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Article

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

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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 Rhone 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 Rhone 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.

Keywords: legal personhood; rights of nature; river; Rhône; governance; political agenda



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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 [1]. 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 [2]. 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 [3], 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 [4], with riparian inhabitants frequently appearing disconnected from the river as a genuine ecosystem [5].

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 River [6–8]. These studies shed light on diverse justifications for recognizing legal personhood. For instance, Eckstein et al. [9] 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 [6] to the formation of a collegiate body comprising approximately 15 members for the Mar Menor in Spain [10], 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 [10]. 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” [11]. Such a procedure is as diverse as the contexts in which it occurs. It remains, as rightly pointed by several authors [12–14], highly political and permeated by power relations.

In this study, utilizing the Rhône River as a case study, we analyze 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 analyze 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.

2. State-of-the-Art

The discourse surrounding legal personhood for rivers evolved beyond the technicalities or feasibility of recognition [15] 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 [13]. 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 [16,17]. 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 [6]. Stone [18] (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 [6].

Then, (2) this legal personhood necessitates a human representative who advocates for the rights of nature. Bétaille [15] (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 [19] 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 [15,20].

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 [21] 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 [9]. 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 [10].

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 [22]. 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 [23] 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 [24,25] and how the political agenda becomes influenced, and potentially defined, by the strategies of specific actors [26]. Various authors conceptualized such processes. Neveu [25] 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 [25]. The second step is the framing process, during which the promoter develops and refines the fact into a specific storyline [27]. 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 [28] 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 [25] and “mediatization” by Hassenteufel [24], 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 [29] (p. 165) refers to this phenomenon as “policy windows”.

In alignment with Best [30] 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. [9], 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 [27,31]. As such, legal personhood of rivers remains a profound field of contestations, political struggles, and power relations [17]. As noted by Immovilli et al.: “(. . .) *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*” [12] (p. 576).

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 Rhone River basin and the CIPEL action area.

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 Rhone 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.

4. Results: Rhône River Governance: Evolving Priorities and Discourses

Bréthaut and Pflieger [3] 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 [2]. 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 [2]. This intricate structure aims to resolve debates that arose in the early 20th century regarding how to distribute benefits from the Rhône [32].

The industrialization of the French Rhône gains momentum after 1945, marked by the construction of 19 dams up to 1986. Pritchard [1,32] 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" [1].

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 [3].

Finally, this period is characterized by the establishment of the first arena for trans-boundary 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. [33] 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 [3]. 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" [33] (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 [1] (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.

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 [34]. 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” [3].

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” [35]. 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).

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” [36]. 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.assembleepopulairedurhone.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).

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 [2,32]. 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 [37]. 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 [3], 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 [29]. The parallel requests made by CIPEL and ID-Eau contribute to a perception of a coalition of discourses [27]. 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 [38,39]. 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) [40]. 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 Rhone 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 [41] 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.

Supplementary Materials: The following supporting information can be downloaded at: <https://www.mdpi.com/article/10.3390/w16213131/s1>, Standard Interview Questionnaire.

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