptualization of “things” as milieux or habitats, persons as inhabitants and property as the “faculty to inhabit” thus redefining the concept of rights of property as places within things

(Vanuxem, 2020, p. 14). Drawing upon a historical legal analysis, she examines the legal rights of houses and walls on forest lands in Ardèche, southern France. It utilises the conventional legal mechanisms of servitudes. The concepts are traced back to the 12th century, but are even older. The author puts forward the argument that places could own themselves, without being recognised as legal persons. The argument is put forward that these concepts disappeared due to the influence of rationalism and the willingness of free movement of goods. Vanuxem's proposal entails an evolution of the right, transitioning from ownership rights to rights of relationships (Vanuxem, 2020). It is a way to operationalise commons. This position aligns with the principles of the French law 1992 which asserts that "Water is Nation's common heritage" and the understanding of the Rhône-person by some of its proponents. While the works of Vanuxem focus on land in small communities, there is a need to further discuss its articulation around water, its fundamental characteristics of movement and its millions of direct and indirect users-inhabitants.

5.4 Few considerations as policy recommendations

The rights of nature and the legal personhood of natural entities provide a framework for thinking "out of the box" that should be investigated. In the ensuing paragraph, I present various elements of thoughts for further consideration.

First, the legal personhood of natural entities has been utilised as a tool in a context of thought exercises for several years. The question of its compatibility with the prevailing legal framework has been a subject of debate within the inner legal circle. The subject is now gaining traction not only within the discourse of legal scholars. As it has been outlined in this research project, the subject is becoming a broader subject of discussion, diffusing from specific NGOs and mobilized citizens toward the civil society and elected officials. This should be regarded as a form of politicization of water management. Despite the absence of normative effect, the subject is brought to the fore in various forums. For instance, following the endorsement of the Appel du Rhône by the Metropolitan Area of Lyon, members of the Water Users Assembly have repeatedly inquired with the elected officials as to the actions that have been implemented to align with the Appel. In this manner, citizens are establishing an accountability process with regard to elected officials and their actions in support of modifications to the governance of the Rhône River. This repoliticization does not concern only the relationship citizens-institutions. Appel du Rhône is an opportunity for its signatory institutions to extend the scope of their actions and responsibilities. The Appel du Rhône pertains to the entire river, whereas institutions such as the Canton of Geneva or the city of Lyon have competencies only within their respective territories. Appel du Rhône could provide institutions with the opportunity to engage in dialogue with other upstream or downstream territorial institutions, extending beyond national borders, to address the common subject of the Rhône River. This could result in the establishment of a novel arena of discussion, informal at this stage, initiated by local and territorial institutions. Town administrations have been historically focused only on the "urban water cycle" while other institutions, such as the Water Agency, have been in charge of supporting the vision of the "natural water cycle". Despite the absence of prescriptive values in the Appel du Rhône, it frames a more territorial approach to the water question. This openness to the comprehensiveness of the subject includes also the various water-related subjects, such as the health of the river itself or new citizens' uses, such as swimming.

Second, the legal personhood of natural entities and the rights of nature call into question our relationship with our natural environment. The ontological premise that nature should be valorised by human beings for their own benefit is contested. This movement seeks to emphasise the necessity for human beings to learn cohabitating with non-human beings. This necessitates the valuation of non-humans according to their intrinsic values, independent of the economic system. The ecosystem services approach is characterised by a contradictory nature, in that it values the preservation of the ecosystem for the benefit of human well-being. Moreover, while contesting the exploitation of resources within a capitalist system, advocates of the rights of nature utilise a key tool of the capitalist system: the legal personhood, which is extensively employed for the establishment of the firms and other economic entities. Finally, the legal personhood itself does not guarantee heightened levels of concern regarding environmental issues. The institutional mechanisms that facilitate the articulation of the river's voice are of paramount importance. This expression, organised through the mobilisation of researchers, citizens, water users or elected officials will be multi-faceted. The assertion that the expression will inevitably be green or align with the planetary boundaries constitutes a manipulation, to the benefit of both proponents and opponents of legal personhood. The former would utilise the concept as a panacea, whereas the latter would use it as a tool for creating fears of depoliticisation or authoritarianism. At this juncture, we cannot predict how the representatives of the river would express its voice. This is a debate to come.

Third, the legal personhood of natural entities challenges the functioning of our democracies. The issue under discussion is the consideration of the interests of entities that are not capable of expressing themselves and the association of all parties in an equitable way in the decision-making process. I refer here directly to the river and its inhabitants themselves. Contrary to certain misconceptions, I do not believe that the existing protection tools are denied by the legal personhood. The emergence of the discourse of rights of nature and legal personhood could, in fact, be advantageous for them, as it could serve to reinforce their utility, in contrast to their dismantlement currently organised by the French and Swiss governments. I believe that environmental impact assessment and public inquiries could be modified in such a manner as to facilitate a more effective integration of the point of view of citizens. Facilitating the utilisation of the procedure of "interest to act" through opening the contestation to citizens could also reinforce the construction of the projects with all parties and a higher consideration of their interests. Perceived as a "sword of Damocles", project developers would reinforce proposals and actions to achieve a stronger consensus-building. Furthermore, the question of how to frame the political debate remains an open discussion. In Switzerland or in Spain, various instruments are in place, including citizens' petitions or referendum, which result in legal obligations and political discussions. In France, however, this is not a possibility. In contrast to the provisions of the Spanish Popular Legislative Initiative, the French legislation does not create a framework for the Citizens' petitions to have a significant impact. Should the petitions meet various criteria, they will result only in the possibility to initiate a debate in Parliament, which remains at the discretion of the members of Parliament and is not mandatory. The issue is therefore one of articulation; more precisely of the articulation of various forms of legitimacy. These are, first, those derived from the processes of direct and indirect elections and, second, those resulting from the participative processes. Finally, the concept of legal personhood gives rise to a dichotomy between short-term and long-term actions. The democracy regime and its regular elections have a propensity to favour short term decisions and to disregard long-term consequences, as evidenced by the failure to address climate change issues. It is therefore argued that the formulation of a long-term vision may be achieved through the consideration of the interests of the natural entity and an assembly of randomly selected citizens to articulate the river's voice. Another approach that is regularly proposed as a mean of reinforcing the

consideration of the long-term perspective is the limitation of the number of elected mandates over time. This would obviate the tendency to prioritise short-term decisions with the primary objective of securing re-election. Furthermore, it could be argued that the expression of the long-term interests of the river is congruent with the expression of the interests of the “future generations”, who are also not capable of expressing themselves.

Fourth, it is anticipated that tensions surrounding the allocation of resources will increase in the forthcoming years, due at least to the global context of climate change, the depletion of the environment and the increased energy demand. The establishment of a consensus will be rendered more arduous. Our regions are characterised by a temperate climate that has ensured regular precipitation. Until recently, the impacts of climate change might not have been perceived by the citizens. However, as the Alps are heating at a faster pace than other regions, significant challenges to our prevailing water uses are posed. The impacts of climate change demand the formation of a novel societal consensus regarding priorities. The legal personhood of the rivers may serve to facilitate the establishment of this new consensus. Proponents of the legal personhood concept have expressed their willingness to impose the debates and to engage themselves by proposing innovative solutions. Nevertheless, the ongoing French-Swiss negotiations on the waters of the Rhône, which have taken place behind closed doors and without transparent associations of the various users, demonstrate that the States have no intention of accepting a challenge of their prerogative regarding their sovereignty over their water resources. While various initiatives concerning the rights of rivers have been initiated in various French and Swiss rivers, the significance of the Rhône River as an economic and energy production tool implies that the States will undoubtedly continue to adopt a differentiated approach for the Rhône.

I hope that this PhD thesis is contributing to the ongoing conversation on the legal personhood and rights of rivers, and more generally to the rights of nature. I believe that in light of the prevailing environmental destruction, we should commit to delivering tangible outcomes. Furthermore, it is evident that environmental destruction has historically been intertwined with regime crises. It is imperative to confront this intertwining and to proactively address it by implementing solutions informed by both interdisciplinary understanding and civil society participation and knowledge.

« C’est une triste chose de songer que la Nature parle et que le genre humain n’écoute pas »
Citation attribuée à Victor Hugo, (*Carnets* ?, 1870 ?)

Presentation of the main disciplines mobilised in the manuscript and the authors

The following table presents the main disciplines mobilised in the manuscript and the authors who refer to them. It does not provide a comprehensive view, as some other disciplines (anthropology, economy) are mobilised and some authors refer to several disciplines.

Legal Scholars	Sociologist	Geographers	Philosophers	Ecologists	Politist
Auby J (FR)	Barbier R (FR)	Adam M (FR)	Aubert I (FR)	Bekessy S (AUS)	Bellina A (NL)
Bétaille J (FR)	Barthélémy C (FR)	Anggraeni M (NL)	Berlan A (FR)	Berry T (USA)	Birkland T (USA)
Borràs S (SP)	Bender G (CH)	Benjaminsen T (NOR)	Bourg D (CH)	Córdoba-Tovar L (COL)	Blatrix C (FR)
Boyd D (CAN)	Bès MP (FR)	Bethemont J (FR)	Bourgeois-Gironde S (FR)	Houllier F (FR)	Blomquist W (USA)
Brunet P (FR)	Best JI (USA)	Biswas A (UK)	Castoriadis C (FR)	Lawson A (USA)	Blondiaux L (FR)
Carducci M (IT)	Bright D (AUS)	Boelens R (NL)	Vries (FR)	Leopold A (USA)	Bouleau G (FR)
Chaturvedi I (IND)	Robert C (FR)	Bravard JP (FR)	Ezrahi Y (ISR)	Mermet L (FR)	Buchs A (FR)
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Annex 1 – consent form

Consentement de participation à l'étude et de collecte de données	
La gouvernance des rivières transfrontalières à l'aune de la personnalité juridique. Exemple du Rhône	
Responsable(s) du projet de recherche :	Cyrille VALLET - Doctorant
	N° 3 du 15.03.2024

(Dans ce texte, le masculin est utilisé au sens générique ; il comprend aussi bien les femmes que les hommes.)

- L'objectif général de la recherche : L'étude vise à connaître l'impact sur la gestion du fleuve Rhône de la reconnaissance de la personnalité juridique du fleuve. En effet, la personnalité juridique a été reconnue à différents écosystèmes dans le monde mais dans des contextes nationaux uniquement et non européens.
 - Les activités demandées (remplir des questionnaires, réaliser des tests, etc.) : cette demande de consentement à la participation de l'étude concerne des entretiens avec des acteurs liés au fleuve.
 - La durée, le coût et le gain éventuel (indemnité, bon cadeau, etc.) : la durée estimée moyenne est de 2h. Il n'y a aucun gain financier.
 - Les risques éventuels et la façon dont ils sont contrôlés par la procédure : les acteurs pourront exprimer des avis très divergents voire en opposition d'autres acteurs. L'anonymisation des propos vise à éviter l'identification précise des acteurs.
 - Le caractère anonyme ou non-anonyme des données recueillies : les données sont anonymisées au début de leurs exploitations et analyses. Il est prévu un délai maximal de 2 mois pour anonymiser les données.
 - L'enregistrement de données personnelles ou de données personnelles sensibles ; Il n'y a pas de données personnelles sensibles enregistrées. Les données personnelles sont anonymisées dans les jours suivants l'entretien,
 - Le cheminement des données (stockage et durée de stockage, anonymisation etc.), leurs utilisations et les droits d'accès, de suppression ou de rectification : une fois l'entretien réalisé, l'enregistrement audio est transmis par écrit, les données sont anonymisées, la bande audio est supprimée. Les données anonymisées seront conservées sans limite de temps et elles pourront être réutilisées pour d'autres recherches futures.
 - Les personnes qui auront accès aux données personnelles : en dehors de l'enquêteur, Cyrille Vallet, personnes d'autres n'aura accès aux données personnelles.
 - Les modalités d'accès aux résultats de l'étude pour les participant-es : les résultats de l'étude devraient être disponibles courant 2025, via la publication du manuscrit de thèse.
- A toute fin utile, il est précisé que Cyrille VALLET est élu au Conseil d'Administration de la Régie Publique d'Eau Potable du Grand Lyon, en tant que représentant des usagers (mandat 2023 – 2026). Cette fonction pourrait entraîner, sur certains points spécifiques, un conflit d'intérêt avec la recherche menée.

Sur la base des informations données par Cyrille VALLET concernant le projet de recherche « La gouvernance des rivières transfrontalières à l'aune de la personnalité juridique. Exemple du Rhône », je confirme mon accord pour participer à la recherche « La gouvernance des rivières transfrontalières à l'aune de la personnalité juridique. Exemple du Rhône », et j'autorise :

- l'utilisation des données à des fins scientifiques et la publication des résultats de la recherche dans des revues ou livres scientifiques, étant entendu que les données resteront anonymes et qu'aucune information ne sera donnée sur mon identité ;	☐ OUI ☐ NON
- La mise a disposition de la transcription de cet entretien, dans sa forme anonyme, à la demande d'autres scientifiques qui voudraient utiliser les données brutes de cette étude	☐ OUI ☐ NON
- l'utilisation des données à des fins pédagogiques (cours et séminaires de formation d'étudiants ou de professionnels soumis au secret professionnel).	☐ OUI ☐ NON
- Que l'entretien soit enregistré sur support audio	☐ OUI ☐ NON

J'ai choisi volontairement de participer à cette recherche. J'ai été informé-e du fait que je peux me retirer en tout temps sans fournir de justifications et que je peux, le cas échéant, demander la destruction des données me concernant.

Ce consentement ne décharge pas les organisateurs de la recherche de leurs responsabilités. Je conserve tous mes droits garantis par la loi.

Prénom Nom

Signature

Date

ENGAGEMENT DU CHERCHEUR

L'information qui figure sur ce formulaire de consentement et les réponses que j'ai données au participant décrivent avec exactitude le projet.

Je m'engage à procéder à cette étude conformément aux normes éthiques concernant les projets de recherche impliquant des participants humains, en application du *Code d'éthique concernant la recherche au sein de la Faculté de psychologie et des sciences de l'éducation* et des *Directives relatives à l'intégrité dans le domaine de la recherche scientifique et à la procédure à suivre en cas de manquement à l'intégrité* de l'Université de Genève.

Je m'engage à ce que le participant à la recherche reçoive un exemplaire de ce formulaire de consentement.

Prénom Nom

Signature

Date

Annex 2 – Guide for interviews

Questionnaire type d'entretien	
La gouvernance des rivières transfrontalière à l'aune de la personnalité juridique. Exemple du Rhône	
Responsable du projet de recherche :	Cyrille VALLET - Doctorant
Version	N° 1 du 03.11.2023

Introduction

1. Je vous remercie tout d'abord pour votre disponibilité.
2. Objectifs de cette rencontre : connaître votre point de vue concernant la gouvernance du Rhône et la personnalité juridique. Je vous propose ainsi que cet entretien soit articulé autour de 2 points suivants :
 - a. Les enjeux sur le Rhône,
 - b. Les évolutions souhaitées, possibles, probables (...) de cette gouvernance.

Mais avant cela, j'ai tout d'abord besoin de votre consentement pour l'enregistrement et le traitement de notre échange. Ce que vous direz sera traité de façon anonyme. Donner le formulaire à signer.

Tout d'abord, pouvez-vous vous présenter ?

Les enjeux actuels

Brièvement, quels sont les enjeux que vous identifiez sur le Rhône ?

- Changement climatique : baisse du débit, hausse des températures
- Production hydroélectrique
- Production nucléaire,
- Transport / navigation,
- Loisirs : pêche, nages, tourisme,
- Changement des écosystèmes (biseau salins)
- Pollutions industrielles : PCB, PFA, armes noyées,
- Gouvernance

La personnalité juridique

1. Thème général & contexte. Si on repart sur l'historique, à quel moment ou occasion avez-vous entendu parler de la personnalité juridique ? A quel moment ce concept a pris sens pour vous ?
2. Quels problèmes le statut de la personnalité juridique permettrait de résoudre que ne permet pas la gouvernance actuelle?
3. A votre avis, quels problèmes le statut de la personnalité juridique créera ? Quels serait les points négatifs / les inconvénients ?
4. La CIPEL a lancé une étude sur la personnalité juridique du Lac Léman. C'est son action G1.1 de son plan d'action. Comment vous / votre institution se positionne-t-elle par rapport à cette démarche ?

5. D'autre part, une association ID-Eau promeut la personnalité juridique du fleuve. Êtes-vous au courant de la démarche ? Comment vous / votre institution se positionne-t-elle par rapport à cette démarche ?
6. Thème – ce que c'est. La reconnaissance de la personnalité juridique du fleuve Rhône pourrait prendre de très nombreuses formes, comme on le voit en regardant ce qui se fait dans d'autres bassins versants. Quelle est votre vision : institutionnelle (qui parle au nom de la rivière ?), juridique (quels droits et quelles obligations ?), financière (analyse des flux financiers ?)
7. A quelles difficultés fait face l'institutionnalisation / la validation de la personnalité juridique ?
8. La bonne échelle géographique de la personnalité juridique. La personnalité juridique est présentée par ses promoteurs comme un outil permettant une intégration de la gouvernance de l'eau. Mais il y a une étude en cours sur le Lac Léman uniquement. N'est-ce pas contradictoire ? Serait-il possible que la personnalité juridique ne soit reconnue qu'au niveau du lac ? voire que sur la partie suisse ?
9. Thème – acteurs. Quels sont de votre points de vue les acteurs moteurs pour la personnalité juridique du Rhône ? et les acteurs freins ? Avez-vous des contacts privilégiés avec certains d'entre eux ?
10. Comment percevez-vous
 - le positionnement des administrations françaises et suisses vis-à-vis de la personnalité juridique ?
 - le positionnement des services de production électriques (SIG, CNR, EDF) ?
 - le positionnement d'autres acteurs : villes, canton, région, EU, pêches, tourisme, sports d'eau
 - le positionnement des partis politiques ?
 - certains acteurs particuliers : armée ? Diplomatie et affaires étrangères ? les organisations internationales basées à Genève (UNECE ?) ou partenaires (OMVS au Sénégal) ?
11. Dans les deux accords internationaux en cours de négociations est-il fait mention de la personnalité juridique actuellement promue ? Ces accords et la personnalité juridique sont-ils / seront-ils compatibles ?
12. Thème démocratie – légitimité. Dans un pays tel que la Suisse, avec un fonctionnement démocratique qui a recours fréquemment aux votations, quel est le rôle attendu des militants – tels que ID-Eau, mais aussi par exemple des militants plus radicaux (approche ZAD) ? Dans un pays comme la France, avec un fonctionnement assez centralisé, comment voyez évoluer les choses ?

Fin d'entretien – Ouverture

Avant la fin de cet entretien, auriez-vous certains **conseils** à me donner ? Me recommanderiez-vous certaines **personnes** à contacter dans le cadre de ma thèse ? Je vous remercie de nouveau pour votre disponibilité et cet échange fructueux.

Annex 3 – Interview Characteristics

The following table presents the main characteristics of the participants to the interviews.

Activities	Nationalities			Gender		Total
	French	Swiss	Other	Male	Female	
Elected representative	6	2		5	3	8
State	2	1		1	2	3
Economic user	7	2		7	2	9
Non economic user	12	4		8	8	16
Academia	7	3	3	6	7	13
Other	5	2	2	3	6	9
Total	39	14	5	30	28	58

Indicative list of organizations interviewed:

- Elected representatives: chambers of representatives, departments, municipalities,
- State: national, federal, decentralized ministries
- Economic users: hydropower producers, nuclear producer, farmers, consulting companies,
- Non economic users: associations, citizens,
- Academia: UDL, UNIGE, UNIMELB
- Other: international organizations, water agencies, local authorities