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Responding to anthropocentrism with anthropocentrism: the biopolitics of environmental personhood

Jade-Ann Reeves and Timothy D. Peters

ABSTRACT

This article critically analyses the novelty of the legal personhood of nature and, in particular, whether it signals cracks in the anthropocentrism of Western law. Drawing upon the work of Michel Foucault and Roberto Esposito, it contributes to the theorisation of environmental personhood by focusing on the biopolitical nature of personhood itself. It does so by engaging in a critical examination of the attribution of legal personality to the Whanganui River in Aotearoa New Zealand as the most detailed and sophisticated legislative example to date of legally personifying a natural thing. Working through three key conceptual terms in Foucault’s and Esposito’s work (population, personhood and immunisation), we demonstrate the way in which a biopolitical analysis raises questions about whether ascribing legal personhood to nature addresses anthropocentrism and its effects. We draw attention to the risk of ascribing legal personhood to nature, which is that, instead of signalling an ontological shift in the Western anthropocentric understandings of environment, it operates within and reinforces the dominant legal worldview – unless, that is, the granting of personhood to nature calls into question the dominant paradigm of personhood itself. The article concludes by suggesting alternative ways of developing human understandings of, and relationship with, nature.

1. Introduction

Recent years have seen judiciaries and legislatures around the world increasingly answer ‘yes’ to the question Christopher Stone asked in 1972 about whether nature and the environment should have legal standing. In the context of the continued increase in global temperatures and environmental degradation due to human exploitation, there has been a shift in focus from upholding human rights to enjoy and utilise the environment to advocating for the rights of nature itself. This has found its articulation in legal...
recognition of environmental personhood, ascribing to nature the protections, privileges, responsibilities and liabilities of a legal person. Notable examples include the Law of the Rights of Mother Earth in Bolivia, the Atrato River in Colombia, the Ganges and Yamuna rivers in India and the Whanganui River in Aotearoa New Zealand. These developments have been heralded as signalling a shift to a new normative order in human ontological understandings of nature. However, the worldviews of many Indigenous cultures already recognise the intrinsic value of nature, an interconnection between the environment and human beings encapsulated in the values of ‘Care for Country’ and ‘the Land is the Law’. The dominant Western anthropocentric exploitation of the environment is thus neither inevitable nor ‘natural’. At the same time, the granting of rights to nature, particularly through legal personhood, is a new phenomenon in Western legal traditions.

This article critically analyses the novelty of the legal personhood of nature and, in particular, whether it signals cracks in the anthropocentrism of Western law. Such a consideration is one that has been raised by Earth Jurisprudence scholarship. Earth Jurisprudence refers to a philosophy of law based on the idea that humans are only one part of an interrelated community of beings, and that the welfare of each member of that community is dependent on the welfare of the Earth as a whole. Advocacy for the rights of nature is one aspect of such an approach. These approaches are presented as challenging the anthropocentrism of the law as well as its inherent positioning of nature as an object rather than a subject. Such a challenge then results in a strategic negotiation between the rights of humans and of nature. Critiques of this approach include, on the one hand, concerns about the unintentional consequences of the rights of nature, and, on the other, view it as nothing more than window dressing. A question that remains central is whether granting rights to nature disrupts anthropocentrism. As Stone himself noted, ‘an earth justice system will be unavoidably anthropocentric.’ This is where a number of scholars see the significance of environmental personhood and the notable instances that have emerged as presenting a turning point towards a more relational ontology. That is, recognising that the personhood of nature not only has potential to protect the environment, but it indicates a shedding of the cloak of Western anthropocentrism, which ontologically shrouds the relationship between human

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4Ley de Derechos de la Madre Tierra (2010).
5See Eckstein et al (2019), p 805. In the Australian context, whilst not granting legal personhood, Victoria has recognised the Birrarung/Yarra River as ‘one living, natural entity’, with the Birrarung Council (composed of both Aboriginal traditional custodians and other representatives) established to advocate on its behalf. See Yarra River Protection (Willip-gin Birrarung murrung) Act 2017 (Vic). In Western Australia, a body made up of Traditional Owners and native title holders, the Martuwarra Fitzroy Council, has recognised the Martuwarra/Fitzroy river as a living being with a ‘right to life’ (though not yet recognised by the Western Australian State). See discussion in Takacs (2021), pp 588–593. See also Clark et al (2018), p 823–827; Poelina et al (2019).
6See, for example, Graham (2008); Graham (2014); Black (2011); Watts (2013); Marshall (2020); Te Aho (2011).
7Anthropocentrism refers to the belief that human beings are the most important entity in the universe; it interprets the world in terms of human values and experiences. Regarding nature in particular, anthropocentrism refers to the ideological belief that the environment exists for human beings’ benefit, and that human beings are entitled to exploit and utilise the Earth as they see fit. See De Lucia (2017) p 184.
8Boyd (2018); Takacs (2021).
9Schillmoller and Pelizzon (2013), p 4; See also Cullinan (2011), p 78.
beings and nature. Our aim in this article is to contribute to the theorisation of environmental personhood by focusing on the nature of personhood itself. We examine the Whanganui River as the most detailed and sophisticated legislative example to date of legally personifying a natural thing.

In critically analysing the personification of the Whanganui River, we are not critiquing or discrediting its significance for the Whanganui Iwi, the long and hard-fought journey leading to the enactment of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) (‘Te Awa Tupua Act’) or its importance in the context of Indigenous sovereignty and the negotiated legal pluralism of Aotearoa New Zealand. Instead, our aim is to deepen the consideration of environmental personhood by drawing upon an ‘analytic of biopolitics’ to critically consider legal personhood as a tool and technique itself. We wish to open, rather than provide closures around, environmental personhood in conceiving and developing the jurisprudential underpinnings of human ontological understandings of, and relationship with, nature. To do so, we draw upon the theorisation of biopolitics which pierces the hegemonic interconnectedness of legal personhood and humanity, recognising the operation of power underpinning and necessary for one’s political existence. The theorisation of biopolitics – a mode of power aimed at maintaining and regulating life – provides a lens through which to critically examine legal personhood and consider the consequences of ascribing it to nature. In relation to the Whanganui River, a biopolitical analysis raises questions about whether ascribing legal personhood to nature addresses anthropocentrism and its effects.

The article proceeds in Section 2 by providing background to the granting of personhood to the Whanganui River, situating it in the context of the negotiated pluralism and tensions between the ontologies and legalities of Western anthropocentrism and Māori relationality with the world. Section 3 then provides a short outline of the biopolitics of Michel Foucault and Roberto Esposito, focusing on the mediation of personhood and biopower. The substance of the article is then in the biopolitical analysis of the Te Awa Tupua Act in Section 4. Starting from Esposito’s genealogical analysis of personhood as a dispositif (apparatus), we note the way in which personhood is not a phenomenon inherent in things. Rather, it is an apparatus – the product of particular social and historical mechanisms and utilised to achieve specific ends. We therefore question whether the granting of legal personhood to the Whanganui River is a recognition of the physical and metaphysical entity of the River, or the imposition of the dispositif of the person on the River to make it governable. Next, Foucault’s conceptualisation of the two poles of biopolitics – the disciplining of the individual and the regulatory control of the population – is deployed as a way of examining how the Te Awa Tupua Act makes the River ‘part’ of the population, subjected to regulatory mechanisms aimed at safeguarding its health.

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16 Clark et al (2018); Eckstein et al (2019), p 813. Though see also Mihnea Tănăsescu’s analysis of the granting of legal entity (distinct from legal person) status to Te Urewera and the significance of both the legal and governance approaches taken there. Tănăsescu (2020).
17 See, for example, Te Aho (2011); Morris and Ruru (2010); Ruru and Geddis (2019); Dennis-McCarthy (2019).
and well-being, which includes ensuring its productivity. Finally, Esposito’s ‘immunisation’ thesis shows that personhood is a liberal category which operates to individualise subjects from one another by placing them under the protection of law. Whilst aiming to emphasise its interrelatedness, the very act of granting legal personhood to the River risks bringing it within the realm of biopolitical governance and causing it to internalise Western neoliberalism.22 Such would not only place a protective border around the River, but also divides it from other persons, closing life off to the possibility of a way of being outside of anthropocentrism.23 The risk of ascribing legal personhood to nature is that, instead of signalling an ontological shift in the Western anthropocentric understandings of the environment, it operates within and reinforces this dominant worldview – unless, that is, the granting of personhood to nature calls into question the dominant paradigm of personhood itself. The article concludes by suggesting alternative ways of developing human understandings of, and relationship with, nature, drawing on Esposito’s ‘affirmative biopolitics’, particularly his concept of the ‘impersonal’.

2. Whanganui River, Aotearoa New Zealand

Before engaging in our analysis, we must ask, who is Te Awa Tupua?24 Situated in the North Island of Aotearoa New Zealand, the Whanganui River is the third longest and most navigable river in the country,25 flowing from Mount Tongariro to the Tasman Sea.26 The creation of the River lies in Māori Legend, which explains that Maui Tikitiki caught a giant fish, Te Ika-a-Māui, the fish of Maui, the North Island of Aotearoa New Zealand.27 To subdue the mighty Te Ika-a-Māui, Ranginui sent to the new land a volcano, Matua Te Mana – Ruapehu.28 Ruapehu suffered from loneliness.29 So, Ranginui shed two tear drops, one of which became the River.30 From time immemorial, the River has been central to the existence and health and well-being of Whanganui Iwi.31 The surrounding areas of the River and its tributaries were densely populated by Māori people who lived interconnected lives with the River.32 Māori sourced spiritual and physical sustenance from the River and utilised it as a navigation resource.33 The Whanganui Iwi possessed and exercised responsibilities in relation to the River pursuant to tikanga Māori (Māori customary law).34

With the British colonisation of Aotearoa New Zealand from 1840, Māori life along the River changed. Colonisation gave rise not simply to a clash of laws, but a clash of legalities, demonstrated in part by the duality of the Treaty of Waitangi itself. Based upon

22For a detailed consideration of the granting of legal personhood to rivers as an intertwining of rights of nature and market environmentalism, whilst paradoxically potentially decreasing environmental protection, see O’Donnell (2018).
23In this light, see the critique of rights of nature from an Indigenous law perspective by Marshall (2020). See also Tănăşescu (2020).
24Ruru (2019).
27Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 11.
28Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 11.
29Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 11.
30Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 11.
31Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), pp 5–6.
32Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 5.
33Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 5.
34Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014), p 18.
the imperialist ‘Doctrine of Discovery’, the English version of the Waitangi Treaty allowed for the Crown to assume sovereignty over the Māori and their lands.\(^{35}\) The Māori version, however, retained the pre-eminence of tikanga as the ‘first law of Aotearoa’. As Liz Charpleix highlights, the Māori version only granted ‘kawanatanga (delegated authority) to the Crown, subject to Māori tino rangatiranta (self-determination, sovereignty).\(^{36}\) In the context of this duality, British practice disregarded the Māori customary law with the colonisers’ system taking precedence, and breaches of the Treaty by the colonisers’ patterns of land use occurring without consequence.\(^{37}\) The Crown assumed control and authority over the Whanganui River,\(^{38}\) subjecting it to colonial laws of property underpinned by an ideology of human domination over all things.\(^{39}\) Legislation was implemented in the nineteenth and early twentieth centuries with little or no recognition of the Whanganui Iwi interests in, and no provisions for their involvement in the management of, the River.\(^{40}\) The Crown and other parties further extracted significant amounts of gravel from the bed of the River.\(^{41}\) The cumulative effect of these acts and omissions by the Crown caused significant prejudice to the Whanganui Iwi, and resulted in financial, emotional and spiritual harm – something recognised and acknowledged by the Te Awa Tupua Act.\(^{42}\)

These historical (and ongoing) tensions are illustrative of the difference between Māori and Western worldviews and their respective ontological relationships with nature: the contrast between the liberal ideals of private property and the pursuit of economic gain and a stronger relationality between human beings and the environment.\(^{43}\) The Western relationship with nature, while itself not monolithic or uniform, is influenced by a range of paradigms crossing religion, science, economics and law. It is the result of paradigms which: ontologically distinguish human beings from nature; focus on scientific and economic ‘progression’; promote the individualistic pursuit of happiness, predominantly fulfilled by material wants and desires; and promote human well-being as best advanced by liberating individual entrepreneurial freedoms within a system underpinned by capitalism.\(^{44}\) This has led to the pursuit of infinite economic gain via the exploitation of finite natural resources, causing environmental harm.\(^{45}\) This worldview is captured by the term, ‘Anthropocene’: a “new” geological era in which ‘humanity’ has emerged as a geological force shaping the lifeworld of the planet itself.\(^{46}\)

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\(^{38}\)Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 69(7). See Ruruku Whakatupua (signed 5 August 2014), p 18 for details of how Whanganui was purchased.


\(^{40}\)Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 69(7). These included: the Whanganui Trust Act 1891 (NZ) which provided for the erection of jetties, clearance of the River for navigation purposes and the control and sale of gravel and shingle; the Coal-mines Act Amendment Act 1903 (NZ) which deemed the bed of the Whanganui River to have always vested in the Crown, including that all minerals contained within the riverbed belonged to the Crown; and the Public Works Act 1908 (NZ) which allowed the acquisition of over 6700 acres of riparian land owned by the Whanganui Iwi along the River.

\(^{41}\)Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 69(10).

\(^{42}\)Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 69(12)–(14). See also Te Awa Tupua (Whanganui River Settlement) Act 2017 (NZ) s 69(15)–(19).


Meanwhile, tikanga Māori and Te Ao Māori (Māori worldview) encapsulate an interconnected way of life among all things, including people, gods and everything in the surrounding world. This worldview sees nature and people as genealogically connected; the world is a unified whole with shared ancestral origins. When Māori arrived in Aotearoa New Zealand, they became tangata whenua – people of the land. Māori, therefore, find their identity and connection to other generations in the land. Māori well-being is inextricably linked to the well-being of the land; a connection that is simultaneously rooted in spirituality and socio-political concerns. This is espoused by the key Māori concept of kaitiakitanga (the act of guardianship). Generally, kaitiakitanga refers to the inalienable responsibilities, duties and obligations surrounding the protection and resource management of land. Recognised in art 2 of the Treaty of Waitangi, facilitating Māori autonomy includes self-government and self-regulation over lands and waters. Thus, to practice kaitiakitanga, Māori require rangatiratanga. The kaitiakitanga understanding that in prioritising the interests of the land, the best interests of people will follow, lies in stark contrast to the Western approach to land and resource management with financial considerations at the forefront.

The ascription of legal personhood to nature in Aotearoa New Zealand must therefore be understood in the context of the tension between different worldviews, ontologies, and legalities. The legal personhood of nature has become a mechanism both for reconciling tensions between Crown use and ownership of natural resources with Indigenous aspirations for protection and conservation of the environment, and as settlement of disputes between New Zealand’s First Nations peoples and the settler colonial state. The 2017 declaration of the Whanganui River as a legal person by the Te Awa Tupua Act followed the Te Urewera Act 2014 (NZ) through which Te Urewera, an area of land comprised of forest, lakes and hill-country, ceased being a national park and was declared a legal entity. In addition to settling outstanding treaty claims and providing cultural and financial redress to the Tūhoe, the Te Urewera Act was the first legislative instrument in the world to utilise the granting of legal entity or personhood status to recognise the significance of a natural entity to its traditional owners. It is expected that a third natural resource in Aotearoa New Zealand, Maunga Taranaki will be granted legal personhood when a settlement between the Crown and Taranaki Iwi is enforced by legislation. The legal context for these achievements lies within the Treaty of Waitangi, which grants to Aotearoa New Zealand Māori, ‘the full exclusive and undisturbed

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47 Morris and Ruru (2010), p 49.
53 Waitangi Tribunal (2002), p 64.
55 Explanatory Note, Te Awa Tupua (Whanganui River Claims Settlement) Bill (NZ).
56 Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 11.
58 Te Anga Putakerongo (20 December 2017), cl [5.2.2].
possession of their Lands. The Treaty can be enforced through settlement which provides for the granting of legal rights to Māori.

The Treaty settlement which gave rise to the *Te Awa Tupua Act* achieved the resolution of the longest-running legal case in Aotearoa New Zealand history, comprising over 140 years of proceedings and negotiations. It was brought about by the Waikato claim filed in 1990 by Hikaia Amohia and the Whanganui River Māori Trust Board on behalf of Whanganui Iwi. The claim resulted in an extensive report by the Waitangi Tribunal in 1999, recognising Māori interests in the River, including that the Whanganui Iwi possessed, and held *rangatiratanga* over, the River and never sold those interests. The subsequent negotiations between the Whanganui Iwi and the Crown then resulted in agreement that the River would be declared a legal person and the settlement deed, Ruruku Whakatupua, which contained two key elements: recognising, promoting and protecting the health and well-being of the River and its status as Te Awa Tupua [*Te Mana o Te Awa*], and recognising and providing for the *mana* and relationship of the Whanganui Iwi in respect of the River [*Te Mana o Te Iwi*]. The deed was given effect in 2017 by the *Te Awa Tupua Act*.

The purpose of the *Te Awa Tupua Act* is to record the acknowledgements and apology given by the Crown to Whanganui Iwi in the deed of settlement; to grant legal personhood to the River; and to settle the historical claims of Whanganui Iwi as those claims relate to the River. Section 14(1) of the Act declares Te Awa Tupua to be a legal person with all the rights, powers, duties, and liabilities of a legal person. Section 12 recognises Te Awa Tupua as ‘an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements.’ Section 13 then enshrines the intrinsic values that represent the essence of Te Awa Tupua [*Tupua te Kawa*]. These are that the River is a source of spiritual and physical sustenance [*Ko Te Kawa Tuatahi*]; that the River is an indivisible and living whole which flows from the mountains to the sea [*Ko Te Kawa Tuarua*]; that the Wanganui Iwi and Hapū have an inalienable connection with, and responsibility to, the River [*Ko Te Kawa Tuatoru*]; and that the small and large streams that flow into one another form the River [*Ko Te Kawa Tuatoru*]. The Act requires that each of the bodies created and each decision-maker in relation to the River uphold and reflect these values. Regarding the River’s agency, Te Awa Tupua’s rights and powers are exercised, and liabilities incurred, by the office of Te Pou Tupua, ‘the human face’ of the River. Te Pou Tupua comprises two persons, one to be appointed by the Iwi with interests in the River and the other to be nominated on behalf of the Crown.

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59 Treaty of Waitangi Act 1975 (NZ) sch 1, art 2.  
60 Morris and Ruru (2010), p 255.  
61 *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) s 14(1).  
63 *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) s 11(1).  
64 Waitangi Tribunal (1999).  
65 Waitangi Tribunal (1999), pp xiv, 333, 337–41. The Ruruku Whakatupua is comprised of two separate documents reflecting these elements: *Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown* (5 August 2014); *Ruruku Whakatupua – Te Mana o Te Awa Tupua, Whanganui Iwi and the Crown* (5 August 2014).  
67 *Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017* (NZ) s 3.  
68 *Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017* (NZ) s 18–19.  
69 *Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017* (NZ) s 20(1)–(2).
established to be an advisory group to provide advice and support to Te Pou Tupua in the performance of its functions. The Act also establishes a strategy group for Te Awa Tupua, Te Kōpuka, comprised of representatives of persons and organisations with interests in the Whanganui River, including Iwi, local authorities, State departments, commercial and recreational users and environmental groups. The primary function of Te Kōpuka is to develop and approve a strategy plan [Te Heke Ngahuru], the purpose of which is to provide for the collaboration of persons with interests in the River in order to address and advance the health and well-being of Te Awa Tupua.

Regarding the ‘property’ of the River itself, the Act vests the fee simple estate in the Crown-owned parts of the bed of the River in Te Awa Tupua. The Act also establishes a fund called Te Korotete to support the health and well-being of Te Awa Tupua.

Overall, the Act works according to a key feature of the settlement process: it is as a mediation between the Crown and Whanganui Iwi interests regarding the ownership and governance of the River. The ascription of legal personhood to the River facilitates a political compromise whereby the Crown does not relinquish ownership of the River in favour of the Whanganui Iwi; providing for the River to own itself facilitates a ‘middle ground between vesting title in the Iwi and refusing claims to anything other than co-management’. Legal personhood is thus deployed as a mediating device between the Western objectification and commodification of the environment and the Māori intrinsic and interconnected relationship with nature, which regards the River as taonga (a special treasure) and demands recognition of the River as tupuna (ancestor). The contrast between Māori cosmology – and its abjuring of notions of private property and thus the ability to ‘own’ the River – and the Western worldview provides insight into why legal personhood was considered an appropriate mechanism to settle treaty negotiations between the Whanganui Iwi and the Crown. As Gerrard Albert, negotiator for the Whanganui Iwi explained, ‘We have fought to find an approximation in law so that all others can understand that from our perspective, treating the River as a living entity is the correct way to approach it … instead of … treating it from a perspective of ownership and management.’

While the Act has been regarded as signalling an ontological shift from Western notions of anthropocentric ownership and exploitation of nature to an interconnected relationship between human beings and the environment, the forthcoming biopolitical analysis of the Act seeks to unpack and critically interrogate the effect of legal

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70 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) s 27(1).
71 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) s 29(1).
72 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) s 29(2).
73 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) s 30(1).
74 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) s 35.
75 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) ss 40–41(1)–(2).
76 Te Awa Tupua Act (Whanganui River Claims Settlement) Act 2017 (NZ) s 57(1).
77 Collins and Esterling (2019), p 22.
78 Collins and Esterling (2019), p 22.
79 Hardcastle (2014), np.
personhood in addressing the anthropocentrism facilitated though dominant Western notions of law.

3. Theoretical framework: mediations between personhood and biopolitics

A biopolitical consideration of personhood disrupts the understanding of personhood as simply inherent in all human beings and neatly segregated from its ascription to non-human things to facilitate their participation in legal relations. In the contemporary era of universal human rights, legal personhood is often presumed to be attributed to all humans as ‘natural persons’ by virtue of being born, and then to other entities, such as corporations, as ‘artificial persons’ by legal ascription. However, one need only look to a historical consideration of slavery, contemporary debates surrounding abortion or the treatment of various segments of society (children, the differently abled, the elderly) to recognise that personhood is a contested and unsettled category in both its social and historical contexts. Even a natural person in the law is only a particular type of person. Further, among legal persons, not all share the same ‘level’ of personhood or equally experience correlating rights. This contradiction between personhood being understood as a mechanism either inherent in all human beings or neatly afforded to non-legal entities, and the reality that not all individuals experience their ‘personhood’ (or lack thereof) evenly, can be better understood through a biopolitical analysis. A biopolitical analysis reveals the operation of power inherent in, and the artificiality of, personhood, and how it operates in contemporary modes of governmentality. As such, when it comes to the Whanganui River, a biopolitical analysis allows one to critically interrogate the nature of the ‘type’ of personhood being ascribed to it – its status in society and as a rights-and-duty-bearing entity.

Biopolitics, however, is not a monolithic concept. The term is attached or deployed by scholars such as Giorgio Agamben, Roberto Esposito, Jacques Derrida, and Michael Hardt and Antonio Negri – each who are, in general, drawing upon the seminal work by Michel Foucault. In its crudest sense, biopolitics regards the intersection between biology (or life) and politics. Our focus draws upon Foucault’s and Esposito’s articulations of biopolitics and its intersections with liberalism. This is because such an understanding renders visible the Western ontological relationship with nature and the way in which the Whanganui River has been ascribed several liberal rights attached to its legal personality. We demonstrate this through a consideration of three key conceptual terms that are central to Foucault’s and Esposito’s works: population, personhood, and immunisation.

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82Kurki (2019), pp 2–3. See also Ngaire Naffine’s schematic working through of the different approaches to legal personality: Naffine (2003); see also Naffine (2009); Naffine (2017); Worthington and Spender (2021).


Whilst changing and developing throughout his work, Foucault considered biopolitics to be a specific modern technology of governmental power. He coined the term ‘governmentality’ to describe the institutions, tactics and rationalities that are deployed to shape the behaviour and control of populations to achieve specific ends. For Foucault, the ‘birth’ of biopolitics occurred with the rise of liberal forms of governmentality, where liberalism is understood not as a political ideology or economic theory, but an art of governing. Biopolitics thus concerns a fundamental transformation of the political power over life. He famously describes this as: ‘[f]or millennia, man [sic] remained what he [sic] was for Aristotle: a living animal with the additional capacity for a political existence; modern man [sic] is an animal whose politics places his [sic] existence as a living being in question.’

For Foucault, power over life is comprised of two poles: discipline of the individual and regulatory control of the population. Discipline of individuals refers to the supervision and control of bodies to secure political subjection while ensuring increases in economic productivity and utility. Biopolitics dovetails into disciplinary power but is applied to the collective population, or ‘man[sic]-as-species’, characterised by processes such as ‘birth, death, production, illness and so on’. The aim of this power is to regulate the strength of the population by ‘achieving an overall equilibrium that protects the security of the whole from internal dangers’. A weak population results in wasted energy and economic burden both in a fall in production and the cost of treatment. Here, biopolitics is exercised within a ‘normalising society’, with the living distributed ‘in the domain of value and utility’ where such power must ‘qualify, measure, appraise and hierarchise’ around the norm. The composition of the ‘population’ is determined by what Foucault sees as a distinguishing feature between sovereign power and biopower: the former is the right to ‘take life and let live’ and the latter to ‘make live and let die.’ This serves both to subdivide the species under control and to strengthen the population.

Esposito takes up and extends Foucault’s work on biopolitics through an examination of the category of the person from legal, historical and biopolitical perspectives. Esposito draws upon Foucault’s concept of *dispositif,* and posits that the person functions as an apparatus in ‘arranging the relation between the human and animal in contemporary subjectivity.’ In discussing the genealogical debt that the person owes to Christianity,
Esposito notes that the two elements that comprise the totality of man [sic] – soul and body – are not equal. Rather, these elements are actualised in a dispositif that layers one under the other. This is because the body is that part of man [sic] which is animal. With the role and function of the dispositif of the person being to ‘divide a living being into two natures – the one subjugated to the mastery of the other – and thus to create subjectivity through a process of subjection or objectivisation’, a person becomes so only if they master the more properly animal part of their nature. In other words, to be a person is to be ‘so divided to make possible the subjugation of one part to another; to make one half the object of the first.’

Esposito also discusses the debt that the person owes to Roman Law in how it subdivided the human species into an infinite number of typologies, which are reproduced today. Between the two extremes of person and thing, there are several intermediate steps according to the level of personality one is afforded. The ‘whole’ person is epitomised by the healthy adult; this is followed by the infant who is a potential person; the elderly invalid is next who is reduced to a semi-person; then, the terminally ill who are non-persons; and, lastly, the anti-person characterised by the ‘madman’. This classification allows ‘defective’ persons to be subjugated by complete persons. The former may then be disposed of by the latter according to medical or economic considerations. What is significant in this analysis is that ‘personhood’ always encompasses legal personhood because of its genealogy: ‘The person as metaphysical in Christianity was codified by Roman Law.’ In addition, Esposito’s dispositif of the person shows that personhood is not a phenomenon inherent in things. Rather, it is an apparatus – the product of particular social and historical mechanisms and utilised to achieve specific ends. As Edward Mussawir and Connal Parsley have demonstrated, legal personhood is a technique. However, for Esposito, such a technique is linked to the immunitary structure of liberal governance.

Esposito sees that, alongside other liberal categories such as property and rights, personhood operates to ‘immunise’ and individualise subjects from one another, placing them under the protection of law. Esposito’s immunisation thesis explores how liberal sovereignty individualises and closes subjects off from one another. Unlike Foucault, Esposito does not see a historico-political distinction between biopolitics and sovereignty. Rather, he reconciles these two modes of governance in a single paradigm which he coins ‘immunisation’. This is because liberalism granted persons freedom under sovereignty; that is, freedom from the other and from ‘communal obligation’.

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109Campbell (2012), p 37.
110Esposito (2012), p 23.
115Esposito (2012), p 23.
As Esposito explains, ‘that which everyone fears in the munus … the violent loss of borders, which awarding identity to him, ensures his subsistence.’\textsuperscript{122} The munus refers to the expropriative demand of community; the ‘gift that one gives, but not that one receives.’\textsuperscript{123} Such ‘violent loss of borders’ occurs in the supposed ‘state of nature’ and is similar to the experience of communal obligation in which human beings are not separated or protected from one another.\textsuperscript{124} The justification for sovereignty is that it provides this protection. It creates a population of the ‘people’ which is comprised of divided individual subjects who are immunised from the community of others and safeguarded from the expropriative demands thereof.\textsuperscript{125} For Esposito, biopolitics ensued from the rise of immunisation which he claims, ‘links the sphere of life with that of law.’\textsuperscript{126} Immunity thus gave rise to modernity when protective mechanisms, which had been employed for centuries, moved away from transcendence and into artificial mechanisms of defence.\textsuperscript{127} Alongside sovereignty, these artificial immunity mechanisms include personhood and liberty.\textsuperscript{128}

To summarise, the emergence of liberal (and now neoliberal) governmentality encompassed a focus on the management of populations for the protection of society. Key to liberal modes of governmentality is the dispositif of personhood understood not as something inherent in natural individuals, but rather as a technique or apparatus deployed for particular ends. Both the emphasis on the government of populations and the dispositif of personhood function in terms of a process of immunisation – a protection from the other rather than a form of community and relatedness. Biopolitical analysis thus highlights and critiques part of the Western tradition – which, in itself, encompasses a focus on personhood. It is in light of these aspects of biopolitical analysis that we now turn to a critical consideration of the personality of nature. We seek to consider whether the personification of nature calls into question the ontological foundations of the Western tradition or whether, by deploying personhood itself, is simply an extension of it, functioning in relation to an immunisation paradigm. We analyse the Te Awa Tupua Act and how the granting of legal personhood and the co-governance mechanisms that it sets-up can be understood in relation to the dispositif of the person, as being part of a population, and in terms of immunisation.

4. The biopolitics of the Te Awa Tupua Act

A. The legal personification of the Whanganui River: splitting a river in half, safeguarding anthropocentrism, and ‘othering’ nature

The key feature of the Te Awa Tupua Act functions through a duality. Section 12 recognises Te Awa Tupua as ‘an indivisible and living whole’ that incorporates ‘all its physical

\textsuperscript{122}Esposito (2010), p 8. This analysis aligns with what Mary Graham diagnoses as the ‘fearful freedom’ of Western liberalism and its loss of recognition or connection with the domain of the spirit and, in particular, its connection with nature. As she notes, this encompasses a sense of spiritual loneliness and alienation that results in the environment becoming and remaining a ‘hostile place’. The discrete individual then has to arm itself not just literally against other discrete individuals, but against its environment – which is why land is always something to be conquered and owned.’ Graham (2008), p 186. We thank the anonymous reviewer for pointing out this connection.

\textsuperscript{123}Esposito (2010), p 5. See also Hardes (2017), p 389.

\textsuperscript{124}Hardes (2013), pp 74–5.

\textsuperscript{125}Hardes (2013), pp 74–5.

\textsuperscript{126}Esposito (2010), pp 45–6; Hardes (2017), 390.

\textsuperscript{127}Hardes (2017), 390.

\textsuperscript{128}Hardes (2017), 390.
and metaphysical elements.’ Section 14, however, then goes on to declare that Te Awa Tupua ‘is a legal person and has all the rights, powers, duties, and liabilities of a legal person.’ These together form what the Act refers to as ‘Te Awa Tupua status’, positioning the tikanga Māori (s 12) alongside the Western notion of legal personhood (s 14). 129 While the Te Awa Tupua status relays the interconnection between the recognition of the ‘essence’ of the River and the declaration of its legal personality, it is significant that it also enshrines a split that is reflective of the dispositif of the person that Esposito elaborates. If we were to put it in Esposito’s terms, the ‘personal’ (the River’s new political existence espoused by its legal personality) and the body or ‘animal’ (represented by the intrinsic values of the River, including its physical parameters) halves of the River are established and distinguished by the Act, and thereafter ‘arranged’ in its new subjectivity.

Prima facie, a complexity lies with this comparison as what would be the ‘animal’ part of the River (the ‘essence’ recognised in s 12 of the Act) includes both physical and metaphysical elements. Conceiving of this entity as indivisible, before the granting of legal personhood, positions both the ‘body’ and ‘soul’ of the River as separate from the law. However, the Act then imposes a distinction between the intrinsic essence of the River and its legal personality. The significance of this distinction, in the context of Esposito’s biopolitics, is that it operates like the charisma or the gift of reason which subjugates the ‘animal part’ of a person. In this regard, the ‘body’ or ‘animal’ part of the River is that which remains in its natural state, described in the essence of the River in s 12. The ‘soul’ of the River, however, becomes the part of it that is ‘capable of reason and will’ 130 which is found in the agency, rights and liabilities afforded to the River through its legal personality. The result is that, at least within law, the body of the River becomes subordinate to its soul as figured in its legal personality.

The splitting and arrangement of the River’s two halves, as established by the Act, is then reproduced at a second level by the creation of the office of Te Pou Tupua, ‘the human face of the River’, 131 which represents the River’s personal half. Pursuant to s 14(2), all ‘the rights, powers and duties of Te Awa Tupua must be exercised or performed, and responsibilities for its liabilities must be taken, by Te Pou Tupua on behalf of, and in the name of, Te Awa Tupua’ and these must be done in the manner prescribed for in the Act. So, whilst the River is first recognised as an indivisible entity, then granted legal personhood, the exercise of that personhood, in terms of its rights, powers, duties, responsibilities and liabilities, occurs only in terms of the ‘human face’ of the River, which acts in the name of Te Awa Tupua (s 18(2)). To use Esposito’s etymological analysis, Te Awa Tepua’s legal personhood, which functions through Te Pou Tupua, ‘doesn’t coincide with the body in which it inheres, just as the mask is never completely one with the actor’s face.’ 132

One of the key effects of granting legal personality to the River is that it provides for the River to own itself; to be awarded, what could be described as the mastery of its body. 133 This notion of ownership is in contrast to tikanga Māori, in which the River, understood as an indivisible entity and a relation of the Whanganui Iwi, could not be

129 Definition of Te Awa Tupua Status in s7.
130 Esposito (2012), p 25.
131 Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s18.
133 Esposito (2012), p 25.
owned. Here, the duality of the Act also comes into play. At one level, the indivisible nature of the River is recognised, reflecting the inability for the River to be owned, but at a second level, the granting of legal personhood provides for the mechanism of ownership. This also reflects the aporia that Esposito identifies in the notion of personhood. As is pointed out by Timothy Campbell, the dispositif of the person is what allows individuals to see their own bodies as possible reserves of ‘human capital’ which can then be ‘mined’ and sold on the market.\(^{134}\) That is, despite the notion of personhood at one level being articulated as an indivisible entity that cannot be sold (either as a whole in terms of slavery, or in part in terms of liberal legal limitations on the selling of body parts), the essence of liberal legal personhood is in an ‘owning’ of one-self, encompassing a mastery of one’s body and the freedom to ‘do with it what he [sic] will.’\(^{135}\) Persons are ‘able to mine and harvest their animal halves thanks to the grace portioned out by the market.’\(^{136}\)

With the imposition of legal personhood, the River’s body, the ‘essence’ of the River, crosses into (or rather remains in) the domain of the thing, and the River, like the (human) person, possesses its body and can do with it what it will.\(^{137}\) This not only results in the objectification of the River’s ‘body’, it does so under the guise of liberalism and the expansion of individual liberty.\(^{138}\) Rather than relinquishing the River from the grasp of anthropocentric notions of objectifying nature as property, the Act would appear to make the River a participant in this anthropocentric regime by providing for the River to own itself through Western legal forms. In Western law, the River did not cease to be owned; its owner merely changed. Anthropocentrism is thus not overcome, but is reproduced in an alternative form; the River, as an autonomous legal person, can consent to the exploitation of its ‘body’ as a reserve of capital.\(^{139}\) While the recognition of the River’s physical and metaphysical elements as an intrinsic whole in s 12 of the Act prima facie prevents a split between the River’s ‘body’ and ‘soul’, such metaphysical elements remain in the realm of the River’s ‘animal’ part separate from its ‘personhood’ afforded to it by the law. This affording of personhood would appear to present the River as enjoying equal status to other legal persons. However, that this is not the case can be seen in three regards: first, in terms of the statutory limitations imposed on the River’s agency; second, in terms of recognising the hierarchies inherent in the typologies of personhood; third, through the significance of Tupua te Kawa, the intrinsic values, in accordance with which Te Pou Tupua is required to act.

Despite affording the River personhood, the Act limits both its ownership and agency. First, the River does not own all parts of itself. The only fee simple estate granted to the River is that previously owned by the Crown.\(^{140}\) Nothing in the Act affects any private property rights to other parts of the riverbed, and the Act specifically excludes any legal roads, railway infrastructure, structures or parts of the riverbed held under the Public Works Act 1981 (NZ) or located in the marine or coastal area from vesting in Te Awa

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\(^{134}\) Campbell (2012), p 39.

\(^{135}\) Esposito (2012), p 25.


\(^{137}\) Campbell (2012), p 39.

\(^{138}\) Campbell (2012), p 41.

\(^{139}\) Campbell (2012), p 39. See also Eckstein et al (2019), p 811. For example, the Te Awa Tupua Act allows for Te Pou Tupua to be involved in hearing and determining applications under the Resource Management Act 1991 (NZ) for resource consents: ss 61, 63.

\(^{140}\) Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 41(1), (3).
The Act prevents ownership by Te Awa Tupua of the water that is inextricably part of the River. The ability of Te Awa Tupua to govern and manage the River is also limited. For example, any existing rights to the River are preserved, including public use of, and access to and across, the River, and resource consents. The Act also declares certain parts of the riverbed to be a conservation area, national park or reserve, meaning these areas are subject to other relevant laws which thereby limits Te Awa Tupua’s authority over them. Te Awa Tupua also cannot alienate its land by sale, gift, mortgage, charge or transfer, and its right to minerals in or on the land is limited. Such limitations constrain the level of personality afforded to the River, thus differentiating it from what Anna Grear describes as the ‘whole’ person envisaged by Western legal personhood.

In her analysis of the anthropos, Grear outlines the critique of Western law as anthropocentric, ‘rotating, as it were, around an anthropos (human/man) for whom all other life systems exist as objects.’ However, Grear challenges the tendency to generalise all of humanity under the cloth of the anthropos, recognising rather that the ‘whole’ person (anthropos) was a ‘thoroughly gendered, raced construction’ who ‘reflects precisely the rationalistic, hierarchical scales of value decisive to the expansion of European capitalist ambition across the globe’. In short, the anthropos is a creature of ‘the assumptions concerning (white) masculine superiority and mastery.’ It is this instantiation of the person, rather than all of humanity, that constitutes the Anthropocene and its effects. At the same time, Grear highlights the oppressive hierarchy within the anthropos itself which exceeds the assumption of white masculine superiority and mastery. That is, it is the corporation with its corporate judicial subject that is the apotheosis of both legal personhood and the anthropos. That this functions through the form of legal personhood is significant, both because of the rational and disembodied nature of corporate personality as the epitome of possessive individualism and acquisitive capitalism, but also because, as noted above with Esposito’s work, the way in which personhood functions through an exclusionary hierarchy of those who are ‘more’ or ‘less’ than persons.

When it comes to the granting of legal personality to the River, then, like a human, it could never reach the epitome of personhood as, unlike the corporation, it has a physical, biological element to its existence. Furthermore, while the River has been afforded legal personality, there is a question as to whether this overcomes the tendency for a Western cosmology to ‘complexly feminist’ nature, positioning it, along with the Whanganui Iwi, as another intersectional ‘other’ to the ‘whole’ person understood as the anthropos. This creates a complex
space within the typologies of the person where the River now sits as it remains marginalised to ‘whole’ persons, but also segregated from the ‘rest’ of nature. This is because in the schema of Western legality, the law always creates an ‘other’ in Grear’s terms or ‘newer and newer typologies’ in Esposito’s. Another typology has been created between natural things that are legal persons, and non-person natural things, possibly further entrenching and justifying the exploitation of the ‘other’ parts of nature. In other words, the personification of the River both provides rights and protections to a privileged site of nature and allows for other parts of nature to be ‘disposed’ of for economic or other reasons.154

There is, however, a third way in which the River differs from the model of Western legal personality, and this goes to the way in which the Act attempts to embed tikanga Māori. Between the duality of recognising the River’s intrinsic essence in s 12 and the declaration of legal personhood in s 14, lies the intrinsic values enshrined in Tupua te Kawa (s 13). One of the important aspects of the Act which, whilst granting legal personhood to the River, also calls into question the paradigmatic nature of that personhood, is that it imposes a core set of obligations upon the River, Te Pou Tupua as its human face, and all other decision-makers that engage with it. These principles, and the requirement for them to be considered, challenges aspects of the liberal legal conception of personhood. At the same time, the imposition of legal personhood renders the River governable and brought into the realm of the Anthropocene, positioned along the spectrum of persons below the ‘whole’ person and working to further marginalise the ‘rest’ of nature. This positioning of the River to make it governable raises complex questions surrounding the River’s inclusion as part of the population.

B. The Whanganui River as part of the population: both enhanced and subjugated by power in the same gesture

As noted in Section 3, Foucault outlined biopolitics as functioning across two poles: the discipline of individuals as productive bodies; and the regulatory control of the population to ensure its strength and security. Vito De Lucia has mapped two ways in which these poles of biopolitics are extended to encompass the natural environment.155 The first is in the anthropocentric sense of incorporating considerations of environmental factors into the biopolitical government and regularisation of human populations – that is, the way in which matters of the environment contribute to or affect the productivity of the population. The second is in the more eco-centric sense of the biopolitical governing and regularising of nature’s life as part of a broader conception of populations. However, this ‘eco-centric’ approach, within which the discourses on the rights of nature and environmental personhood fits, is, according to De Lucia, ambivalent. It operates not only as ‘a critique of the prevalent, increasingly instrumental control of the natural world, but as a new set of normalizing strategies extending the scope of biopolitical technologies of power from human populations to the entire natural world.’156 This reveals ‘the aporia of biopolitics’157 that sees the way ‘life – situated at the “moving margins” of intersection and tension between biology and history … – is both enhanced and subjugated by power

in the same gesture.\textsuperscript{158} It also reflects the critique of eco-centric approaches to environmental law and management as operating within epistemological assumptions and cultural values which are ‘implicated in the modern domination and “othering” of nature.’\textsuperscript{159} That is, eco-centric perspectives remain intimately linked to the well-being of human populations, and result in the hyper-regulation of natural resources.\textsuperscript{160} Similarly, intergenerational equity approaches to environmental management – emphasising an obligation upon the present generation to ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations – are also anthropocentric, because they objectify the natural environment as a resource for human beings to abuse and promote the preservation of nature only insofar as future persons can also exploit it.\textsuperscript{161}

The use of legal personhood as a mechanism for protecting the rights of nature reproduces the ambivalence of the eco-centric approaches. The Te Awa Tepua Act engages and attempts to address these issues by directly incorporating Indigenous values and Indigenous modes of care and governance within it. The mechanisms in the Act privilege co-governance in a way that provides both for the incorporation of Māori interests, alongside others, whilst also providing for environmental concerns. This approach deploys the legal technique of personhood, whilst at the same time trying to adapt that technique to the tikanga Māori. However, the mediation of the multiple interests and stakeholders that the Act provides for does not eliminate, but rather incorporates aspects of, a biopolitical management linked to intergenerational equity, environmental justice and anthropogenic interests. That is, drawing upon Foucault’s terminology, the River, as a legal person, becomes ‘part’ of the population and subjected to disciplinary mechanisms aimed at ensuring its health, longevity and productivity.

Essential here is the focus on both the intrinsic values enshrined in Tupua te Kawa, and the purposes of the various bodies established by the Act, including Te Pou Tupua, Te Karewao and Te Kōpuka. For, as noted above, whilst the River is granted legal personhood, it is not simply free to undertake any action or purpose whatsoever. Rather, the bodies acting on behalf of it are required to ensure the ‘health and well-being’ of the River.\textsuperscript{162} The Act defines ‘health and well-being’ as including ‘environmental, social, cultural and economic health and well-being.’\textsuperscript{163} This focus is, at one level, the attempt to legally enshrine the tikanga Māori in Tupua te Kawa. At the same time, however, there are parallels between the notion of health and well-being, defined as being inclusive of social, cultural and economic considerations, that also reflect Foucault’s two poles of biopolitics. First, both the legal personhood of the River and the governance mechanisms that the Act institutes ‘discipline’ the River through supervision and control in a way that preserves ‘political subjection whilst ensuring increases in economic productivity and utility.’\textsuperscript{164} This disciplining also occurs through Te Pou Tupua (the

\textsuperscript{158}De Lucia (2017), p 192; See also Esposito (2008), pp 31, 37.
\textsuperscript{159}De Lucia (2017), p 183. See also McGonigle and Takeda (2013); Wood (2009), 39(1); Bosselmann (2010); Holder (2000); Grear (2011).
\textsuperscript{160}De Lucia (2017), p 194.
\textsuperscript{162}See Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) ss 19(1)(c), [27(2)], 29(3), 57(3), 64(3)(e).
\textsuperscript{163}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 7.
human face of the River) and its function in advancing the health and well-being of Te Awa Tupua. The co-governance mechanism incorporated in Te Pou Tupua, with its composition being of two representatives, one of the Whanganui Iwi and one of the Crown, literally internalises a ‘panoptic’ sovereign surveillance as the Crown becomes part of the River, keeping the River at all times under a sense of permanent visibility and within the grasp of governance.\textsuperscript{165} The health of the River is not (or no longer) simply determined by the state of ‘nature’; it is prescribed by the normalising society.

This is intertwined with the second pole of biopolitics as the River is not only qualified, measured, appraised and hierarchised around the norm,\textsuperscript{166} it contributes to the ‘overall equilibrium that protects the security of the whole from internal dangers’\textsuperscript{167} The strength of the population is protected from wasted energy and economic burden as the River’s production and health is regulated by the various bodies established by the Act in the interests of all ‘stakeholders’ of the River. For example, as outlined above, Te Kōpuka is established to be a strategy group for Te Awa Tupua.\textsuperscript{168} It comprises representatives of persons and organisations with interests in the River.\textsuperscript{169} These members can include up to 17 individuals and may be appointed by various bodies, including the trustees, Iwi and Genesis Energy Limited, or may be appointed to represent tourism, recreational and primary industries sector interests.\textsuperscript{170} Before appointing a new member, each appointer must have regard to any members already appointed to ensure that the membership reflects a balanced mix of skills, knowledge and experience.\textsuperscript{171} The Act thus places the River within the population, and creates a forum of disciplinary surveillance to ensure that the advancing of the health and well-being of the River does not occur outside of established boundaries set by the normalising society; that is, outside of confines defined by the combination of each stakeholder’s contribution to, and role within, the population.

This point is highlighted in Part 3 of the Act (which deals with the redress for the Whanganui Iwi) wherein the Crown acknowledges the ‘national importance of the Whanganui River and its contribution to [Aotearoa] New Zealand’s development through –

(a) Its natural, scenic and conservation value; and
(b) Its value for recreation and tourism; and
(c) Its economic and historical value as the longest navigable river in [Aotearoa] New Zealand and use as a “highway” during European settlement in the nineteenth and twentieth centuries; and
(d) Its value as a resource for gravel extraction; and
(e) Its value as a resource for electricity generation, including the significant contribution it has to the generation and stability of [Aotearoa] New Zealand’s electricity supply.\textsuperscript{172}

\textsuperscript{165}Foucault (1995) p 209.
\textsuperscript{166}Foucault (1980), p 144.
\textsuperscript{167}Foucault (2003), p 249.
\textsuperscript{168}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 29(1).
\textsuperscript{169}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 29(2).
\textsuperscript{170}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 32(1).
\textsuperscript{171}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 32(4)(b).
\textsuperscript{172}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 69(17).
These acknowledgements highlight the stake that the River plays in the health and vitality of the population, including its economic and productive capacity. The River, in becoming a legal person, is therefore subjected to disciplinary and biopolitical governance. The granting of personhood on the one hand prevents the River from being explicitly exploited as a resource, but at the same time makes it a disciplined individual in which its ‘utility’ becomes the River’s productive contribution to the population.

What we therefore find is a combination of what would appear to be a positive shift (particularly compared to the objectification and exploitation of the River as a resource for human consumption173), with the River’s subjugation by the disciplinary techniques of biopolitics which ensure the enhancement of its productive forces.174 Complexly, with the biopolitical regime of power being imposed on the River, the River contributes to the health of the population – pursuant to the norm by which it is defined – by way of its resources being harvested or exploited for use. Whilst these are mediated in part by the nature of the co-governance mechanisms and the enshrining of the values of Tupua te Kawa, the protection goals in relation to the River as an object of biopolitical management remain ‘entangled with the systemic and sustainable exploitation of [the River’s] services functional to human well-being.’175 As we will now see, this also reflects the way in which the granting of personhood to the River is not only a dispositif of ‘protection and control, conservation and subjugation,’176 but also reproduces an immunisation paradigm in which it is individualised from community and thus reinforces the same anthropocentric regime from which it seeks to escape.

C. Personhood as protection: immunising the Whanganui River from anthropocentric demands by infecting it with the same regime

Esposito’s genealogy of personhood reveals the way in which it functions, alongside property and rights, as an immunity mechanism that protects or ‘immunises’ the subject by bringing it within the protection of law. This way of understanding personhood is particularly significant when it comes to the legal paradigms deployed to protect nature, because it highlights the biopolitical aporias of such approaches discussed in the previous section. The ‘freedom’ granted by liberal legality is a freedom from the other and from ‘communal obligation’, by shoring up and protecting the borders of the subject. This is the function of sovereignty and neoliberal biopolitics, which creates a population comprised of divided individual subjects who are immunised from the community of others and safeguarded from their expropriative demands. That is, subjects are not offered protection and brought together in relational harmony, but rather in ‘reciprocal dissociation’:

The relation that unites men [sic] does not pass between friend and enemy and not even between enemy and friend, but between enemy and enemy, given that every temporary friendship is instrumental … with regard to managing the only social bond possible, namely enmity.177

174See, eg, Hellberg (2018), ch 2.
Given the Māori relational ontology and the sense of mutual obligation with the River, the question is whether the mechanisms by which the Act has incorporated *Tupua te Kawa* effectively challenge the immunitary nature of personhood, which is otherwise deployed as a defence mechanism against the expropriating demands of neoliberal society.

This question goes to the negotiations between Crown and Māori sovereignty. Even in early claims by the Whanganui Iwi regarding ownership of the River, the Iwi objected not to the use of the River as such, but to its abuse.\(^\text{178}\) As acknowledged by the Crown, this abuse has taken multiple exploitative and destructive forms.\(^\text{179}\) Whilst such exploitation was a direct result of the dominance of the settler colonial worldview and the legalities that underpinned it, it can also be likened to the expropriative demands of the *munus*. That is, it functioned as a (modern) form of ‘gift’ which the River gave to society, but not that the River received. We can see here the way in which the modern understanding of ‘gift’ as a one-way-giving-without-return (as opposed to an understanding of gift as always functioning within the bounds of mutual obligation), become identical with theft.\(^\text{180}\) The granting of legal personhood by the *Te Awa Tupua Act*, underpinned by the need to support and advance the health and well-being of the River,\(^\text{181}\) creates an immunity defence mechanism to protect it from the expropriative demands placed upon it by a Western conception of its (bare) state of nature. Through personhood, the River receives protection from the expropriative demands of the *munus* as it becomes individualised through liberal institutions, including its identity distinguishable from others,\(^\text{182}\) the rights and powers it receives through its legal personality\(^\text{183}\) and its ownership of property.\(^\text{184}\)

Whilst such protection is desirable,\(^\text{185}\) immunisation simultaneously ‘comes at the expense of the prospect of community.’\(^\text{186}\) This is because, as Esposito argues, immunisation is not so much an opposition to that which threatens it, but is caught in a dialectic relationship with the threat:

> Life combats what negates it through immunitary protection, not a strategy of frontal opposition but of outflanking and neutralising. Evil must be thwarted, but not by keeping it at a distance from one’s borders; rather, it is included inside them.\(^\text{187}\)

If what the River is seeking protection from is the expropriative demands of society in the form of exploitation, characteristic of Western neoliberal capitalism, the ascription of personhood allows the River to thwart this ‘evil’ not by opposing it, but by including it inside itself. The River has not protected itself from anthropocentric exploitation by frontally opposing and defeating that hegemonic worldview. Rather, the ascription of legal personhood to the River alongside liberal and proprietary rights has incorporated

\(^\text{176}\)Waitangi Tribunal (2002), p 342.
\(^\text{178}\)These have included removing *pā tuna* [eel weir] and *utu piharau* [lamprey weir] and altering the River to better accommodate commercial activities, clearing the River, extracting gravel from the River, and diverting the River’s headwaters. See *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) s 69.
\(^\text{179}\)On the connection between gift and theft, see Delueze and Guattari (1983), pp 185–186; Boundas (2001). For a cultural legal consideration of this notion of modern gift as theft, see Peters (2022) pp 257–262.
\(^\text{180}\)See *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) ss 19(c), 27(2), 29(3), 57(3), 64(3)(e).
\(^\text{182}\)See *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) ss 19(c), 27(2), 29(3), 57(3), 64(3)(e).
\(^\text{183}\)See *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) s 14(1).
\(^\text{184}\)See *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ) s 41. See also Esposito (2008), p 56.
\(^\text{185}\)Hardes (2013), p 77.
\(^\text{186}\)Hardes (2018), p 7. See also Esposito (2010); Esposito (2017).
Western legality into the River to arm it with immunitary defence mechanisms against the effects of the same regime. For example, the River is protected from the risk of being owned and thereby objectified and exploited at its owner’s will by becoming a property owner (of itself)\(^{188}\). Thus, rather than opposing and dismantling Western notions of property ownership, ‘the immune mechanism functions precisely through the use of what it opposes. It reproduces in a controlled form exactly what it is meant to protect [the River] from.’\(^{189}\) The River internalises the political foundations of Western society, and therefore reinforces them. Whilst the granting of personhood to the River destabilises the traditional subject/object dichotomies of Western law, the problem is that it maintains the privileging of personhood itself. This hegemonically ingrains this worldview, preventing an ontological shift of (Western) human beings’ understandings of, and relationship with, nature.

As discussed in the previous section, the Act provides for collaboration between stakeholders and community involvement in the protection of the health and well-being of the River as well as aiming to provide for tikanga Māori, including kaitiakitanga.\(^{190}\) However, this risks being impeded by the personification of the River due to the inherent immunisation effect of personhood which provides for ‘a dissociation from values of community’\(^{191}\). That is, it is incorporated into the paradigm of a ‘good’ community as ‘one in which individuals take care of themselves and do not burden the “whole”’.\(^{192}\) At one level, in its grant of personhood, the River has become immunised from community as a disciplined individual who is required to care for itself, as evident in the preceding discussion of the regulatory functions of the bodies in the Act to ensure the River’s health and wellbeing and, by extension, contribute to the health of the population.\(^{193}\) The question is whether, at a second level, the Act’s provision for Tupua te Kawa mitigates or renders inoperative this form of immunity, overlaying it with a demand for community. This is reflected in the way in which Tupua te Kawa encompasses the recognition of Te Awa Tupua as an ‘indivisible and living whole’, that the ‘iwi and hapu of the Whanganui Reiver have an inalienable connection with, and responsibility to,’ the River and its health and well-being, and that, whilst it is a singular entity, it is ‘comprised of many elements and communities, working collaboratively for the common purpose of the health and well-being of Te Awa Tupua.’\(^{194}\)

A related issue is the way, as Erin O’Donnell notes, that rivers who have been granted legal rights and legal personhood, including the Whanganui River, have been granted such rights to enable them to have a ‘voice’ in policy debates.\(^{195}\) This presupposes that public policy and regulation are created as a result of the negotiation between all interested stakeholders’ multiple and competing voices.\(^{196}\) Positioning rivers as merely a voice

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\(^{188}\) Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) ss 40–41.

\(^{189}\) Esposito (2017), pp 7–8.

\(^{190}\) See Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) ss 13(c)–(d), 29, 32, 34–35, 69(18)–(19), 71, 76(1), 82; sch 8.

\(^{191}\) Hardes (2016), p 8.

\(^{192}\) Hardes (2016), p 8.

\(^{193}\) Erin O’Donnell describes this as the ‘paradox of rights’ for river persons – constructing the river as a legal person provides an increase in legal powers to protect the river but, in doing so, the river becomes expected to protect itself decreasing the sense that it is worthy of protection be others. See O’Donnell (2018), p 151–153, 187–189.

\(^{194}\) Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) ss 13(b), (c) and (d).


in such a process shifts the focus away from the need for policy makers to create regulation for the collective good and to protect the vulnerable, and places responsibility onto the rivers to protect themselves.\textsuperscript{197} This, however, potentially allows for other persons and the State to be complacent;\textsuperscript{198} or, in other words, to be unburdened by the River. Such an approach would impede the prospect of a communal relationship between human beings and the River as the obligation or responsibility to care for the River is removed from the public domain. This would be opposed to the M\textsuperscript{ā}ori concept of kaitiakitanga.\textsuperscript{199} It is here that the Act’s provision for co-governance becomes significant. At the same time, while the framework of the Act aims to enable Whanganui Iwi a greater role in the governance of the River,\textsuperscript{200} this exercise remains conceptually confined to the Te Awa Tupua acting for itself as the Whanganui Iwi participate in bodies constituting or supporting the River’s personality.\textsuperscript{201} The effect of this is that it provides boundaries around the Whanganui Iwi’s exercise of kaitiakitanga and rangatiratanga, and importantly does not pierce the veil of anthropocentrism as no obligation to care for the River is manifested outside of the confines of the Act. In this way, the Act’s provision for tikanga M\textsuperscript{ā}ori and communal participation in the protection of the River is a concession within Western neoliberal anthropocentrism which thereby reinforces this dominant hegemonic worldview.

The Act, though acknowledging and providing for the River’s interconnected relationship with the Whanganui Iwi, stops short of overcoming the Western ontological understandings of, and relationship with, nature. The relationship with the River that is created with other persons occurs through the River’s new legal personality, even if there is a recognition of the inalienable connection of the Iwi and Hap\textsuperscript{ū} with the River. By structuring forms of relationship through the River’s legal personality, it is positioned within a neoliberal governmentality which reifies ‘the idea that human nature is economic and calculative’ and limits the form of social relationship that can be forged between human beings and the River.\textsuperscript{202} This relationship is constituted by bringing the River into the population or ‘unity’ with other persons under biopolitical governance in which liberal subjects are not in relation to one another as friends, but rather as enemies.\textsuperscript{203} For example, while the River is granted proprietary rights over itself, the Act explicitly ensures that this does not affect the rights of others, including of public use of the River, existing property rights, rights of State-owned enterprises, resource consents or fishing rights.\textsuperscript{204} This facilitates a mediation between the liberty afforded to the River as a person and the danger that it would impose on the rights of other liberal subjects if not mediated by the Act.\textsuperscript{205} Similarly, although the collaborative group, Te K\textsuperscript{ō}puka is called to provide

\textsuperscript{200}O’Donnell and Talbot-Jones (2018), pp 160–1; Eckstein et al (2019), p 813. See also Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui, Whanganui Iwi and the Crown (signed 5 August 2014); Ruruku Whakatupua – Te Mana o Te Awa Tupua, Whanganui Iwi and the Crown (signed 5 August 2014).
\textsuperscript{201}See generally Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) ss 19–20, 27–30, 32(b); sch 4, s 10(2). See also Eckstein et al (2019), p 820.
\textsuperscript{202}Hardes (2017), p 391.
\textsuperscript{204}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 46.
\textsuperscript{205}Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 46.
for collaboration between persons with interests in the Whanganui River for the purpose of advancing the health and well-being of the River, and though it must have particular regard to Te Awa Tupua status and Tupua te Kawa, this collaboration risks being impeded as each stakeholder comes to the advisory body with a different ‘interest’ in the River. Whilst collaboration is mandated, there is a question as to whether the advancing of individual ‘interests’ of each stakeholder will qualify what it means to ‘advance the health and well-being of Te Awa Tupua’. That is, it does not necessarily redefine the permitted ‘interests’ of each stakeholder, but only provides for their mediation. Some of these interests are those of the Whanganui Iwi, but others are those underpinned by Western notions of exploitation and economic development. A tension is thus evident between the rights of stakeholders to harvest from or utilise the River and the River’s right to be protected and sustained. Thus, the law has imposed personhood as a mode of immunisation on the River’s individual life, which shores up the limits of the human ontological understandings of, and relationship with, the River in a neoliberal rationality, and closes life off to the possibility of a way of being outside of the Anthropocene.

5. Conclusion: recognising the ‘impersonality’ of nature

A biopolitical analysis of personhood considers the operation of power inherent in, and the artificiality of, the idea of person, and how it operates in contemporary modes of governmentality. Working through the three conceptual terms of population, personhood and immunisation renders visible both the contours of the Western ontological relationship with nature and reproduction of this worldview in the ascription of liberal rights to the Whanganui River. The granting of legal personhood to the River imposes the dispositif of the person on the River to make it governable, reproducing a split which subjugates its metaphysical essence and physical ‘body’ to its legal personality. As a legal person, however, the River does not become ‘equal’ to other legal persons; it is positioned on a spectrum of personality below ‘whole’ persons who, as Grear notes, are ultimately characterised as white male property owners (or beyond them, disembodied corporate persons). The result is not so much an overcoming of the hierarchy of the anthropos, but rather situating the River within it, allowing for the continued exploitation of the ‘rest’ of nature. Furthermore, while the River assumes a role in the population and is thereby made to ‘live’, it is also subjugated by disciplinary mechanisms of power. The River, as an individual within the population, is immunised from other persons, nature more generally and the prospect of community, and in turn internalises and reinforces the same anthropocentric regime from which is seeks to escape. Ultimately, the biopolitics of environmental personhood shows that rather than representing a shift in human ontological understandings of, and relationship with, the environment, the ascription of legal personality to nature contracts natural things into a mode of being pursuant to anthropocentric norms. In

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206 Te Awa Tupu (Whanganui River Claims Settlement) Act 2017 (NZ) ss 29, 30(3).
207 For the contrasting approach taken in Te Urewera Act 2014 (NZ), see Tănăsescu (2020), p 444–446.
208 See, eg, Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 32(1)(b), (g).
209 See, eg, Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) s 32(f), (h)–(j).
short, environmental personhood responds to anthropocentrism with anthropocentrism.211 This raises the need to reimagine the human ontological relationship with nature beyond personhood and other anthropocentric institutions inherent in Western notions of law.

There are progressing a number of attempts to engage in this reimagination, both in terms of drawing upon the relational ontology of Indigenous traditions,212 as well as critically reconceptualising the ontological relationship with nature within the Western tradition.213 With regard to the former, the Māori worldview, for example, already encapsulates a deep interrelation between human beings and the environment and sees nature and people as genealogically connected.214 However, the Whanganui River case study shows that rather than opening outward to this worldview in order to dismantle anthropocentric relations with nature, the personification of the River was an attempt to match Te Ao Māori with a Western institution. As such, rather than acknowledging Te Ao Māori within the confines of Western modes of law, the Western tradition would do well to open itself up to a relationality with nature, drawing inspiration from Māori ontology.215 Other alternative ways to reimagine the human ontological relationship with nature include a new materialist perspective. Margaret Davies, for example, calls for a rejection of subject/object distinctions and consideration of the material interconnectedness of all things.216 Davies argues that granting legal personhood to nature would not be adequate in addressing environmental issues due to the dominant exploitative capitalist ideology, and that an ontological shift is required to dissolve the subject/object dichotomy.217 In a similar vein, Grear envisions an interconnected and intercorporeal human subject in place of the independent person who is closed off from the world.218 Esposito’s ‘affirmative biopolitics’219 also provides a way of reconceptualising the human ontological understandings of, and relationship with, nature.

Insights into how human beings can imagine and relate to nature beyond the confines of the person can be drawn from key tenets in Esposito’s concept of the ‘impersonal’ and its relation to the body and the deconstruction of the dispositif of the person. Esposito rejects the separation between biological life and spirit which underpins biopower, as

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211 Though see the arguments that legal personhood, as a mediating apparatus, goes beyond a straightforward distinction between anthropocentrism and ecocentrism. Our argument, however, is this is only the case if the anthropocentrism of personhood itself is called into question. See Macpherson and Ospino (2018).


213 See generally Schillmoller and Pelizzon (2013). For one of the most ambitious recent attempts at this reconfiguring, see Matthews (2021).


215 See Davies (2016), p 222.

216 Davies (2016).

217 Davies (2016).

218 Grear (2011), p 42. For similar conceptualisations, see Davies’ summary of ideas about the human subject in Davies (2016) 49.

219 Affirmative biopolitics refers to the possibility of an emancipatory form of biopolitics, as interpreted from various thinkers, particularly as a politics of life which avoids the conversion of biopolitics into thanatopolitics. For example, Agamben’s account of biopolitics is often regarded as bleak as he sees biopolitics as that which ultimately led to thanatopolitical Nazism; the concentration camp for Agamben represents ‘the biopolitical paradigm of the modern’, ‘the pure, absolute, and impassable biopolitical space … of modernity’. Agamben nonetheless sees hope for a ‘post-biopolitical form-of-life’ through the coming of community. Meanwhile, Hardt and Negri are more optimistic, and see the possibility for a ‘radically affirmative biopolitics’. They posit the ‘multitude’ as a global body of resistance that provides for liberation from domination and the development of new forms of subjectivity. See Agamben (1998), pp 117, 123; Tierney (2016), pp 53–54; Lemke (2011), pp 65–6, 71.
well as the split between spirit or animal (homo) and legal subjectivity (persona) superimposed on the subject by the idea of the person. This is because this split, which produces the idea of the sacredness of the human person, functions by expelling that part of the subject which cannot be judged to be personal. This allows the ‘impersonal’ part of the person to be ‘violated without worry.’ Esposito quotes Simone Weil to highlight this dehumanising function of the ‘mask’ of the person:

I see a passer-by in the street. He has long arms, blue eyes, and a mind whose thoughts I do not know, but perhaps they are commonplace… If it were the human personality in him that was sacred to me, I could easily put out his eyes. As a blind man he would be exactly as much a human personality as before. I should have destroyed nothing but his eyes.

Thus, once the mask of legal personality in an individual is secured, it does not matter what happens to the face on which it rests, let alone to those who do not own masks. This is precisely what leads Weil, and Esposito reading her, to the impersonal: ‘So far from its being his [sic] person, what is sacred in a human being is the impersonal in him [sic]. Everything which is impersonal in man [sic] is sacred, and nothing else.’ From here, it can be understood why for Esposito, changing dominant philosophical, juridical and political lexicons, particularly through dismantling the dispositif of the person, must occur from the point of view of the body.

Going beyond Cartesian mind–body dualism, Esposito seeks ‘to make the body the unique locus where our individual and collective experience are united.’ Whereas personhood relies both on the subjugation of an individual’s animal part (which coincides with the body) and the dichotomous relationship between person and thing, the body opens a perspective external to the separation of the person and thing, oscillating between them. Rather than seeing the body as closed to the ‘intelligence of the world’ pursuant to the Cartesian dichotomy, the body can be seen as the passage through which the mind is capable of knowing. The body ‘is the origin of knowledge, the vehicle of experience, the fount of wonder.’ In this way, the body can be viewed as a vehicle of relationality to the world; ‘an instrument of connection, a means of sociability, and an aggregating power.’ Locating individual and collective experiences in the body would, therefore, deconstruct the exclusionary dispositif of the person. Importantly, this move to the deconstruction of the person provides for the recognition that the need to address

221 Esposito (2012), p 30.
225 Weil (2005), p 74. As Matthews points out, Weil’s focus is humanistic, but in the age of the Anthropocene this needs to go beyond the human, because ‘it is precisely the inhuman – the abiotic, the geophysical and the environmental – with which we have to contend as we seek to rearticulate the meaning and trajectory of associative life.’ Matthews (2021), pp 44–45.
227 That is, the dichotomy between res cogitans and res extensa.
229 Esposito (2015), pp 7–8, 10, 33. To use generations of slavery as an example, it was only possible for human beings to reduce the status of other human beings to that of thing by making the latter’s bodies ‘wholly subservient to their will’.
230 Esposito (2015), p 111.
231 Esposito (2015), p 111.
anthropocentrism does not lie in altering nature or natural things, but in creating ‘… a relationality among all living phenomena …’.

It is with this recognition of the impersonal that one can reconceive the relationship to the Wanganui River and its personhood. That is, the River’s vulnerability and need for protection did not stem from it lacking a persona; but rather from the exclusionary and subjugating effects of the latter as a dispositif. A relationality to the River beyond anthropocentrism acknowledges that, before the enactment of the Act, the River, as an impersonal thing, was already sacred. Esposito’s affirmative biopolitics seeks to think a radical opening to relationality to the world through the impersonal, which in turn would allow for a relationality to nature beyond anthropocentrism. As Esposito acknowledges, however, a move to the impersonal is a work that is ‘anything but quick’, and indeed it is but one approach to conceiving of an alternative way to address the effects of anthropocentrism on nature, especially as facilitated by the law. Nonetheless, the aim of this paper was to open, rather than provide closures around, the idea of environmental personhood through the analysis of the Whanganui River as a case study. Working through Esposito’s concept of the impersonal creates an opening for the application or integration of alternative ways of conceiving and developing the jurisprudential underpinnings of human ontological understandings of, and relationship with, nature. Addressing anthropocentrism does not involve changing the legal constitution of natural things; it sits in the need to dismantle anthropocentric rationalities of governance by cutting at the root the philosophical, juridical, and political lexicons on which they rest, and cultivating a new relationality between human beings and the world. Such is to see, acknowledge, and bear a relationship of the human to the material body of nature – to recognise the sacredness of its impersonal being.

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233Campbell (2010), pp 136–8. As Campbell notes in reconciling Esposito’s concept of the ‘impolitical’ with the impersonal, ‘... the impolitical marks out a different, antinomical space in which other forms that express the nonperson or the impersonal emerge. It is this relationality to other forms not limited to the person – be they plants, bacteria, viruses, or animals – that indicates the deep ecological importance of the term “impolitical.”’

234Campbell (2010), p 142.

235Esposito (2010), p 129.
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