






## A Green Theory Perspective on the Legal Personhood of the Whanganui River, New Zealand

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### ABSTRACT

This study addresses the global environmental crisis caused by modern anthropocentric paradigms that detach humans from nature, reducing ecological entities to mere commodities. It specifically explores the legislative transformation of the Whanganui River in New Zealand through the enactment of the Te Awa Tupua Act 2017. Utilizing Matthew Paterson's Green Theory framework, this research examines how this landmark legal reform functions as a structural response to ecological degradation. Methodologically, this study is conducted as a qualitative case study that analyzes historical policies, colonial legal frameworks, and environmental conflicts within the Whanganui River system. The principal conclusion demonstrates that by granting legal personhood to the river, the Te Awa Tupua Act 2017 offers a conceptual challenge to the deep structures of modernity, including the state system, capitalism, knowledge, and patriarchy. This shift from anthropocentrism to eco-centrism provides a pathway to reconstruct environmental governance, redistribute ecological risks, and serve as an influential model for global decolonization and ecological justice.

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## 1. Introduction

The global environmental crisis in the 21st century can no longer be understood simply as a result of technical errors in managing natural resources. This crisis arises from a modern perspective that separates humans from nature and considers nature only as a resource that can be exploited for economic growth (Argyrou & Hummels, 2019). In this case, modern development operates through anthropocentric logic, which is a logic that considers humans as the center of life,

while nature is reduced to a commodity that can be extracted without limits. This perspective is reinforced by the capitalist system, the modern state, and the development of Western knowledge that views nature as an inanimate object that can be controlled for the sake of production and industrialization (Paterson, 2000). This condition is evident in the Oceania region which is currently in a state of global environmental crisis. Pacific countries and regions face the serious impacts of climate change, exploitation of natural resources, and the marginalization of indigenous peoples in the country's development agenda (United Nations Development Programme, 2016). In many parts of Oceania, economic growth is often prioritized over ecological sustainability and indigenous peoples' rights to their living space. As a result, local communities have to bear the brunt of environmental damage, the loss of traditional livelihoods, and the degradation of the spiritual values inherent in nature. This phenomenon shows that ecological risks are never evenly distributed, but rather are more imposed on vulnerable groups who have weaker political and economic positions.

One of the most significant examples of such dynamics can be found in the case of the Whanganui River in New Zealand. It is the longest river in the North Island and has deep spiritual significance for the indigenous Māori people, particularly the Whanganui Iwi, who view the river as a living ancestor (Evans, 2020). However, since British colonisation in the 19th century, the Whanganui River has been systematically exploited through various colonial state policies. The colonial government changed the function of the river into a trade route, extracted river gravel, and diverted upstream water flow through the Tongariro Power Scheme project for the benefit of the national power plant. These projects show how the modern state positions nature as an instrument of economic development, without considering the ecological impact or cultural attachment of indigenous peoples to rivers. The Whanganui people's long resistance eventually resulted in the ratification of the Te Awa Tupua (Whanganui River Claims Settlement) which recognised the Whanganui River as a legal person or subject of law with its own rights and legal standing (Waitangi Tribunal, 2015c).

This landmark legislative transformation has attracted extensive scholarly attention across several analytical clusters. In evaluating this transformation from a rights of nature perspective, Collins and Esterling (2019) determine that the Western legal system has adapted significantly to construct a hybrid concept of legal personality. Expanding upon this constitutional focus, Iorns (2015) illustrates how the legal recognition of nature as an ancestor establishes an entirely new precedent for non-human standing in domestic courts. From a sociological standpoint, Kauffman and Martin (2018) observe that these rights of nature laws emerge through transnational networks and the global diffusion of environmental policy norms. While these studies offer rich formal and constitutional comparisons, their findings remain largely confined to institutional and administrative reforms. They do not

engage with a radical dismantling of the modern state system, nor do they touch upon its structural critique of capitalism and colonial patriarchy.

Shifting the focus toward indigenous epistemologies, Cribb, Macpherson, and Borchgrevink (2024) emphasize the intricate challenges of legal pluralism and collaborative networks in contemporary river governance. However, their scholarly attention is predominantly directed at practical implementation frameworks rather than offering a deconstructive critique against the historical patriarchal structures that systematically eroded the authority of indigenous women. Taking a different analytical path that explores economic dimensions, Argyrou and Hummels (2019) argue that the granting of legal personality transforms the river into a viable platform for community-based social entrepreneurship. Although their analysis provides critical insights into microeconomic transitions and local livelihoods, it evaluates the river primarily within an eco-capitalist matrix, rather than treating it as a broader mechanism of structural resistance.

Consequently, a major research gap persists because existing literature largely isolates these dimensions, leaving the case unexamined through a comprehensive, multi-dimensional, and radical critique of modernity. This study addresses this academic gap by analyzing the Te Awa Tupua Act 2017 through Matthew Paterson's Green Theory framework. The fundamental novelty of this research lies in its multi-dimensional critique, which evaluates how granting legal personhood to a river serves as a counter-hegemonic response against the interconnected networks of the modern state, capitalist accumulation, reductionist Western knowledge, and patriarchal structures. To anchor this theoretical evaluation, the research is guided by the following question: How does the legislative enactment of the Te Awa Tupua Act 2017 function as a counter-hegemonic response to ecological degradation and challenge the deep structures of modernity from a Green Theory perspective? Hence, the primary objective of this study is to examine the transformation of the Whanganui River as a radical shift from anthropocentrism to eco-centrism. By doing so, this research offers a vital scientific contribution to global environmental politics by demonstrating how indigenous-based legal frameworks can structurally reconstruct environmental governance, redistribute unfairly allocated ecological risks, and provide an emancipatory model for global decolonization and ecological justice.

## **2. Methods**

This research was designed using a qualitative method with a single case study design to explore in depth the process of forming the Te Awa Tupua or Whanganui River Claims Settlement Act 2017 in New Zealand. This case study approach was chosen because it is able to explore a bound system that is limited by time and place through in-depth data collection and involves a variety of information (Creswell & Poth, 2018). In analyzing the data, this study relies on theoretical

propositions as the main analytical reference. Following the guidance of Yin (2018), theoretical propositions were formed from the beginning of the research based on the Green Theory framework to guide the focus of the analysis, organize the interpretation of the data, as well as filter the relevant information from the policy document. This theoretical proposition assumes that the legal recognition of the Whanganui River is a manifestation of a radical shift from the modern anthropocentric paradigm towards ecocentrism, as well as a form of structural decolonization of exploitative Western colonial law.

To ensure the quality and credibility of the analysis results, the researcher applied a data validity check technique through data triangulation (Creswell & Poth, 2018). In this paper, triangulation is operationalized by converging evidence obtained from various different data sources (Yin, 2018). The researchers collected data and cross-referenced data sourced from the legal text of the Te Awa Tupua Act 2017, the Waitangi Tribunal agreement historical documents, as well as advocacy documents and local media opinion articles. Through this cross-checking of sources, researchers minimize subjective bias and ensure that interpretations of the legislative process are based on a solid and empirical chain of evidence.

### 3. Results and Discussion

#### 3.1. Deep Structure of Modernity

The systematic exploitation of the Whanganui River provides a clear empirical illustration of how the deep structures of modernity operate in tandem to dominate ecological spaces. To map these complex intersections clearly, Table 1 delineates the specific analytical frameworks, their corresponding operational mechanisms, and their destructive impacts on the river system as observed throughout the colonial and contemporary eras. In alignment with Matthew Paterson's theoretical framework, the institution of the modern state serves as one of the primary structural elements that institutionalizes and perpetuates this human domination over nature (Table 1).

**Table 1.** Modernity's Four Structural Elements on the Whanganui River System

Structural Element	Operational Mechanism	Impact on the Whanganui River System
The State System	Promotion of Accumulation and Military Competition	Territorial Dispossession: Validated asymmetric land sales (e.g., Whanganui and Waimarino Blocks) totaling over 120,000 acres to enforce Crown sovereignty and foster state development.
	Displacement	Physical & Ecological Demolition: Created the Whanganui River Trust to aggressively clear and deepen the river channel for commercial shipping, destroying over 97% of traditional Māori eel dams (pā tuna) and lamprey dams (utu

Structural Element	Operational Mechanism	Impact on the Whanganui River System
	Dominance Resulting in Environmental Degradation	Water Diversion: Built the Tongariro Power Scheme, diverting upper catchments to boost national electricity, which dropped water levels, raised lethal temperatures, and destroyed the river's self-purification capacity.
Capitalism	Imperative of Growth for Survival	Commodification of Nature: Artificially separated land titles from flowing water and sub-riverbed minerals (via the English Laws Act 1858) to process them into isolated production units.
	Concept of Commodification	Commercial Rebranding: Transformed a sacred living ancestor into a financial asset, commodifying the waterway as a tourist attraction (“The Rhine of the Southern Hemisphere”).
	Profit Maximization and Inequality	Profit Maximization: Ignored long-term ecological degradation and localized loss of food security, treating them as externalized “secondary consequences” to maintain high corporate and state production efficiency.
Knowledge	Modern Science Assumption: Human Separation and Domination Over Nature	Epistemic Suppression: Systematically marginalized mātauranga Māori (indigenous knowledge of whakapapa and kaitiakitanga) through language bans and cultural assimilation, replacing an eco-centric unity with Western property laws.
	Knowledge Legitimation Among Elites (Power-Knowledge Nexus)	Technocratic Invalidation: Allowed elite state bureaucrats to dismiss local ecological observations. An example is the 1994–1995 DOC aerial drop of 1080 poison, where scientific justifications overrode indigenous warnings about food chain contamination.
Patriarchy	Ideology of Individualism	Gendered Dispossession: Enforced English legal doctrines like coverture and the “ten-owner rule,” which systematically stripped Māori women (wāhine) of their traditional leadership (rangatira) and riparian management rights.
	Instrumental Rationality	Frontier Domination: Validated the destructive activities of “Kiwi bloke” settlers who viewed the river purely as a wild landscape to be conquered and mined rather than a living ancestor (tūpuna).

Structural Element	Operational Mechanism	Impact on the Whanganui River System
	Power Driving Environmental Change	Asymmetric Risk Shifting: Allowed male political elites in Wellington to consume cheap electricity while forcing local Māori women to absorb the generational burden of fighting for environmental justice and river restoration.

*Source. Processed by the author*

The state plays the role of the main actor who institutionalizes legal and administrative authorities to facilitate the accumulation of capital through the control of economic space. The exploitation of the Whanganui River region began systematically since the arrival of European civilization in the early 1840s. In that period, unilateral transactions by the New Zealand Company represented by E.J. Wakefield had occurred by purchasing land through the distribution of goods such as weapons as compensation to a group of people who did not actually have primary authority over the land (Haami, 2022). Even when formal imperial mechanisms, such as the investigation by the Spanish Commissioners, exposed these deep procedural irregularities, the colonial administration deliberately chose to validate the acquisition of 40,000 hectares. This state sanction demonstrated that the imperatives of territorial expansion and resource mapping consistently override ecological or indigenous procedural justice.

This initial territorial encroachment was further consolidated in 1848 through Donald McLean's execution of a final settlement that seized 86,200 acres for a meager token of one thousand pounds in monetary compensation (Cross & Bargh, 1996). From a Green Theory perspective, this disproportionate compensation value highlights how the state uses its sovereign legal machinery to drastically undervalue natural entities, transforming an expansive, interconnected river ecosystem into cheap, liquid assets for state development. This massive land disposition was an aggressive administrative strategy to enforce the state's absolute sovereignty over the river's water networks. To codify this dispossession, the colonial state established the Native Land Court in 1865, which functioned as an administrative apparatus designed to forcefully convert communal, relational indigenous tenures into individualized, fractionated property titles (Cross & Bargh, 1996). By compelling Māori leaders to navigate an expensive, culturally alien judicial system simply to defend their ancestral domain, the state weaponized legal costs and survey fees, structurally forcing indigenous landowners to alienate parts of their territory to liquidate court debt.

The success of this institutional mechanism in facilitating systematic land disposition is evidenced by the acquisition of the Whanganui Block in the 1840s, where the Crown unilaterally absorbed twice the amount of land originally agreed upon without any price adjustments (Waitangi Tribunal, 2015c). A similar logic

anchored the purchase of the 450,000-acre Waimarino Block in 1886, which stretched from the river's headwaters to the summit of Mount Ruapehu. The state's rush to secure the Waimarino Block was driven by its urgent infrastructural ambitions to construct the North Island Main Trunk Railway and commodify the tōtara forests on an industrial scale. This demonstrates how state-led national development agendas operate through an anthropocentric framework that treats geography as a passive canvas for industrial logistics (Warren, 2016). By viewing the river merely as a transport artery connecting the interior interior (Kāhui Maunga) to the sea (Tangaroa), the state physically modified the riverfront, constructing prominent docks and storehouses like those at Taupo Quay to optimize the flow of extracted commodities..

To ensure that commercial steamboats and trading barges could navigate rapids previously accessible only to traditional Māori waka, the state established the Whanganui River Trust to aggressively clean and deepen the river channel. This technocratic cleanup policy resulted in the systematic demolition of traditional Māori river infrastructures, including the eel dams (pā tuna) and lamprey fishing dams (utu piharau). This destruction is starkly reflected in the historical collapse of these indigenous ecological structures, which plummeted from approximately 350 eel dams and 90 lamprey dams in the 19th century to a mere two eel dams and six lamprey dams by the late 20th century (Waitangi Tribunal, 2015a). The eradication of these dams was not an accidental byproduct of engineering, but a structural erasure of indigenous food security frameworks that stood in direct opposition to the state's monopolization of water spaces.

This internal legal consolidation over natural resources was advanced through Section 14 of the Coal-mines Act Amendment Act of 1903, which automatically vested all navigable riverbeds in the Crown (New Zealand Government, 1903). By strategically expanding the legal definition of navigability to encompass any water body deep enough to float commercial vessels periodically, the state engineered a flexible legal loophole to unilaterally nationalize water spaces. Claiming the riverbed allowed the state to monopolize the issuance of mining licenses, extract royalties from coal and gold, and secure logistics routes for national industrialization. This regulatory severed the traditional, reciprocal relationship of indigenous peoples with their rivers, using the state system to reduce complex ecological and cultural entities into economic assets under absolute sovereign power.

This state-enforced exploitation of space reached its apex in the 1970s with the construction of the Tongariro Power Scheme, a massive technocratic intervention that diverted the upper reaches of the Whanganui River to boost national hydroelectric power plants. Promoted as an urgent solution to the North Island's periodic power restrictions, the project successfully increased the water flow of the Waikato River by 25% (Caske, 1999). This engineered diversion boosted electricity production across eight downstream stations by 16% and powered two new generation stations at Tokaanu and Rangipo with a capacity of 300,000 kWh each

(Smith, 2022). While the state celebrated this abundant energy supply as a vital catalyst for industrial growth and framed the project as a socio-economic benefit that provided local employment, it fundamentally externalized the resulting environmental catastrophes.

The massive water diversion inflicted severe ecological degradation, causing drastic drops in water discharge, stranding aquatic species, elevating river temperatures to lethal levels, and eliminating the river's natural self-purification capacities. The fact that the local Whanganui community was left to bear these localized ecological ruins while the metropolitan centers consumed the cheap electricity represents a classic case of environmental displacement. For the Whanganui Tribe, this intervention caused profound cultural dislocation because it mixed waters from distinct tribal catchments, a practice that directly violates the spiritual essence and metaphysical integrity of the river as a sacred living ancestor. Through this state apparatus, modernity successfully strips nature of its intrinsic sanctity, transforming it into a commodified resource for the nation-state.

The second core pillar of modernity that drives this ecological destruction is capitalism, which operates through a continuous cycle of capital accumulation that fundamentally reorients how ecological spaces are utilized. For the Whanganui Māori, the river is a living ancestor bound to human survival through the concepts of *whakapapa* (genealogy) and *kaitiakitanga* (reciprocal guardianship). Capitalism deliberately replaces this relational worldview with a profit maximization framework that demands the standardization, division, and individualization of natural elements so they can enter global market circuits. This capitalistic logic requires legal instruments to unilaterally redefine nature, turning customary landscapes into state-backed private property. Under the English Laws Act 1858, customary lands were re-evaluated through the lens of Western property rights (Moewaka Barnes et al., 2018). This Western legal conception artificiality separates land ownership from the water flowing over it and the minerals beneath it. Green Theory identifies this legal fragmentation as an absolute prerequisite for capital accumulation, allowing timber, water, and minerals to be isolated and commodified as independent production units.

The land acquired via the Native Land Court served as the primary capital that the state processed for commercial monopolies like tourism and transportation. By promoting the Whanganui River as The Rhine of the Southern Hemisphere in the late 19th century, the colonial apparatus transformed an indigenous ancestor into an exotic tourist destination for European consumption (Waitangi Tribunal, 2015c). The destruction of traditional fishing dams was therefore an intentional reconfiguration of space to optimize commercial navigation and trade efficiency. This violent transformation of nature into financial capital is thoroughly documented across the extraction timelines of the 19th and 20th centuries (Waitangi Tribunal, 2015a, 2015b, 2015c). By reducing complex ecosystems to liquid financial assets, capitalism deliberately obscures the existential links between humans and nature, treating long-term ecological degradation and the loss of indigenous livelihoods as insignificant

secondary consequences. This profit-driven approach structurally minimizes the financial costs of environmental restoration or social justice (Waitangi Tribunal, 2021). Because mitigating environmental harm is viewed as a financial liability that threatens net profits, corporate and state actors systematically ignore these adverse effects, externalizing them as localized social burdens to maintain high production efficiency.

The third element reinforcing this ecological exploitation is the dominance of colonial knowledge systems, which stand in direct opposition to indigenous epistemologies. In modern cosmology, nature is hierarchically separated from humanity, reduced to an inanimate object that can be measured, controlled, and commodified (Selin & Kalland, 2003). This epistemic framework positions humans as superior, rational subjects authorized to dominate a passive material world. This exploitative outlook combines philosophical heritage, theological interpretations, scientific developments, and capitalist utility. Judeo-Christian interpretations provided an early moral foundation by framing the universe as a utility created exclusively for human benefit. In the 17th century, the Enlightenment philosophy of René Descartes codified this separation by establishing a strict dualism between the mental realm (*res cogitans*) and the material realm (*res extensa*). This Cartesian dichotomy structurally divorced culture from nature, treating human reason as an instrument to conquer a mechanical universe. Post-Cartesian-Newtonian science reinforced this by stripping nature of its living attributes, viewing it instead as a collection of mechanical parts moving under predictable laws. Modern thinkers eliminated traditional views of a sentient nature because they believed that human moral hesitation would only hinder technological experimentation and resource extraction (Selin & Kalland, 2003).

This mechanical view aligns perfectly with capitalist logic, which dictates that natural spaces acquire economic value only through human productive intervention. This principle was explicitly articulated in John Locke's theory of property, which argued that wild nature or uncultivated land remains wasted space unless it is improved by human labor through extraction and cultivation (Collins & Esterling, 2019). This epistemic framework constantly generates rational justifications for environmental exploitation, granting modern society the moral relief needed to reduce ecosystems to market prices. This reductionist knowledge system was exported globally through imperial expansion, embedding itself in the Whanganui region after New Zealand was declared a British colony under the Treaty of Waitangi in 1840.

Following political consolidation, the colonial state implemented aggressive cultural assimilation policies, systematically Christianizing the Māori and discouraging ancestral customs, notably through formal bans on the Māori language in schools (Brownlie, 2023). As the white settler population (*Pākehā*) grew to dominate the country's demographics, the Western perspective became deeply embedded within the state's positive legal systems and social institutions. This

dominant framework gradually replaced indigenous cosmologies with a property model that boundaries, isolates, and trades natural assets. This directly suppressed mātauranga Māori, an indigenous knowledge system that integrates Māori philosophy, worldviews, and cultural practices (McAllister et al., 2020). Where mātauranga Māori relies on whakapapa and kaitiakitanga to maintain a spiritual and physical lineage between humans and natural elements as a sacred, indivisible unity, the colonial administration used Lockean property theories to justify land confiscation. Settlers argued that because the Māori did not cultivate the forests using European agricultural methods, the land was legally vacant and free for state taking (Collins & Esterling, 2019).

By reducing ecosystems to technical problems, this knowledge monopoly concentrates power in the hands of elite experts, Western scientists, development planners, and state bureaucrats, while excluding local communities. This epistemic monopoly worsens ecological degradation because these credentialed experts are physically and socially insulated from the destructive consequences of their failed management systems. Modern environmental management positions Western science as the sole universal truth, reducing indigenous knowledge to superstitious lore that must be excluded from public policy. A clear example of this epistemic clash occurred between 1994 and 1995, when the Department of Conservation (DOC) planned an aerial drop of 1080 poison (sodium fluoroacetate) to eradicate possum pests in the Whanganui National Park (Waitangi Tribunal, 2015c). The indigenous tangata whenua groups strongly opposed the aerial dropping, citing local ecological observations that such poisons left ancestral forests lifeless and ran the risk of entering the river systems through poisoned carcasses, threatening the entire traditional food chain.

Although the Māori formally requested culturally aligned pest control methods like manual trapping, the DOC bureaucrats rejected the customary arguments. They asserted that because Western scientific tests proved the 1080 poison would dissolve rapidly in water until it was undetectable, the calculated economic and ecological benefits outweighed the subjective social risks feared by the tribe. This case demonstrates how modernity uses the claimed superiority of Western science to suppress localized wisdom and maintain technocratic control over nature.

The fourth crucial element within this deep structure analysis is patriarchy, which shapes environmental interactions in highly destructive ways. Patriarchal logic operates by constructing a hierarchical dualism between subjects coded as masculine-rational and objects marginalized as feminine-irrational. This conceptual division legitimizes the exploitation of ecosystems, positioning nature as a passive, non-agentic womb designed to provide unlimited resources. This unequal power dynamic manifests through several structural elements, beginning with masculine individualism. Within this framework, modern male identity is tied to autonomy, competitive independence, and exploitative freedom, while the communal reproductive work that sustains life is marginalized (Paterson, 2000). In New

Zealand, colonial authorities expressed this masculine individualism by imposing an atomistic private property system that directly clashed with the collective ontology of the Māori.

The history of colonial law reveals a calculated attempt to dismantle Māori kinship ties to their environment. The colonial Minister of Justice, Henry Sewell, explicitly stated in 1865 that the primary objective of the Native Lands Act was to break up the communal land ownership systems that impeded colonization (Carpenter, 2019). The resulting Native Land Court converted the shared ownership of the hapū (sub-tribes) into fragmented individual certificates. This mechanism forced the Māori into an economic individualism that suited the colonial market and simplified resource transactions. This simplification relied heavily on English gender assumptions that vested legal capacity to manage property exclusively in the male head of the household (paterfamilias). This is evident in the ten-owner rule of 1865, which restricted the names on a land certificate to a maximum of ten individuals, even though the land was customarily owned by hundreds of tribal members (Banner, 2000). This policy forced a newly manufactured elite class to act as isolated, individual owners.

Because original Māori land tenure was vested collectively in the hapū, any decision to alienate or transfer space required extensive communal deliberation, creating an institutional barrier to external market penetration. By enforcing individualization, riverside lands became highly vulnerable to rapid trade, unilateral legal manipulation, and foreclosure. This masculine individualism was culturally reinforced by the social construction of the Kiwi blokes or pioneer men, who were celebrated for their physical strength in conquering the New Zealand wilderness (Hanly, 2017). This frontier identity constructed a self-image of resilient dominance, ignoring human dependence on ecological carrying capacities. In the Whanganui River region, this frontier hegemony manifested through massive gravel dredging and commercial steamboat operations to expand transport routes (Waitangi Tribunal, 2015a). Settlers viewed the river purely as a logistical channel rather than a living ancestor (tūpuna). Consequently, they demolished traditional pā tuna dams to clear paths for steamships, satisfying commercial ambitions while destroying sustainable food systems that had fed the Māori for generations. This individualistic focus blocks the development of a communal ethics of care, measuring male success by the capacity to dominate environments and extract independent financial gain.

The second patriarchal element compounding this ecological degradation is instrumental rationality, which treats nature much like women are treated within traditional patriarchal structures: as passive, irrational objects that exist to be manipulated for human utility. Instrumental rationality achieves this by stripping the universe of its sacred dimensions. For the Māori, the Whanganui River possesses mauri (a spiritual life force) and is protected by kaitiaki (spiritual guardians). Under masculine colonial authority, however, this indigenous spiritual dimension was dismissed as an irrational variable irrelevant to development planning. Consequently,

infrastructure projects like the Tongariro Power Scheme in the 1970s were executed purely on technocratic calculations of water volumes needed to optimize national energy efficiency. By ignoring long-term environmental degradation, this instrumental rationality breaks down moral boundaries, reducing a living entity with an intrinsic right to exist into a stream of functional raw material.

This dominance is reinforced by power asymmetry, the third element of the patriarchal pillar. This describes a structure where the masculine elites occupying state and corporate offices act as the primary environmental polluters while using their institutional power to insulate themselves from the consequences of ecological collapse. Meanwhile, they shift the ecological burdens onto vulnerable local populations, particularly indigenous women. Pre-colonial Māori society maintained relatively egalitarian distributions of social power compared to Victorian British society; Māori women (*wāhine*) held vital positions as *rangatira* (tribal leaders), landowners, military strategists, and keepers of sacred knowledge (Forster, 2019). European missionaries and settlers, however, imported a misogynistic Western worldview that refused to recognize women's leadership within the Māori social fabric (Ngata, 2021).

Colonial officials restricted political negotiations and land transactions exclusively to Māori men, a practice that systematically depoliticized Māori women and eroded their traditional guardianship over land and water. This is reflected in the fact that only 13 Māori women signed the Treaty of Waitangi in 1840 out of 512 total signatures (Higgins & Meredith, 2011). This exclusion occurred because colonial officials routinely barred women from diplomatic forums. For example, the daughter of Te Pēhi, a prominent *rangatira* of Ngāti Toa, was forbidden from signing the treaty because British representatives deemed her participation unimportant, an insult so severe it led her husband to initially refuse the treaty as well.

The British administration also introduced the legal doctrine of coverture, which completely absorbed a wife's legal identity into that of her husband (Singh, 2025). For Māori women who traditionally inherited and managed resource spaces independently, coverture triggered an economic and political crisis. The Native Land Acts marginalized them from river governance, as modern property law treated riparian land as a commercial asset controlled by a male head of household, making it easier for the state to execute land dispossessions. Removing women's authority over water management accelerated the ecological decline of the Whanganui River. By marginalizing Māori women through a colonial education system focused on domestic skills, the state undermined their roles as moral and ecological protectors of the river ecosystem. This institutionalized asymmetry ensures that ecological risks flow from elite centers to indigenous localities. The masculine elite in Wellington consumed the cheap electricity from the Tongariro Power Scheme, while the destruction of the river's *mauri* and eel habitats was borne entirely by the Whanganui Iwi (Lurgio, 2019). Today, the heavy burden of restoring these ecosystems falls predominantly on Māori women leaders, who must demand environmental justice

through legal systems that remain bound by patriarchal and modern logic. These leaders are forced to act as circuit breakers against intergenerational environmental harm, using their remaining authority to defend a river they view as inseparable from their own existence.

### **3.2. Distribution of Ecological Risks**

In Matthew Paterson's Green Theory perspective, ecological crises are never neutral because environmental damage is always distributed unevenly to certain groups. In the case of the establishment of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 in New Zealand, the inequality was evident through the shifting of the ecological burden from the state as the centre of power to the local Māori community (Whanganui iwi). The country derives many benefits especially in the economic and energy aspects of the exploitation of the Whanganui River, while indigenous peoples bear the ecological, spiritual and social consequences in the long term.

This inequality was especially evident through the development of the Tongariro Power Development Scheme in the mid-20th century. The project diverts the upstream flow of the Whanganui River to support national electricity production and the country's economic development. However, the economic benefits of the project are largely enjoyed by the central government and the industrial community at large, while the people of Whanganui have to deal with the deterioration of the ecological quality of the river at the centre of their lives. The New Zealand government itself later admitted that the construction of the scheme was carried out without adequate consultation with the Whanganui Iwi and was a breach of the principles of the Treaty of Waitangi (RNZ News, 2026). This condition shows how the state is shifting ecological risks to communities that have weaker political positions, in this case New Zealand has shifted considerable ecological risks to Māori.

For Māori, the Whanganui River is not just a natural resource, but a living entity that has a mauri or spiritual life force. Ecological damage due to water diversion, sedimentation, river gravel extraction, and changes in water temperature cause disruption of the ecological balance of rivers and reduce the population of traditional food sources such as tuna (eel). The decline in traditional fishing practices has also resulted in the loss of mātauranga Māori or indigenous knowledge that is passed down between generations. As such, the ecological risks that Whanganui poses are not only material, but also concern the cultural and spiritual identity of indigenous peoples.

Political decisions regarding river exploitation were made by New Zealand's central government in Wellington, which is geographically and socially distant from the Whanganui community. Policymakers are not feeling the ecological impact of the project firsthand, while local communities are having to live with increasingly "sick" rivers. Unconsciously temporally, exploitation decisions made decades ago have created an ecological burden across generations. The current generation of Māori

must bear the social, cultural and environmental costs of restoring river ecosystems that have been damaged by past policies. Therefore, the birth of the Te Awa Tupua Act 2017 can be understood as a form of correction to the unequal distribution of ecological risks as well as an acknowledgement that the exploitation of the colonial environment has resulted in ecological injustice for the Whanganui Iwi.

### 3.3. Politics of Resistance

Factors in the global power structure that include the state system, capitalism, knowledge systems, and patriarchy routinely produce massive environmental degradation. These destructive consequences triggered the birth of a counter-response from the local community. In the Green Theory discourse developed by Matthew Paterson, handling the environmental crisis requires a political response that does not simply shape technical regulations, draft international agreements, or reform existing bureaucratic institutions. This critical approach instead seeks to dismantle the structural foundations that perpetuate such exploitation (Paterson, 2000). In this political response to the resistance, the rejection of the hegemonic power structure is not only manifested negatively through protests, but also accompanied by the articulation of reconstructive solutions.

When contrasted with other prominent global cases, the distinctive character of the Whanganui River's legal personhood becomes structurally evident. In India, for instance, the legal rights granted to the Ganges and Yamuna Rivers emerged not from a cooperative legislative process, but through aggressive judicial activism via the Uttarakhand High Court rulings. While this judicial pathway initially marked a significant symbolic victory, it rapidly encountered severe operational gridlocks due to complex administrative fragmentation, overlapping bureaucratic jurisdictions, and a critical lack of independent, well-funded governance bodies capable of enforcing these rights on the ground (O'Donnell & Talbot-Jones, 2018). Conversely, the legal recognition of the Atrato River in Colombia was forged as a judicial response to an acute ecological crisis driven by pervasive illegal gold mining. The Constitutional Court of Colombia framed this intervention around the concept of biocultural rights, effectively treating the river as a victim of systematic rights violations whose remediation is intrinsically tied to the survival and cultural restoration of local Afro-descendant and indigenous communities (Pecharroman, 2018). While the Colombian framework established a guardianship commission to oversee the river's rehabilitation, its primary operational focus remains remedial and crisis-driven, rather than systematically preventative.

Further contrast can be drawn from the Magpie River case in Canada, which showcases an innovative grassroots legal personality model. Unlike top-down judicial orders or centralized parliamentary statutes, the rights of the Magpie River were initiated from the bottom up through a series of joint resolutions passed by local municipal authorities and the Innu indigenous council. This framework demonstrates how indigenous customary legal orders can strategically align with local municipal

bylaws to construct an immediate, decentralized ecological boundary designed to protect regional ecosystems from state-sponsored hydroelectric exploitation (Garrett & Wood, 2020).

When evaluated against these diverse global strategies, the unique institutional resilience of the Te Awa Tupua Act 2017 stands out clearly. As synthesis-focused literature notes, the global politics of the rights of nature can be broadly categorized into distinct strategic pathways, ranging from court-mandated decrees and local grassroots bylaws to formal, centralized national statutes (Kauffman & Martin, 2021). The critical novelty of the Whanganui River model lies in its status as a comprehensive Act of Parliament born out of a protracted historical treaty settlement process under the Treaty of Waitangi. Rather than relying on a vulnerable judicial decree that can be easily overturned or a local municipal bylaw with limited territorial jurisdiction, the Te Awa Tupua Act 2017 establishes an independent, legally binding, and self-governing administrative entity that fundamentally alters state property relations. By converting state-owned riverbeds into a self-owned entity governed by a dual indigenous-state guardianship body, this framework transcends mere institutional adjustment. It operates as a highly sophisticated counter-hegemonic response that structurally disrupts the state's monopoly over resource governance and provides a highly influential, legally stable blueprint for global decolonization and emancipatory ecological justice.

The mobilization that culminated in this legislative triumph was rooted in over a century of escalating resistance against the compounding ecological degradation of the river ecosystem. Beginning in 1860 with the enforcement of an upstream toll system to assert sovereignty, the Whanganui Iwi progressively organized institutional interventions, including parliamentary petitions in the late nineteenth century and formal litigation against land grabbing and riverbed exploitation by the 1920s. Faced with continuous government rejection, the community established independent self-help funds in 1931 to finance long-term legal battles, which culminated in the 1988 formation of the Whanganui River Māori Trust Board to officially negotiate indigenous rights claims against the central government (New Zealand Government, 1988). To dismantle the institutional barriers of the Western legal system that fragmented the river into individualized property units, the board launched the historic Wai 167 claim before the Waitangi Tribunal in 1994.

Persistent judicial delays and bureaucratic stagnation eventually triggered a seventy-nine-day physical occupation of the Pākaitore area in 1995. This strategic direct action served as a powerful reclamation of ancestral political sovereignty and a wholesale rejection of capitalistic land commodification, successfully thrusting the interconnected Māori ontology of human-nature unity into the national and international spotlight (Moon, 1996). Despite comprehensive tribunal reports, subsequent state discussions deadlocked by 2004 due to the fundamental inability of domestic legal frameworks to accommodate indigenous worldviews. Tensions

escalated further in 2009 over state plans to privatize hydroelectric assets coupled with a grueling decade-long litigation battle against the Tongariro Power Scheme. Ultimately, this combination of grassroots political pressure, litigation exhaustion, and out-of-court settlements forced the Crown back to the negotiating table, leading to the landmark 2012 Tūtohu Whakatupua agreement which permanently stripped the state of its ownership privileges and formally recognized the Whanganui River as an indivisible, self-owned legal entity.

The refinement of the framework agreement culminated in the signing of the Ruruku Whakatupua Deed of Settlement on August 5, 2014, which is structurally bifurcated into two mutually reinforcing components (Ngā Tāngata Tiaki, 2025). The first component, Te Mana o Te Iwi o Whanganui, secures a formal state apology and historical redress for Crown breaches of the Treaty of Waitangi. The second component establishes the Te Pā Auroa governance framework, institutionalizing the customary values of Tupua te Kawa as mandatory statutory considerations for all state authorities during environmental and spatial planning processes (Cribb et al., 2024). Financially and materially, the settlement outlines a robust restructuring program that includes eighty million dollars in cultural restoration funds, a thirty-million-dollar Te Korotete endowment fund for grassroots ecological initiatives, and commercial option rights to repurchase sixty-two Crown properties. This extensive material compensation is accompanied by the physical repatriation of twenty-seven historically significant cultural sites, highlighted by the strategic return of the Pākaitore area to advance tribal identity restoration.

This long struggle finally reached the legislative line when the New Zealand Parliament passed the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, granting it the constitutional powers and civil responsibilities of an individual. To overcome the river's physical inability to speak, the state established a dual-trustee guardian institution called Te Pou Tupua, comprised of representatives from both the Crown and the Whanganui Iwi, to act in the best interests of the ecosystem. This body is technically supported by Te Kōpuka, a seventeen-member strategic council that utilizes a strict consensus system to draft the comprehensive Whole River Strategy Document without allowing any sectoral group to unilaterally impose development policies. Through this legal elevation, river management is evaluated via the concept of eco-citizenship, which replaces Western epistemological detachment with a Māori worldview of absolute human-nature interdependence and shared ethical responsibility (Iorns, 2015).

Consequently, post-ratification development models have been structurally reconfigured to prioritize environmental integrity and community capability building over exploitative capital accumulation (Argyrou & Hummels, 2019). This alternative governance model operates through four strict operational principles to ensure long-term sustainability. First, the principle of Prior Consent grants indigenous leadership the explicit legal authority to veto industrial projects that threaten ecological or cultural health. Second, the Seven Generations Principle mandates ex-ante

evaluations of all commercial activities to prevent current spatial usage from jeopardizing future generations. Third, local initiatives focus on expanding Māori economic participation, which historically languished at a marginalized 5.6% nationally. Finally, all regional commercial enterprises must provide sustainable financial contributions to the thirty-million-dollar Te Korotete endowment fund, which finances community-based ecological restoration projects rather than stock market investments. Through this holistic alternative framework, the politics of resistance transformed raw social protest into an emancipatory system of environmental governance.

However, when analyzing the health of the river system through factual field data, general ecological assessments reveal that the overall water quality and stream health indicators have not shown immediate macro-level improvements since the enactment. In fact, several monitoring sites even exhibit a decline when evaluated against historical baseline surveys from 1996 and 1997 (Miller & Death, 2023). To scientifically evaluate these changes, researchers rely heavily on the Macroinvertebrate Community Index (MCI) and the Quantitative MCI (QMCI). These indices are highly relevant biological monitoring tools because tiny river-dwelling organisms, such as insect larvae, snails, and worms, act as natural, continuous sensors of water quality. Certain sensitive species can only survive in pristine conditions, while tolerant species thrive in polluted environments, meaning that a shift in their community composition provides a reliable, long-term picture of river health that chemical tests might miss. Based on these evaluations conducted in 2022 across 10 of the original 53 sites, six sites demonstrated a decrease in MCI, with two dropping from National Policy Statement for Freshwater Management (NPSFM) band B to C, and five sites showed a decrease in QMCI. This down-banding represents severe ecological degradation in practical terms, meaning that the river habitats have shifted from hosting clean-water sensitive organisms to being dominated by pollution-tolerant species.

This recorded ecological degradation serves not as a failure of the legal framework, but as a critical baseline trigger that justifies and catalyzes urgent restorative actions mandated under the integrated Te Heke Ngahuru strategy (Miller & Death, 2023). Within a Green Theory context, acknowledging this initial ecological decline is vital because it exposes how decades of colonial state exploitation cannot be instantly reversed by legal status alone, thereby framing the legal personhood of the river as a long-term, structural mechanism for environmental rehabilitation rather than a superficial administrative quick fix. Despite these systemic baseline challenges, specific biodiversity indicators demonstrate localized and encouraging signs of success that validate the operationalization of ecological decentralization. A prominent success story in environmental biodiversity post-2017 can be observed in the revitalization of native and vulnerable species habitats within the wider catchment areas. For instance, intensive wildlife monitoring programs have recorded a highly positive trajectory for the native blue duck, locally known as whio,

particularly through dedicated predator management initiatives along the Whanganui River system and its surrounding tributaries (Dewson, 2021).

**Table 2.** Stream invertebrate health results from summer 2022 survey.

Site	Geology	Land use - % indigenous vegetation	Stream health check	MCI	MCI NPS class	QMCI	QMCI NPS Band
Kaiwhakauka	Soft	97	444	131	A	7.2	A
Pumice Creek	Hard	100	438	130	A	6.5	A
Whakapapanui	Hard	81	424	135	A	6.8	A
Whanganui	Soft	96	460	146	A	7.5	A
Motuaruhe	Soft	45	230	104	B	4.5	D
Kauarapaoa	Soft	80	432	111	B	5.9	B
Operiki	Soft	80	368	116	B	6.4	B
Stream X	Soft	27	320	98	B	4.9	C
Mangare	Soft	39	188	113	B	5.9	B
Whangamomona	Soft	37	168	98	C	4.4	D

Source. Miller and Death (2023)

Furthermore, the integration of comprehensive Stream Health Check assessments in 2022, where seven out of ten re-surveyed sites scored over 250 to indicate healthy conditions, illustrates a direct correlation between land-use interventions and water preservation. While general soft-geology and heavily modified streams face persistent environmental stress, specific sub-catchments that maintain a high percentage of indigenous vegetation cover have successfully preserved their optimal ecological health. Monitoring data derived from the national Land Cover Database demonstrates that riparian zones containing eighty to one hundred percent native forest cover systematically retain an outstanding ecological status. For example, soft geology streams with over 80% indigenous vegetation, such as Kaiwhakauka at 97% and Operiki at 80%, successfully remained within the highest standard of the environmental quality bands of A or B, whereas catchments with less than 50% indigenous vegetation exhibited much poorer health (Table 2) (Miller & Death, 2023). This correlation provides empirical justification for community-led riparian planting projects, such as the Mouri Turoa restoration initiative fueled by the post-2017 legal framework. By demonstrating that the preservation of natural forest buffers actively sustains the internal mouri or lifeforce of the river, these targeted empirical successes reinforce the fundamental Green Theory assertion that structural eco-centric laws are indispensable in driving localized ecological resilience amid a global environmental crisis.

## 4. Conclusion and Recommendations

This study comprehensively demonstrates that environmental degradation and customary dispositions along the Whanganui River are a direct impact of the work of the four main pillars of the deep structure of modernity. Through the analysis that has been presented, the focus of this study succeeds in answering how the state system, capitalism, knowledge system, and patriarchy operate simultaneously to transform sacred ecological entities into pure economic assets for the sake of national development. State authorities instituted a positive legal framework to dispossess Māori indigenous territories, while the capitalist system broke down those ecosystem elements into isolated commodities to maximize global financial accumulation. This process of commodification was reinforced by the hegemony of Western colonial knowledge which positioned modern science as the only standard of universal truth while suppressing the local wisdom of mātauranga Māori. This structure is complemented by a patriarchal logic that imposes masculine individualism and instrumental rationality, which systematically depoliticizes the moral authority of indigenous women or mana wāhine as guardians of the ecosystem. However, this study also suggests that the politics of resistance across generations is able to break the structural deadlock through the passage of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. This monumental regulation succeeded in reconstructing the colonial order by granting legal personhood to rivers, changing the paradigm of ownership to eco-citizenship or ecoship, and promoting alternative development models based on community social capability and entrepreneurship approaches.

## 5. Declarations

### 5.1. Ethical considerations

Not applicable

### 5.2. Use of artificial intelligence (AI)

The authors declare that the generative artificial intelligence (AI) tool Grammarly was used exclusively for language editing and/or grammatical improvement. The use of AI did not influence the scientific content, study design, data analysis, data interpretation, results, or conclusions of the manuscript. Full responsibility for the content remains with the authors.

### 5.3. Conflict of Interest

The authors declare no conflicts of interest.

### 5.4. Funding

This research did not receive any financial support.

### 5.5 Data Availability Statement

No data were generated in this paper.

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