

Talking with the River

How the Whanganui River (New Zealand) flows through juridical pluralistic, territorial and more-than-human landscapes



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Cover page: Photo taken by author, view over the Whanganui River from the Whanganui River Road

*E rere kau mai te Awa nui nei
Mai i te Kāhui maunga ki Tangaroa
Ko au te Awa, Ko te Awa ko au*

*The Great River flows
From the mountains to the sea
I am the river, the river is me*

– Whanganui River Māori proverb

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Being named after a river myself, I enjoyed it greatly to navigate across the Whanganui River from its springs to the sea and to learn about narratives, perceptions and attachments that were different from, but often resonated with, my own. The beautiful landscapes and people surrounding it have definitely made this journey even more memorable.

The process that took up the past year has been both intensive and extensive, and has certainly not gone without challenges. A major setback involved the early field work return due to the spreading of the COVID-19 virus that initiated worldwide lockdowns. It goes without saying that my heart goes out to all those affected. While the Netherlands imposed itself to a new normal, a new batch of anthropologists-to-be was put back into their armchairs. From this chair the questions asked might remain the same, but a fundamental characteristic of anthropology was left behind at the fields; the ground-level encounters and interactions. 'Being there' became an internalized process from home. The three months intended for doing field work were now occupied by moving back to my room and adapting to the proclaimed state of emergency. These adjustments asked for additional flexibility and creativity, and formed this process on personal and academic level.

However, I am grateful to have been given this experience and that I was able to be in the field. My gratitude goes out to everyone who made this journey possible, easier and tangible. I first and foremost want to thank all the participants that I encountered during my field work, for sharing your stories with me, and for guiding me along and around the river. I will keep my promise to return to the river one day. I want to thank my supervisor Gijs Cremers for the guidance through this process, for your enthusiasm and supportive feedback, and for your involvement, time and energy – even though most of it had to happen online. I further want to thank the University of Utrecht and specifically Yvon van der Pijl, who not only took care of us throughout this academic year but also looked after us when we had to return from the field. And more than I can express, thank you, all of those surrounding me for your unconditional love and support through all the ups and downs of this process – there have been many. And to respect local tradition, I want to thank the river for providing me with inspiration, insights, and experiences that have not been possible without it. Hopefully my appreciation is expressed in this thesis.

Abstract

The Whanganui River on the North Island of New Zealand became the world's first river to be acknowledged as a legal person in 2017. The river is now juridically represented by two human guardians, who act and speak on behalf of the river and enable the river to take a legal stand. While representing other-than-human entities is a significant step towards a nature-inclusive political practice, the river's new status resulted from controversies over ownership, territory and ideologies within a (post)colonial context. For over 150 years a collective of Whanganui River Māori have asserted that since British colonization, Māori have never freely and knowingly relinquished their rights and interests in the river. The new voice given to the river expresses and legally accepts Māori notions of the river as a holistic, indivisible, living entity and the interconnectedness of the wellbeing of the river and that of its people, and it furthermore resembles a coming together of Māori and British law systems towards a hybrid, juridical pluralistic formation. However, particular power relations embedded in a (post)colonial context are still visible in contemporary Whanganui. From a political-ecological perspective that frames nature as territory, negotiations of and imaginaries of such territories can be overlapping and contesting. These negotiations are informed by ontological understandings of human-nature relations, and how humans should act on behalf of their non-human environment. This thesis will thus elaborate on the different landscapes through which the Whanganui River flows as an entity that is plural, and how the river both shapes and is shaped by its encounters with its human environment.

Key words: Whanganui River, Māori, indigeneity, postcolonialism, legal personhood, nature advocacy, juridical pluralism, cosmopolitics, multispecies ethnography, human-nature relations

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Acronyms and Glossary

Te reo Māori	Māori language¹
<i>Awa</i>	river
<i>DoC</i>	Department of Conservation, a government agency aiming to conserve and restore New Zealand's natural, cultural and historical heritage
<i>Hapū</i>	kinship group consisting of a number of <i>whanau</i> sharing descent from a common ancestor, related <i>hapū</i> usually shared adjacent territories forming an <i>iwi</i> ; modern meaning: secondary/subtribe; literally: conceived
<i>Iwi</i>	people, nation; set of people bound together by descent from a common ancestor or ancestors; literally: bone; modern meaning: tribe
<i>Kōrero</i>	speech, narrative; to tell, say, speak
<i>Mana</i>	authority, power, psychic force, prestige
<i>Māoritanga</i>	Māori way of life, including the identity, values, traditions, practices and beliefs of Māori people and relation with ancestral landscape
- <i>Tikanga</i>	- protocol; correct procedure, custom, habit
- <i>Manaakitanga</i>	- hospitality; respect for hosts or kindness to guests, to look after
- <i>Kaitiakitanga</i>	- guardianship (to sky, land and sea)

¹ These definitions and translations are taken from maoridictionary.co.nz, maorilanguage.net and teara.govt.nz.

<i>Marae</i>	to be generous, hospitable; a complex of buildings where formal greetings and discussions take place
<i>Mauri</i>	life principle; hidden essential life force of a material object or symbol of this
<i>NTT</i>	Ngā Tāngata Tiaki o Whanganui, the Whanganui River post-settlement governance entity for and on behalf of Whanganui <i>iwi</i>
<i>Pākehā</i>	non-Māori people, usually of British origin or background
<i>Rangatiratanga</i>	the right to exercise authority, chiefly autonomy and authority, ownership
<i>Ruruku</i>	incantations; to draw together with a cord, bind together, lash, coordinate
<i>Tauīwi</i>	an inclusive term covering all post-Treaty immigrants
<i>Te Atihauni-a-Paparangi</i>	the Whanganui River <i>iwi</i> , a confederation of the three ancestral groups along the Whanganui River
<i>Te Awa Tupua</i>	the river as a living being and indivisible whole, intrinsically connected to its <i>mauri</i> and its <i>mana</i> ; the name for the Whanganui River Claim Settlement
<i>Te Pou Tupua</i>	the human face of <i>Te Awa Tupua</i> ; the two guardians representing the river
<i>Tipuna/tupuna</i>	ancestor
<i>Whakapapa</i>	genealogical table; to recite in proper order; literally: to place in layers
<i>Whānau</i>	extended family group; to be born; modern meaning: family
<i>WRMTB</i>	Whanganui River Māori Trust Board, negotiating for the settlement of all claims of Whanganui <i>iwi</i> over the Whanganui River, later merged with <i>NTT</i>

Prologue. Drifting

While the water of the river has been quiet, I know there must be a rapid coming by the hissing sounds that get louder behind a curve in the river. I quickly stand up in my canoe with my feet wide to balance the boat, trying to recognize some kind of pattern we could follow to avoid being pulled to the big rocks and tree trunks that more than occasionally stick out of the water. As R. taught us, I look for the 'V' in the water that will push us straight through the current.

“Okay, so the river turns that way. We need to go right and change to the left before that rocky wall. We don't want to crash into that. We need to go to eleven o'clock. I think. Make speed now. Paddle! Paddle! Paddle!”

I am chanting to my co-paddler as the rapid already catches up on us, feeling the excitement of the strong current around us. You need to go faster than the water in order to control it. I am looking for the English words in a jargon I hardly know, about a plan that just nearly settled in my mind. And as the steerer in the rear I need to have a plan.

I am subjected to a force I have no control over. I do not recognize any pattern or structure in the water. It is one of those things you need to experience, out there, in order to learn. It requires a different form of knowledge than I am used to. We almost get pulled into the white waves with the strongest current and the biggest rocks.

We barely keep the boat in the right angle and come close to spin around and capsize. And just when I think our boat turns too far to the wrong side, we hit the calmer water beyond. We can start to follow the bubbles of the slow stream at the outer bend of the river, helping us a little moving forward. We made it again.

My journey on the Whanganui River has been an exploration of how to grasp an everchanging and continuously flowing body of water; how to talk about, to, and perhaps with it?

What is a river but a stream of water, of moving elements guided by natural forces? At first impression, there seems to be little connection between the river and me. The river, a natural stream of water following a definite course or channel,² flows where and how it flows. In fact, water freezes, evaporates, condenses and emerges regardless of any human influence.³ Water is not to be tamed. It is everchanging. It is sometimes slow and calm, then fast and wild, at moments clear, then unpredictable, its levels high or low.

How we did not know about the bigger force that was changing the world in the meantime? A rapid so fast it has been impossible to stay ahead and control it. After four days on the river without reception or connection with the outside world, we had returned to another reality – at that time only to be felt on the screens we just switched on again. Borders were closing, airlines stopped operating, and country after country proclaimed lockdowns and states of emergency due to the COVID-19 virus that was rapidly spreading. Being on the other side of the world felt further than ever.

Leaving the field in a hurry to return to a locked-down home has been a major rupture in doing field work for this thesis. And like the stream of the river, it felt uncontrollable, unbounded and way too fast. It was one more flow to go with.

² [Dictionary.com/browse/river](https://www.dictionary.com/browse/river)

³ Linton, J. 2010. *What is Water?*

Introduction

“People may as well look at that and say: what planet are these New Zealanders living on?” Hon Christopher Finlayson, former Attorney General and Minister for Treaty of Waitangi Negotiations, refers to the legislation of the Whanganui River as a legal person.⁴ Giving a river the same legal status as humans certainly asks for explanation; how could a river possibly experience harm, suit someone, or take a stand in court?

The Whanganui River is the world’s first river, and second natural resource, to be given its own legal identity. The river is now juridically represented by two human guardians, who act and speak on behalf of the river and enable the river to take a legal stand. While ‘natural persons’ – human beings – naturally adhere certain legal rights automatically upon birth through which legal personality, and subsequent rights and obligations, arises (Dyschkant 2015), the concept of a ‘legal person’ – or juristic, artificial, fictitious – designates non-human entities as subjects of law otherwise not recognized as such (Lillo 2018). A juristic person can be ‘any subject-matter other than a human-being to which the law attributes personality’ (Fitzgerald 1966, 349), and is mainly used to provide corporations with a separate legal status than the natural persons to divide risk, liability and ownership (Morris and Ruru 2010). With that, the river is given its own political voice.

The claim for the river’s legal personhood is initiated by a collective of New Zealand’s indigenous peoples, the Whanganui River Māori, who have asserted that since British colonization, Māori have never freely and knowingly relinquished their rights and interests in the river (NTT 2016a; WRMTB 2014). This claim has been the longest running case in New Zealand history; petitions to Parliament to protect and provide for the relationship of Māori Whanganui River *iwi*/tribes with the river date from the 1870s, followed by ownership negotiations, litigation around the river beds, water flows and management, and appeals to numerous courts, commissions and tribunals (NTT 2016a; WRMTB 2014). The preceding juridical framework for the Whanganui River as a legal person is twofold; it recognizes and provides for the wellbeing of the river, as well as for that of the Whanganui Māori and their relationship and interactions with the river.

The new settlement furthermore should resemble a coming together of Māori and British law systems towards a hybrid formation (Williams 2013). Juridical pluralism, the existence of more than one law or legal system within certain geographical spaces (Davies 2012), is often present in colonized contexts and considered as a step towards a society’s decolonization. Decolonization has been

⁴ Freid, David. 2019. “New Zealand’s Maori Won Personhood for This River.” *The Atlantic*. Video, theatlantic.com/video/index/587689/river-me (accessed August 8 2020).

understood as the formal process of handing over the instruments of governance to the indigenous inhabitants of a colony (Huygens 2011), but the term is now more considered to describe ‘a long-term process involving the bureaucratic, cultural, linguistic and psychological divesting of colonial power’ (Smith 2008, 98). The new voice given to the river expresses and legally accepts Māori notions of the river as a holistic, indivisible, living entity, incorporating all its physical and metaphysical elements, as well as the relation between Māori and their non-human environment – hence the commonly used Māori saying ‘I am the River, the River is me’. As Finlayson explains: “The key thing is, the legislation settles all the historical claims that have been brought against the Crown going back over a hundred years ... The fact of the matter is, you can’t divide a river up to the bed, the water column and the air above the river. I think you can get hung up on these Western concepts of ownership.”⁵

These Western concepts of ownership essentially involve an understanding of property that could be privately owned, and lie at the root of how territories and territorial imaginaries are negotiated in the context of a postcolonial society. Within political ecology, where the focus lies on the interconnectedness of place, power, and the use and contestation of resources such as waters (Gezon and Paulson 2005), Boelens and colleagues (2016, 2) describe territories as the outcomes of ‘interactions in which the contents, presumed boundaries and connections between nature and society are produced by human imagination, social practices and related knowledge systems’. In other words, the river’s landscape as a territory is embedded in dynamics of social realities, imaginaries and power relations. The notion of a river as a dividable resource is typical to a Western ontological idea about what nature is. In contrast, a Māori vision of nature is one that is rooted in a deep belief that humans and water are intertwined; ‘the river belongs to us just as we belong to the river’ (Morris and Ruru 2010, 49). Such ontological ideas about human-nature relationships inform territories, territorial narratives and spatial imaginaries.

At the same time, the legislation of the legal personhood of the Whanganui River is considered to be a ‘trailblazer in the field’ concerning the global movement of indigenous peoples to assert their understandings of nature (Lillo 2018, 167). Similarly, different scholars from a wide range of disciplines criticize dualistic nature-culture understandings, and propose systems of thinking to include the excluded – that is, both the exclusion of indigenous knowledge systems, as well as the representation of natural entities within the dominant Western, dualistic discourse (e.g. Cadena 2010; Latour 2011; Bos 2016; Boelens et al. 2018; Roothaan 2019). Ascribing legal personhood to non-human entities can be grouped under the notion of politics as hybrid, cosmopolitical and multinaturalistic (Latour 1993; Stengers 2005; Cadena 2010). This involves a different politics of nature, one that includes disagreement on the definition of nature itself. It holds the idea that all human beings could or should be members of a single communities.

⁵ *Ibid.* Freid, David. 2019. “New Zealand’s Maori Won Personhood for This River.”

A river not only flows as a body of water; it flows through and within social realities as well. Within geographical theory, there is an emergence of thinking relational about water, referred to as the hydrosocial cycle: it provides a lens through which the workings of different societies might be explored (e.g. Swyngedouw 2004; Loftus 2010; Linton 2010). In this view, Linton (2010, 25) considers water-human relations as ‘fundamentally constituted of process, relation, and change’, as socio-natural hybrids that move past a determined division of nature and society. As Linton (2010, 3) poetically describes: “Water is what we make of it ... it will always exist, though never alone, for water is always germinative, containing the potentiality of all forms in their unbroken unity.” Water is ‘shaped by and shapes social relations, structures and subjectivities and thus transcends dualistic categories of water and society’ (Linton and Budds 2014, 170). This thesis therefore explores the multi-layered landscape through which the Whanganui River flows in the context of a postcolonial society. With that, it goes into the different meanings that are imagined, narrated and negotiated with regard to the Whanganui River. The course of this thesis follows three geosocial landscapes; (1) Juridical: how different notions of law and property are negotiated with regard to the river, and how Māori communities aim to establish their connection to the river as an indivisible whole; (2) Political-ecological: how nature as a territory is negotiated, how certain spaces are claimed by different people, and how these claims could be overlapping and contesting; and (3) Ontological: how these claims are informed by conflicting ontological ideas about human-nature relations.

The ‘Anthropocene’, the current proposed geological era characterized by the disrupting influence of humans on the Earth (Crutzen and Stoermer 2000), calls for a thinking beyond resources and ownership. The recognition of the legal personhood could provide insights into how relationships with nonhuman nature may be recognized into the future (Charpleix 2018). This thesis contributes to an understanding of how a less anthropocentric approach could play a critical role in environmental management, specifically in relation to water. On the one hand, this thesis shows how the river as a plural entity can be subject to, and an actor in, colonized contexts. Through an ontological exploration of the river, it develops an understanding of how and why different people involved make claims to the river, and how people engage in relations with both each other and the river. Therewith, I make a claim for indigenous knowledge of, and relations with, nature, as legitimate forms of knowledge. This recognition is an important step towards the decolonization of colonized peoples. With debunking the dominant Western nature-culture dichotomy, this thesis also aims to serve as an example of multispecies ethnography through the formulation of my own dialogue with the river, by an embodied autoethnographic narrative that is described in the interludes. But first, a geographical overview of the river and its surrounding landscapes will be given from the river from mountains to sea, including its most prominent actors.



Figure 1. The Whanganui River, New Zealand ([National Geographic](#))



Figure 2. The river from mountains to sea



Figure 3. Whanganui from a bird's eye view

Figure 4. Impressions of Whanganui and its street art



Hayley Welsh (UK):
*'The creatures are all lost, trying to find their way home working together. The idea of us all being part of, not separate to nature, and connected through a larger entity.'*⁶



Jacob Chrisohoou (NZ):
'The purity and essence of love, the ultimate energy on this planet that we get to experience and share and grow through conquers all. Every religion, each culture and ultimately each species can be peeled back layer by layer to its core of love. Of course, it's universal.'



Cinzah (NZ):
'This work is about Man's connection with nature. Recognizing and honoring that we are all a part of, and are one and the same as nature. We are not separate and above, even though we often think and behave like this.'

⁶ Taken from interviews in: Whanganui Walls. 2019. *Success Stories*, whanganuiwalls.com/success-stories (accessed August 8 2020).

The Field: The Whanganui River from Mountains to Sea

What will follow now is an exploration of the river from mountains to sea. This geographical landscape already clarifies the different attachments that are given to the river – the river is intertwined in a complex web of actors, power relations and territorial claims. This exploration of the field further describes my own route downstream, elaborating on parts of my field work.

The Whanganui River springs in the Tongariro National Park, before it streams northwest- and southwards to its town and the Tasman sea (Figure 2). Where its tributaries spring, as well spring contestations about ownership and resource management. Before flowing through the Whanganui National Park, Whanganui's water is extracted to generate hydro-electric power at the Tongariro Power Scheme. This scheme was part of an ambitious development plan in the early 1970s to divert the headwaters of several rivers through tunnels and canals, aiming to provide for New Zealand's anticipated energy demands (NTT 2016a). The development of this scheme led to many protests among local tribes and fishermen, who were not consulted and have expressed concerns about the lower water levels and decrease of water quality.⁷ Despite the River's new legal status, it still faces developmental challenges today, from farming and forestry pollution to the building of dams and other managing structures.⁸

Further down, the river is surrounded by the Whanganui National Park, a renowned reserve for wildlife and attraction for tourism. This park is home to many different actors that intervene in, make use of and are present in the landscape. One of the most prominent organizations is the Department of Conservation (DoC), a government agency that runs programmes 'to protect and restore our species, places and heritage, and provide opportunities for people to engage with these treasures'.⁹ The DoC is responsible for species observations and pest control, as well as the maintenance of the huts and camp sites used by the visiting tourists. At several places, co-management is established with local Māori groups. This has, however, not been without contestation. This will be further discussed in Chapter 2. Probably most prominent in the landscape of the National Park are the tourists, moving downstream in kayaks, canoes, or jet boats. The river forms one of the ten Great Walks of New Zealand and is part of the Mountains to Sea Bicycle Trail, of which this is the only part to be done by boat – which exemplifies the prominent role of the river through the landscape.

The River Road connects the southern border of the National Park to the town Whanganui through a mountainous and spacious area. This area is mainly occupied by farmlands for cattle, crops and pine trees. I got introduced in this area by the two local postmen, a married couple that delivers the

⁷ Lurgio, Jeremy. 2019, November 29. "Saving the Whanganui: Can Personhood Rescue a River?" *The Guardian*, [theguardian.com/world/2019/nov/30/saving-the-whanganui-can-personhood-rescue-a-river](https://www.theguardian.com/world/2019/nov/30/saving-the-whanganui-can-personhood-rescue-a-river) (accessed August 9 2020).

⁸ *Ibid.*

⁹ Department of Conservation, n.d. *Our Work*, [doc.govt.nz/our-work](https://www.doc.govt.nz/our-work) (accessed August 8 2020).

mail to each side of the river. The road got paved only several years ago, what underlines the remote characteristics of this region.¹⁰ Through this road the town Whanganui could be entered. The whole district holds a population of around 60.000, of which the majority lives in the urban areas of Whanganui.¹¹ A sense of the town can be given by its numbers; Whanganui's population tends to be older than the national average – a larger group of over 50 –, has a slightly higher proportion of Māori and a lower proportion of Pacific residents but counts a vast majority of European residents.¹² The district contains more people in the low and mid-income sections compared to the national average.¹³ The town further holds a large number of residents with an immigrant background – which is common in New Zealand, but leaves a diversified impression of Whanganui identities. On official tourist websites, Whanganui is celebrated for this diverse heritage: 'Marae [Māori community buildings], homesteads, memorials and civic buildings provide a strong sense of place and identity and the concentration of significant heritage buildings found here is rare in New Zealand.'¹⁴ This diversity could be further recognized in the mingle of Japanese ramen restaurants, Chinese dollar shops, local art galleries and Turkish food stands throughout the city. I stayed in the city centre at a family originating from Germany, which attracted mainly German residents but also accommodated a large group of international scholars, short-term locals, and tourists looking for an off-the-grid experience. The local postmen are originally from South Africa and Switzerland and many of the residents I encountered, both Māori and *Pākehā* – non-Māori, often of British heritage – had extensive knowledge of their ancestral blood line and family migration streams. Many asked about my personal heritage of which my knowledge, strikingly, does not go very much further than regional migrations a handful of generations before me. All this leaves a scattered impression without a clear grasp of a Whanganui identity – or, perhaps, it is plural.

One thing very visible throughout Whanganui is the focus on historical accounts to which the Whanganui River is central. The Whanganui River flows its water through the city centre of Whanganui, and it flows through the city's architecture as well. This is expressed by the many art galleries and annual art events that Whanganui counts, but also by the abundant street art spread around the city centre's walls. This art not only expresses the attachment to the river and the saying 'I am the River, the River is me' of residents and beyond (see Figure 4), but it also symbolizes the both uniting and separating features of a colonized context that will be discussed in the coming chapters.

¹⁰ As was explained by several participants.

¹¹ Stats NZ. 2018. *Census Place Summaries: Whanganui District*, stats.govt.nz/tools/2018-census-place-summaries/whanganui-district (accessed August 9 2020).

¹² *Ibid.*

¹³ Ministry of Health. 2018. *Population of Whanganui DHB*, health.govt.nz/new-zealand-health-system/my-dhb/whanganui-dhb/population-whanganui-dhb (accessed August 9 2020).

¹⁴ Whanganui and Partners. 2016, visitwhanganui.nz (accessed August 9 2020).

Methodology

This thesis entails field work of 5,5 weeks up and around the Whanganui River. While the intended period was three months, the rapid spread of the COVID-19 virus created an inevitable yet significant rupture throughout the form and process of this thesis. I will elaborate more on this in § ‘Impacts of Corona Measures’. The majority of the field work that has, indeed, been conducted was orientation-focused and consisted of mapping the field, getting familiar with local customs, developing a sense of Whanganui through touristic highlights and local encounters, visiting local information points, museums, libraries and archives, attending cultural events, and getting in contact with various organizations and individuals situated around the Whanganui River. I further got in touch with people I knew through my personal network, who gave me insights in the local habits and social structures of Whanganui.

This research belongs to an ontological subjectivity by focusing on the perspective and life worlds of the participants (Rosenberg 2015). It follows an interpretative epistemology by seeing the world as a construction of different social realities, and aiming to uncover those as such (*Ibid.*). In a way, it could be considered part of field philosophy as an effort to interrogate the structures of meaning, valuing, and knowing that shape our worlds: ‘what do particular ways of understanding and inhabiting *do*, how do they help to enact, to *make* worlds?’ (Dooren 2017, 60). Within this thesis, the river itself is considered as a participant. Therewith, this thesis aims to work within a multispecies ethnography or an Anthropology of Life, by its focus of the interspecies relationship that exist between humans and their environments (e.g. Haraway 2007; Kirksey and Helmreich 2010). The river’s surrounding landscape serves as a site of interaction for the various possibilities for responsible cohabitation that already are, or might be, opened up (Dooren 2017).

Ethnography involves the application of a range of available methods in a way that is close to the way we all make sense of the world around us in our daily lives, while also staying scientifically rigorous and systematic (O’Reilly 2012). This makes it possible to learn in detail about complex social phenomena, personal experiences and their relations with broader structures. In short, it is where macro and micro dimensions, structure and agency, and theory and practice meet (e.g. O’Reilly 2012; Ingold 2018). The used methods have been a combination of participant observations, informal conversations, and collecting data through recordings, field notes, and pictures.¹⁵ Participant observation, a tool for ‘studying with’ (Ingold 2018, 11), pays attention to the explicit and tacit aspects of life routines and culture (DeWalt and DeWalt 2011), to learn how individuals engage in social life through the practice of daily activities and interactions – ‘the acting out of social life’ (O’Reilly 2012, 8). This makes the ethnographer itself the tool of research and it underlines the importance of using the senses to build up

¹⁵ The pictures that are used throughout this thesis are, unless mentioned otherwise, taken by myself and form a collection of my exploration of, and navigation in, the field.

embodied knowledge (Madden 2017). For this reason vignettes are used in a way that include as many senses as possible (O'Reilly 2012), to clarify and visualize the contexts of my encounters in the field (Azman and Mahadhir 2017).

The most important way for me to participate was going up the river during my last week in New Zealand. I was guided by R., a man that identifies himself as Whanganui River Māori. Through him and the group of New Zealand women I was with, I gained a great amount of insights in the practiced local habits and interactions. This journey further formed the basis of the prologue, interludes and epilogue, that reflect on my own experiences up the river which I could not gather through conversations. Together they form an embodied autoethnographic narrative that explores my own relating to the river.

This research engaged in an open approach in the sense that I have not been bounded to any organization or institution beforehand. While this made it possible to stay flexible and follow the different paths that I encountered, it also led to an intensive and lengthy process of building rapport. I have been reaching out to many involved organizations and individuals, of which not all have been responsive. Almost all the people I spoke to told me about the importance of knowing the right persons and the necessity of getting introduced. As a family member of a contact told me: 'Don't go in the Dutch way and just try to talk to anyone'. I was told that it takes time and trust, and specifically in this area, as someone else mentioned, 'they can be quite reserved up there'. Organizations would send me to other organizations or turned out to be closed down. One of the main trusts that is involved in the practical implementation of the settlement required me to fill in a two-page request form about my research intentions, added value and audience, along with research protocols about not having a predetermined agenda, sharing my findings prior to publication, and the right to redact culturally sensitive information. In short, more than expected I needed to navigate in the field by finding a right balance between representing myself as a researcher and a person, whilst applying a less direct approach than I am used to.

Decolonizing Methodologies

I soon learned about the sensitivities of the subject in several ways. One of my participants explained to me via e-mail correspondence after I had returned to the Netherlands: "It is a rather tricky topic, that is, the politics of the river." The field I have been navigating in is one within a colonized context of non-Western societies, which since long has been topic of anthropological debate.¹⁶ Linda Tuhiwai Smith

¹⁶ See e.g. Smith's (2008) discussion on how 'primitive societies' have been put down as barbaric; Morgan's description of such societies as mere stages towards Europe's civilization: Morgan, Lewis H. 1877. *Ancient Society*. Chicago: Charles H. Kerr & Company; Rousseau's glorification of the noble savage as being closer to nature: Cranston, M. 1991. *The Noble Savage: Jean-Jacques Rousseau, 1754-1762*. Chicago: University of Chicago Press; Boas' rejection of a linear and unified monoculture: Boas, Franz. 2014 [1920]. "The Methods of Ethnology." *American Anthropologist* 22(4): 311–321;

(2008), a leading theorist in decolonization of Māori in New Zealand, makes a claim for decolonizing research from the point of the colonized. She argues that indigenous peoples have been oppressed by the inextricably link between research and European imperialism and colonialism (Smith 2008, 1):

‘Research’ is probably one of the dirtiest words in the indigenous world’s vocabulary ... The West can desire, extract and claim ownership of our ways of knowing, our imagery, the things we create and produce, and then simultaneously reject the people who created and developed those ideas and seek to deny them further opportunities to be creators of their own culture and own nations.

Research knows a history of an institutionalized Western discourse about ‘taking’ indigenous knowledge. This has led to cynicism among indigenous peoples to be associated with a marginalized social reality: “The problem is that constant efforts by governments, states, societies and institutions to deny the historical formations of such conditions have simultaneously denied our claims to humanity, to having a history, and to all sense of hope.” (Smith 2008, 4)

Specific to a Māori context, Smith (2008, 15) underlines the importance of ‘being there’, ‘sharing knowledge’ with and ‘reporting back’ to the people involved. In *te reo* Māori, Māori language, there is the expression *Kanohi kitea* or the seen face, which articulates that being seen – showing and turning up at cultural events – fortifies your membership within a community in an ongoing way and is part of how one’s credibility is developed and maintained (Bishop and Glynn 1992). This make cultural protocols, values and behaviours an integral part of methodology.

Notes on Language Used

Even more so within colonized contexts, common terminologies require a critical consideration of embedded assumptions of power dynamics. Collective terms like ‘indigeneity’ and ‘nativity’ are highly debated concepts, related to teleological notions of civilization, colonial histories and power hierarchies (e.g. Dove 2006; Kenrick and Lewis 2004; Roothaan 2019; Smith 2008). Currently, both terms encompass notions of originating from a particular place, descend, settlement, and connection to specific lands.¹⁷ The United Nations generally identifies indigenous groups as autonomous and self-sustaining societies that have faced discrimination, marginalization and assimilation of their cultures and peoples due to the arrival of a larger or more dominant settler population.¹⁸ However, it is still argued that terms like ‘indigeneity’ describe a power relationship between groups of people (Kenrick and Lewis 2004) and are considered problematic in that they appear to collectivize many distinct populations whose experiences throughout colonized contexts have been vastly different (Smith 2008). As alternative,

Said on the Oriental Other: Said, Edward. 1978. *Orientalism*. London: Vintage Books.

¹⁷ Indigenous Foundations. n.d. “Global Actions”, indigenousfoundations.arts.ubc.ca/global_actions/ (accessed August 8 2020).

¹⁸ *Ibid.*

Smith (2008, 5) refers to ‘communities who have chosen to identify themselves as indigenous’ and similarly, Roothaan (2019, 24) favours the term ‘colonized peoples’.

In New Zealand, the term ‘Māori’ is used much more frequently than ‘indigenous’ as the designated universal term, while different origin and tribal terms are also used to differentiate between groups (Smith 2008). Although Māori is an indigenous word, it has been identified as a label that defines a colonial relationship between Māori and *Pākehā* and might be colonizer imposed (Smith 2008). *Iwi*, another commonly used word in *te reo* Māori is translated as ‘tribe’ by many residents, institutions, websites and dictionaries. I will take on the notion of indigeneity similar to the one described by the United Nations and to give room for local meanings and definitions, I will mostly refer to such terms as encountered in *te reo* Māori. English translations can be found in the section Acronyms and Glossary.

Impacts of Corona Measures

The worldwide measures to put the occurring pandemic of the COVID-19 virus to a halt have been of significant impact on the form and process of this thesis. As mentioned before, I spent my last week in New Zealand up the Whanganui River, unknowing of the rapid closing of borders and airlines. After a little less than half of the intended field work period, I had to make the overnight decision to leave Whanganui and take one of the last flights back to the Netherlands. While I am thankful for how this immediate decision enabled me to still return home, leaving in the midst of meeting key figures and getting familiar within the field has formed a major rupture throughout this project. It certainly did not give me enough time to build rapport in the intended extensive way. It eliminated the opportunities to become the ‘seen face’ (Bishop and Glynn 1992) as an integral methodological part of researching colonized contexts (Smith 2008), or to gain additional insights through exchange and dialogue.

The main issue that my early return entailed is that of accessibility, since building rapport during the field work has already been a lengthy process. Further, the accessibility to written documents has also been challenging – either by being non-existent or existing merely in *te reo* Māori. This is connected to a Māori tradition of passing on cultural knowledge orally, and knowledge being considered sacred.¹⁹ After several attempts to continue with conducting interviews, overcome the accessibility issues and the ten hour time difference, and resume business as normal from a locked-down home, the decision was made to gather empirical data in alternative ways. Therefore the field work is expanded with the use of additional literature, an extensive amount of primary sources and settlement-related reports, and a digital field work by watching several documentaries and movies.

¹⁹ While passing on knowledge orally through *kōrero*/narrative often came up in conversations with participants, defining such a knowledge system as an ‘oral tradition’ is criticized for neglecting it as a history (Smith 2008). I do not intend to imply this division and refer to it as one of several historical accounts, and use it to explain my own positioning in the field.

Ethnography is considered a reflexive practice (e.g. Madden 2017; O'Reilly 2012; DeWalt and DeWalt 2011). It elaborates on both an emic perspective, that reflects the insiders' point of view, and an etic perspective that reverberates the outsiders' or researchers' point of view (Madden 2017). Since the researcher serves as the tool of research, it should be guided by the role of our own 'embodied, sensual, thinking, critical and positioned self' (O'Reilly 2012, 100) which asks for a 'critical appreciation of positionality' (Madden 2017, 22).

My own positioning as a white, middle-class European and researcher therefore plays a central role throughout the conducted field work. First, presenting myself as a researcher straight away did not turn out to be futile in all circumstances and I shifted towards a more personal approach based on my own interest in and enthusiasm for the subject, aiming for a good balance between intimacy and distance (O'Reilly 2012). However, I am brought up in a context where – at least for me – struggles over land and belonging are not carried out in such a prominent way, facilitating me with relative wealth, safety and security. I was aware that my positioning could come across as somewhat uninformed, being an outsider to marginalized peoples and having a privileged history that lacks similar experiences of oppression. I experienced this mostly in implicit ways but explicitly, I was told by a participant that I was allowed to do a certain thing, 'because you're white'. This touched upon issues that I had heard before several times – several participants had told me about a 'mutual resentment' between Māori and *Pākehā*, feeling uncomfortable in the city because of the suspicious looks one would get, or the unfair favouring of 'them', the other. Both research-wise and personally these conversations have been of great added value, but it also put me into a position where being white implied being placed into 'us' or 'them'.

Being conceived as an outsider has been magnified but foremost overcome by staying in Whanganui as a tourist; I got in contact with great participants through the owner of my accommodation and the tourist information site. Another way to overcome these obstacles has been to simply stay interested and express my own affection for 'nature'. This has been fundamental to conduct this research. I learned to present myself as a 'knowledge seeker' and got introduced by others as such. Further, being named after a river myself certainly have helped to augment my personal connection with the subject. It often clarified and justified my interests, as one of my participants told me: "I have been asking the Awa [river] why our paths have crossed. Now I know. You *are* a river."

For this thesis, the Principles of Professional Responsibility are taken into account.²⁰ First and foremost, I have intended to do no harm to any of the participants, including the river. I have remained wary of my own assumptions and because of the orienting character of my stay in Whanganui and the difficulties of staying in touch afterwards, I have chosen to leave certain statements out of this thesis.

²⁰ AAA Ethics Forum, ethics.americananthro.org/category/statement/

Where possible they did give me directions to ground my arguments in other ways, like documentaries and literature. I have been open and honest regarding my work, and the involved participants are anonymized in respect of their privacy.

However, I am aware that the shortened period of field work has influenced this thesis in a way that it became more reliant on my own interpretations. Like any other, this story calls for a telling wary of misinterpretations and assumptions – which remains difficult from the other side of the world. However, I am convinced that many of these encountered difficulties lie at the root of the subject. I emphasize with protective attitudes towards ‘outsiders’ who come to ask questions – if I interpreted correctly – and I am aware of the relations with cultural protection and postcolonial contexts. It made me reflect critically on whose story I am trying to tell and to look for ways to still make this possible.

Outline

This thesis tells the story of the Whanganui River and its entanglements within a landscape that is plural, in a postcolonial context. It will analyse the multi-layered landscape through a juridical, political-territorial and ontological lens to uncover how the landscape, the water and the people interact in the Whanganui region. Through this, the different meanings and imaginaries that are negotiated with regard to the river by the people involved, both Whanganui *iwi* and *Pākehā* residents, will be explored.

The course of this thesis follows three geosocial landscapes. I will first elaborate on the ‘lawscape’; the juridical course of the Whanganui River, and how its history is embedded in different notions of law and property that are negotiated with regard to the river. The first chapter will therefore provide for the juridical structures of British colonization to show how juridical pluralism is both a fundamental characteristic of this colonization process, as currently used as a tool towards citizenship through the Māori claim for the river’s legal personhood.

Property and ownership are not merely about physical environments, but about social realities and contestations as well. Likewise, territories are not only places, but hold a sense of that place and political negotiations of that imaginary. Territory could be considered as a materialization of diverging interests and ideas, and underlines the interconnection of place, power, and the use and contestation of resources and land. Such power relations are still existent and visible in contemporary Whanganui. Chapter 2 will therefore provide for a political-ecological notion of the river, that shows how nature as a territory is negotiated, how certain spaces are claimed by different people, and how these claims could be overlapping and contesting.

Subsequently in Chapter 3 I will turn to the ontological roots of these tensions by discussing underlying ideas about how nature and culture relate to one another, and how humans should act in relation to their non-human environment. In other words, how these territorial claims are informed by

conflicting ontological ideas about human-nature relations. Indigenous worldviews of nature as a holistic entity are in several discourses and practices overshadowed by the dominant Western dualistic notion of a nature-culture dichotomy. Here, I will make a claim for the inclusion of indigenous knowledge as a legitimate knowledge system and I will discuss the proposal of several systems – multinaturalism and cosmopolitics – that aim to debunk this ontological divide.

The interludes in between tell the story of my own relating with the river, reflecting on the use of the senses as a way to perceive the river, and my attempts to have some form of dialogue with the river. This dialogue is based on my journey up the river by canoe, guided by R, as already mentioned in the prologue. In this way, the river is included as a participant in this research. The subsequent concluding section will provide for implications of the made arguments and how this case could serve as an example towards a nature-inclusive political practice.

Interlude. Mist

*I
am accompanied
by five elderly, caring
women from the north of New
Zealand, the British journalist A., and
our guide R., a hefty but organized outdoorsman.
While the trip was supposed to take us four hours each
day, we arrived at the campsite just before dawn.*

*The past days have been intensive, both physically and
mentally. A. and I soon functioned as help-guides due to
our age-related physical advantages. This meant being
in the rear of a canoe leading the way through the rapids,
carrying the barrels to the campsites higher up the hills,
helping out with the tents, and assisting with cooking and
packing.*

*R. told me that you learn from everything and
everybody, especially from the Awa [river]. This might
as well be my personal learning curve of this journey.*

*Yet it is a role I had not anticipated on and it does not
feel comfortable – I have never been a leader. I am tired.
I feel full and somehow very emotional, and I need time
off to soak in all that I am experiencing.*

*I am the only one of the group lacking an English
mothers tongue. Everybody talks so fast, in their own
accent and with their own slang. My muscles are sore
from convulsively trying to go against the river's
streams, forcing my canoe in directions the river does
not allow me to go.*

*However, I wake up very calm this morning. The river is
fully surrounded by a morning mist that covers this place
with a mystique, even for me almost sacred atmosphere.
The morning routine, however chaotic, really becomes a
routine and without too much hustle we are in our canoes
to continue our journey downstream.*

*And while I jokingly prepared R. that I would ask
his ears off today, the quiet water makes me silent as
well. Floating further away from the group for a while,
R. asks me to close my eyes and to 'look with my ears'.
Feeling slightly uncomfortable and unsure what to listen
for, I try to enjoy the bright sun on my face after what
has been a cold morning, the bird chatter and the sounds
of the rippling water around our canoe.*

*At the least, I am listening to the river now – am I
talking with it too?*

Chapter 1.

Juridical Pluralism

*He pūkenga wai, he nohoanga tāngata
He nohoanga tāngata, he putanga kōrero*

*Where there is a body of water, people settle
And where people settle, histories unfold²¹*

This chapter describes of the historical course of the Whanganui River, to explain how different notions of law and property are negotiated with regard to the river. The river has been divided and possessed by the introduction of a British legal system that became dominant in deciding over – private – ownership. The existence of more than one law or legal system within certain geographical spaces is called ‘legal pluralism’, often related to colonized contexts. This legal system is now used as a tool towards citizenship and the acknowledgement of Māori relations with the river, as well as for the bringing together of Māori and British law systems. While the process of reframing legal paradigms in legally pluralistic societies is often connected to simultaneous processes of equalization and decolonization, it is debated whether this new formation led, or will lead, to decolonizing the river.

Two Historical Accounts

Aotearoa, the Māori name for New Zealand, means ‘long white cloud’ and stems from the Polynesian canoe arrivals around the thirteenth century.²² In Māori tradition, it is assumed that the first Polynesian to discover the islands of New Zealand was the explorer Kupe, in pursue of a great octopus, from which this name is derived. The historical framework of Māori settlement in New Zealand consists of a collection of collective knowledge about these arrivals that varies among different traditions, orally handed down generations. These traditions involve ancestral narratives, both of the spiritual and the natural world, that explain the connection between various *iwi* and the land.²³ Similarly, the Whanganui River is considered to originate from Mount Taranaki, a mountain god that once was situated in the Tongariro National Park. Taranaki fell in love with his brother’s wife and flew to the southeast of the island, where the mountain still remains today. The scars he left on the land formed the Whanganui

²¹ NTT. 2016. *Ruruku Whakatupua*, 10.

²² Irwin, G., and C. Walrond. 2005. “When Was New Zealand First Settled? The Date Debate.” *Te Ara: The Encyclopedia of New Zealand*, teara.govt.nz/en/when-was-new-zealand-first-settled (accessed May 27 2020).

²³ Royal, Te Ahukaramū Charles. 2005. “First Peoples in Māori Tradition.” *Te Ara: The Encyclopedia of New Zealand*, teara.govt.nz/en/first-peoples-in-maori-tradition (accessed May 27 2020).

River and the Whanganui River *iwi* are all related to descendants of these gods.²⁴ In this way, Māori are geographically, historically, and ancestral connected to land.

In *te reo* Māori, Whanganui means ‘big bay’ or ‘big harbour’. Māori have lived around the Whanganui River for over 800 years, using the river as their main food resource, means of transport and using the location of contemporary Whanganui as their main trading place. The river served as an artery for inhabiting its forests and river terraces, and as a main travel route to and from the inlands (Waitangi Tribunal 1999). The Whanganui River Māori Trust Board (WRMTB 2014) developed a confirmed *kōrero*/narrative about the origins of the Whanganui River and its people by combining oral traditions of different *iwi*, which underlines the importance of both ancestral blood lines and orally passed on knowledge. Traditionally, Māori *iwi* possessed and exercised rights and responsibilities in relation to the river in accordance with their *tikanga*; customs and habits based on tribal relations with their ancestral landscape (WRMTB 2014). Each part of the river had an authority to maintain the *mana*/authority of the *hapū*/subtribes to fish and settle in their river section. Following Māori law, the river was viewed as *Te Tupuna Awa*; an ancestor and an indivisible whole from mountains to sea. Individuals had use rights of parts but the title remained with the descent group as a whole (Waitangi Tribunal 1999).

British interests in New Zealand emerged when the Englishman Captain James Cook commenced an era of trading in the eighteenth century, after which Britain claimed New Zealand as a colony in 1840. The British government aimed for a ‘peaceful colonization’, and *Te Tiriti o Waitangi*/the Treaty of Waitangi would provide for Māori consent to establish a British form of government (Orange 1987). The Treaty was signed by representatives of the Crown and leaders of most Māori *iwi* (NTT 2016a). Principles of the Treaty would contain the protection of Māori *rangatiratanga*/sovereignty, the establishment of a Crown-Māori partnership, the Crown’s governing ability in order to provide for protection, Māori control over their resources and *taonga*/treasures and to have all the privileges of citizenship (Orange 1987). However, the translation of the Treaty in *te reo* Māori was not identical in meaning, perhaps deliberately mistranslated by British colonists (Levine 2010; Moon and Fenton 2002; Morris and Ruru 2010; Orange 1987). Two treaties came into being, in English and in Māori, ‘providing different descriptions of legal rights and obligations and compounding the inherent differences between British and Māori law’ (Charpleix 2018, 20). Many Māori lost the rights and property the Treaty seemed to guarantee for them, and Māori groups and individuals failed to attain compensation for those losses.

Colonial settling has been critical to the historical flows of Whanganui and its river as well. When British settlers arrived in Whanganui in 1841, they recognised the opportunities of the river concerning transportation, leisure activities and resources. The following decades a regular riverboat would begin to carry mail and freight, tourist trade was commenced, as well as the diversion of water to

²⁴ Archives New Zealand. 1952. *The Legend of the Wanganui River*. Video, [youtube.com/watch?v=qsCVx-UOvY6c](https://www.youtube.com/watch?v=qsCVx-UOvY6c) (accessed May 27 2020).

generate hydro-electric power, and the extraction of gravel for railway and road construction.²⁵ The Whanganui River became internationally known as the ‘Rhine of New Zealand’,²⁶ which not only exemplifies the importance of the river for British settlers, but also imposes a Western notion on the river.

Both Māori and British peoples thus had interests in the river and the issue of ownership came into focus. The British settlers brought with them the legal system of the Crown, that was based on substantially different core values compared to Māori law (WRMTB 2014; Charpleix 2018). While Māori indulged to a law system that gave the Whanganui River *iwi* authority and control over an indivisible region extending across land, mountains and tributaries, British law introduced the concept of private ownership. This further initiated the division of and control over waters. Following the legal system of the Crown, owning land adjacent to water determined the ownership over half of the riverbed. Since Whanganui *iwi* had not organized themselves in the same way they were unable to show ownership over the land nor the river, resulting in British land purchase and subsequent authority over parts of the river (Charpleix 2018). Thus, the river got both owned, dispossessed and divided.

Rights and Property: Claims on the River

While the two legal systems in New Zealand continued to function, the colonisers’ system took precedence and the British claim on the river became dominant (Te Aho 2007). Colonisation required submission, if not extinguishment, of Māori law by *Pākehā* law, in order to ‘dispossess Māori in the name of civilization and the will to extend the empire’ (Jackson 1995, 249–50). It is only recently that Māori perceptions of and relations with the river have been acknowledged formally, at least in a juridical manner. This has not been without struggle and involved many efforts to retain sovereignty through the pursuit of legal action. For over 150 years, a collective of Whanganui River *iwi* have asserted that Māori have never since 1840 freely and knowingly relinquished their rights and interests in the river. This claim for the Whanganui River has been the longest running case in New Zealand history; petitions to Parliament to protect and provide for the relationship of Māori Whanganui River *iwi* with the river date from the 1870s, followed by ownership negotiations, litigation around the river beds, water flows and management, and appeals to numerous courts, commissions and tribunals (NTT 2016a; WRMTB 2014).

The Deed of Settlement (NTT 2016a) is the preceding juridical framework for the river. This document involves an agreed historical account, both signed by Māori *iwi* and acknowledged by the Crown, that describes the ongoing conflicts over law and water issues since British colonization. Repeatedly the Māori claim for the river has been overruled by several courts, commissions and acts –

²⁵ Department of Conservation. N.d. *Manawatu/Whanganui*, doc.govt.nz/parks-and-recreation/places-to-go/manawatu-whanganui (accessed August 8 2020).

²⁶ discoverwhanganui.nz; isite.nz/find-your-next-stop/whanganui; visitwhanganui.nz.

like the Native Land Court, Supreme Court, Royal Commission of Inquiry, the Court of Appeal, an Order in Council, and the Coal-Mines Act Amendment Act 1903 that provided that the beds of all navigable rivers ‘shall remain and shall be deemed to have always been vested in the Crown’ (WRMTB 2014: 44). *Pākehā* law did not allow for the investigation of title to a river as a whole and while eleven judges in three Courts found that Whanganui *iwi* would be the customary owners of the bed (Waitangi Tribunal 1999), attempts to negotiate compensation were inconclusive and several applies for rehearing did not proceed (WRMTB 2014). Until the claim for a legal personhood, most appeals involved only parts of the river and have been revolving around clearance work by the growing interest in steamboats transportation and scenic attractions that destroyed Whanganui *iwi* fisheries and eel weirs, gravel extraction for railway and road construction that that ultimately led to the depletion of fish habitats and traditional fisheries, and the diversion of water into the proposed Tongariro Power Scheme that was authorised without consulting Whanganui *iwi*.

In 1975 the Waitangi Tribunal was established as an advising institute to determine whether Crown actions or omissions have been in breach of Treaty principles.²⁷ This Tribunal is court-like, but not legally binding and acknowledges both Māori and British legal systems. Māori *iwi* and collectives could now propose claims on alleged violations, and by 2009 the Tribunal had produced over 100 reports of accepted claims on land, waters and language.²⁸ In 1988, the Crown further established the Whanganui River Māori Trust Board (WRMTB) to negotiate for the settlement of all outstanding claims of Whanganui *iwi* over the Whanganui River. The *Wai/River* Claim 167 was lodged after two years on behalf of all who affiliate to Whanganui *iwi*. Finally, the Waitangi Tribunal (1999) advised a decade later that Whanganui *iwi* never since 1840 freely and knowingly relinquished their rights and interests in the river and that this interest has not been extinguished in accordance with the principles of the Treaty of Waitangi. The Whanganui River Claim got settled, asserting the Māori rights to the ‘ownership, management, and control’ of the Whanganui River (Waitangi Tribunal 1999, 357). Subsequent negotiations resulted in the declaration of the river’s legal personhood, with shared guardianship by the government and the river’s Māori community (Charpleix 2018). The enacting legislation was passed on 20 March 2017.

While the status of the river is still under development, the river is now represented by *Te Pou Tupua*, the human face of the river. This face comprises two people who similarly symbolize the coming together of Māori and *Pākehā* law; one has been nominated by the Whanganui River *iwi* and one by the Crown. Together they act and speak on behalf of the river and enable the river to take a legal stand (Charpleix 2018). The *Te Awa Tupua* framework further consists of two fundamental principles: first, to recognize the river as an indivisible whole ‘incorporating its tributaries and all its physical and

²⁷ Ministry of Justice. 2020, May 26. *The Treaty of Waitangi/Te Tiriti o Waitangi*, waitangitribunal.govt.nz/treaty-of-waitangi (accessed May 27 2020).

²⁸ *Ibid.*

metaphysical elements from the mountains to the sea’, and second, to underline the inseparability of the wellbeing of the river and that of its people (WRMTB 2014, 22). The latter involves ‘cultural and financial redress’ to restore and further develop the relationship between Whanganui *iwi* and the river (WRMTB 2014, 9). The status of the river thus serves as a fundamental recognition of the interconnectedness of the Wanganui River and its people. As stated by WRMTB (2014, 5), for the Whanganui *iwi* the true voice of the river is finally acknowledged:

The Deed of Settlement ... must now journey on the waters of the River and flow forth to the hearts and minds of the people. By this route the words of the Deed seek to reveal the mana [authority] of the River, which has been long upheld by the *iwi*, and in so doing embody the pepeha [saying] “I am the River, and the River is me.” As an *iwi*, we have waited a very long time to hear again the true voice of the River ... A pathway has been sought to fulfil the claims of the old people but in today’s times. However, the settlement must first be understood, contemplated and discussed through hui [gathering], and supported by the River’s many descendants. Thus, let us – the many small streams and large streams that are intrinsically united as Te Awa Tupua – join and flow together towards a conclusion!

The Lawscape

For several law scholars (e.g. Graham 2011, Gray 1991) the meaning of property is not about the ownership of material things but about abstract rights, about people, or rather, about relations between them. However, property law remains a regulation of real and particular uses of land and resources. Environmental and geographical law scholar Nicole Graham (2011) addresses law’s relationship to land and natural resources through property. She uses the term ‘lawscape’ to account for the relationship between the abstract philosophy of property law with the physical material environments of place. Likewise, law can be considered as ‘a product of human invention in conjunction with the demands of place, society and culture, therefore no more fixed than are language and political systems’ (Charpleix 2018, 24). Von Benda-Beckmann (2002, 48) describes law as a collection of objectified cognitive and normative conceptions; ‘how things are and why they are what they are’, and ‘how things ought to be, must be or may be’. Law is thus never merely objective and is part of social realities, in which dominant world views reveal themselves through legal frameworks. In other words, law, land, property, culture and ideology are intertwined.

The claim for the river as a legal person enables and formally accepts a Māori notion of the river as an indivisible entity, and resembles a coming together of Māori and *Pākehā* law systems. While claims to reify indigenous culture and to assert indigenous ownership over it – and issues concerning cultural appropriation and marginalization – are globally known, New Zealand handles a unique approach to the issue of cultural rights by the establishment of the Waitangi Tribunal that acknowledges both Māori and British law systems (Levine 2010). Among other measures, the establishment of such a Tribunal has led to the expansion of Māori rights and powers (Charpleix 2018). For example, the

settlement documents are written in both *te reo* Māori and English, and involve mutual agreements on historical accounts, a Crown acknowledgement and apology, a future Whanganui *iwi*-Crown relationship agreement, and the explanation and institutionalization of Whanganui *iwi* authority. As Ngā Tāngata Tiaki (NTT 2016b, 5), the post-settlement governance entity, notes: “For the first time, a frame of reference that stems from the intrinsic spiritual values of Whanganui Iwi’s own indigenous belief system ... will form the foundation at law for the definition and integrated management of a river system.” At the least, the legal personality of the Whanganui River illustrates that a ‘Western’ legal tool can be applied to a more spiritual understanding of water (Lillo 2018).

Several Māori people I have spoken to in Whanganui expressed both their pride and doubts towards the new legal framework. As J., a woman that worked at a local library, explained after I expressed how impressed I was by the extensive juridical expertise that was known and understood by most local *iwi* members: “Yes, but we have been living this. For hundreds of years.” While she recognized the empowerment it could provide her and other *iwi* members, and the broader movement caused by it – as the claims for legal personhood are already spreading towards several other natural entities throughout New Zealand – she disagreed with the settlement at first. It was too much of a compromise towards the Crown.

Decolonizing the River?

As described above, different law systems can be coexisting and conflicting. This is defined as ‘legal pluralism’; places where ‘two or more legal systems coexist in the same social field’ (Merry 1988, 870) or where ‘law and legal institutions are not all subsumable within one ‘system’ but have their sources in the self-regulatory activities which may support, complement, ignore or frustrate one another’ (Griffiths 1986, 1). It refers to the idea that in geographical spaces – often defined by the boundaries of a nation state – there can be more than one law or legal system (Davies 2012). The process of reframing legal paradigms in legally pluralistic societies is often connected to simultaneous processes of equalisation and decolonisation (Charpleix 2018).

Several jurisprudence scholars criticize the notion of legal pluralism for its hierarchical assumptions (e.g. Charpleix 2018; Jackson 1995; Morris and Ruru 2010; Levine 2010). Similarly, the Whanganui River Report (Waitangi Tribunal 1999, 102) emphasises the need for fundamental changes to the legal system: “Still lacking, however, is a New Zealand legal framework for rivers and water that is able to accommodate the distinctive sources of law for this country from both England and the Pacific or that accommodates legal presumptions from England concerning the Crown’s radical title with the New Zealand reality that the “radical title” was already spoken for.” While the legal recognition of *Te Awa Tupua* is innovative, the settlement largely operates within the boundaries of the British legal model and Western notions of rights (Charpleix 2018). The incorporation of Māori into *Pākehā* law redefines

Māori rights within a pluralistic common law, rather than in Māori authority (Jackson 1995) and remains to truncate the indigenous legal tradition (Tokowa 2016). Jackson (1995, 255) argues that Māori legal systems are incompatible with the Waitangi Treaty, which is a *Pākehā* construct: “The recognition of specific Maori legal or cultural concepts is acceptable only if they do not threaten control or challenge the Crown’s power to define what is acceptable or unacceptable.”

Williams (2013) is more optimistic about the progress of recognizing Māori law and instead of an integration of Māori law. He describes a interstitial hybrid between the two systems. His legal structure is three-layered; first, Māori *tikanga*, second, British-based common law, and the added third space involves a law to perpetuate *tikanga* that changes both the nature and the culture of the now dominant British law. Hybrids are often proposed as the solution to the dilemmas facing legally pluralist states (Charpleix 2018). The *Te Awa Tupua* framework can be considered as a step towards such a hybrid, interstitial legal structure. *Te Awa Tupua* would arise between, and separate from, the dominant British legal system and *tikanga*, without being absorbed into it (Williams 2013; Charpleix 2018). If the formation of a hybrid, legal structure ‘can disrupt the colonial structures that (mis)appropriated an environmental feature, like water, primarily for its economic value, then logically, other types of previously excluded cultural and ecological features can, and should, be recognised in the same way’ (Charpleix 2018, 26).

In conclusion, the acknowledgement of the river as a legal person enables and formally accepts a Māori notion of the river as an indivisible entity, and resembles a coming together of Māori and *Pākehā* law systems. However, while reframing New Zealand’s legal pluralistic paradigm towards a hybrid and decolonized form, it is argued that the settlement still operates within the boundaries of the legal model of the Crown and corresponding notions of rights. Such power relations are still visible in contemporary Whanganui, which will be discussed in the next chapter.

Interlude.

Ripple

After attaching our barrels and detaching the canoes, R. steps his feet into the water to start the daily ruruku [incantation] to ask the river for protection and guidance for everyone on the river. While it has been another hectic morning, R. takes the time to take off his hat, take a look around and let his posture grow strong and grounded. And in the midst of the place that he calls home, R. shares with us his conversation with the river. The words he speaks to the river echo around us, filling the steep mountains with his chanting voice. We as a group gather behind him to reply with 'Tina' and 'Tāiki ē', meaning something like 'that it may be so'. R. wants us to say the words together, as a whole, and with confidence.

Shortly after, R. runs up and down the slippery pathway to look for fern leaves that we attach to the front of our canoes. 'My people used to recognize each other like this,' he explains. We leave behind yesterday's fern leaves to let them return to nature, connecting the places we visit in time and space.


Even though I do not understand it fully, it feels important what we do. We are establishing a balance between taking from and giving back to the river. We go beyond conceptions of time, space and boundaries like I learned them. We are actively connecting, perhaps spiritually, with both the river and each other. And for R., therewith with the Earth as a whole, and with his ancestors.

After lunch, we stop at one of the few maraes [community houses] left in the National Park. From the river you can barely see it, emphasizing that you really need guidance of 'someone with knowledge', as R. explained. It is a steep climb upwards, traditionally strategically placed to see enemies coming. Every meter we go upwards the rippling sounds of the river fade further away, until they are just barely noticeable.

As we arrive, R. turns around to explain the proper way to enter. He wants me and the ladies to line up close together as a cell, a wholeness, with him and A. as the men of the company walking besides us. After a few tries R. approves our positioning and he starts to walk next to us forcefully, stamping with his feet. He then starts chanting so powerful yet peaceful it made me and the others shiver. Yet again, it feels timeless, and important.

However, something feels off about it too. The marae is so difficult to find. Not only when entering from the river, but also at the tourist information signs at the hut we had lunch earlier – the places of relevance for Pākehā and Māori had been separated, with the Pākehā ones so much more visible, outside, on bigger signs. Only the 'Māori places' are specifically marked as such. Is Māori history considered less significant, is it aimed to be protected by the people themselves, or is it, in fact, a sign of attempts to equalize both accounts of the river? I do not know who resonates with the signs. Something is happening on a lower level and I don't know how to let it become explicit.

It is like one of the conversations R. had with one of the New Zealand ladies of our group, about the river becoming a legal person. The lady stated: 'But it has only been like this for two years now. I cannot imagine that it has already changed anything.' After a long pause, R. replied: 'I am not arguing with you, but I would disagree.' Multiple realities seem to battle each other for a truth mark, only to be heard in the things unsaid. Like ripples disturbing still water by an object dropped into it – continually spreading, expanding.



“Iron is a way of thinking or a mentality that may be disconnected from the earth. Iron could be seen as that what is introduced, as offences that divided the land. Whereas clay represents the earth. And sometimes you see this antagonism, this tension. The iron as it was introduced clashing with the uku, the clay. Two worldviews colliding.”²⁹

Chapter 2.

Negotiating Territory and Spatial Imaginaries

The previous interlude shows how I became familiar with the ways in which R., the man that has been guiding me up the river, communicates with the river and his ancestors. He has been a Whanganui River guide for 18 years while working off-season in construction elsewhere on the island. He identifies as Whanganui River *iwi* and considers the river his home. “The tourists are actually working for me,” he jokingly told me, “Because they make it possible for me to go up the Awa [river] as much as possible. And I get paid for it.” However, the role of the river in both natural and social spaces is subject to different narratives and imaginaries. The feeling of ‘something being off’ occurred to me on many more occasions where I struggled to lay my finger on what it was exactly that was being articulated or practiced. As described in the methodology section, indeed, the politics of the river became ‘a rather tricky topic’.

The meaning of the river is subject to different narratives and imaginaries, through which ideas of how the river is, or should be shaped, are established. While claims to certain spaces can be coexistent, overlapping or even uniting, often they resemble particular contestations. This chapter will therefore elaborate on different power relations that are still existent in contemporary Whanganui in different territorial claims that are made by the people living around it. What will follow first is a vignette that I have written after I joined the local postmen with their rounds, V. and A., a married *Pākehā* couple that delivers the mail to each side of the river north of Whanganui.

²⁹ Geoffrey Hipango (Māory community development) in: The Atlantic. 2019, April 22. *New Zealand’s Maori Won Personhood for This River*. Video, [youtube.com/watch?v=YOZxRSzxhLI](https://www.youtube.com/watch?v=YOZxRSzxhLI) (accessed August 8 2020, picture also taken from here).

I am sitting in the passenger seat next to V., carrying a big box with mail on my lap – mainly the local newspaper’s free Friday edition. The back of her van is filled with big parcels and I would later discover that a third passenger is joining us; V.’s dog sits quietly between the packages. V. had picked me up just past sunrise and after her usual round of buying cigarettes for delivery and visiting the bakery, we leave Whanganui’s city centre for its surrounding farmlands. While we drive along the riverbed towards the mountains, the morning mist disappears to reveal stunning views over the river and make room for the bright blue sky that is common at the end of summer. Routinely, V. drives through the curvy roads, checks the printed list of addresses every now and then, and stops her van close enough to the mailboxes to put in the mail without leaving her car seat. A thought comes to mind, just as many occasions before: this is not a walking country.

V. loves the river, she tells me, from the moment she first saw it. It immediately gave her a peaceful and homely feeling and that was the moment she decided to migrate from South Africa. She loves bringing out the mail; not one day is the same and she gets to be outside every day. She then suddenly needs to break because of a dozen baby pigs crossing the road. And then because of a couple of loose sheep. And then some goats, a flock of native birds, chickens. Every time, V.’s fear to run them over quickly turns into a big loving smile, and she continues to drive past them slowly even when the threat is long gone. The whole day, the main encounters we have are more with these animals and the resident’s mailboxes than with the actual residents. When I make a comment on this, she tells me she is glad about that. She likes animals better than most people anyway.

V. tells me about all the different farm animals, wildlife and native vegetation. We cross villages only consisting of a family of 30 and we drive through the biggest farm of the area, which at one point stretches as far as the eye can see. All of it is owned by the Māori Trust, regained since the reclaiming of Māori land. The further away we drive from Whanganui, the more secluded the area gets. I keep getting amazed by the wideness and quietness of the area. They must live isolated up here.

Indeed, when V. starts to chitchat with the few residents that we *do* encounter, they do not really seem to notice me. Little greetings are given, little eye contact is made. When we have coffee and share a cupcake at a desolated campsite, V. explains that it takes a while to gain their trust: “They learned that I’m not interfering with them, and they don’t interfere with me.” After nine years of delivering the mail, V. is considered a local now, she tells me, with a smile on her face: “They even invite me to their celebrations.” And while her connections with the river seem to be close, the river’s legal personhood is more distanced from her. It is more a good thing for the Māori than for herself: “The white people did terrible things here. Not you and me, but before.” In our conversations that day, she often speaks of ‘us’ and ‘them’.

Contesting Natural and Social Spaces

This vignette foremost shows how my own positioning played a central role throughout my field work. By talking about ‘you and me’, V. implied that both of us shared one side of New Zealand’s colonial history. As discussed in the methodology, this implicated various things, but foremost I experienced that I was even more so positioned as an outsider from the Māori community that I tried to get familiar with. For me, it also resonated with an experience of seclusion of the area, not used to outsiders.

When I joined her husband A. the next week for his round at the other side of the river, he expressed similar imaginaries of the river; V. and A. both greatly enjoy being around the river and they

hold a close, loving relation with their natural environment. They make use of the landscape by driving the roads next to the river six days a week, and they consider the river their home. His side of the river is more secluded than his wife's; A. stated that I must be the first Dutch person to have ever driven on this road. Like his wife, A. feels at home in this landscape and he loves delivering the mail: "Every day is different. Sometimes it is busy, sometimes there are pigs, sometimes goats." His area is clearly more well-off; the houses are bigger, the gardens are cleaner and the cars are newer than any area I have seen so far. A. tells me that not so many Māori people live here but strikingly, many farms still hold their Māori name. Now 'white people' have bought them.

However, they remained wary of making claims to the river as being 'theirs', and seemed to purposely give room for the Māori imaginary of the river as a living entity. Being migrated from South Africa and Switzerland, their claims are not rooted in a long line of settlement heritage. They both told me that the river's legal personhood has no meaning for them ('You have to take good care of the river anyway'). They further expressed a distant relation of non-interference which I also described in the previous interlude. And next, driving along with V. and A. uncovered a complex web of dynamics within a territorial landscape, like the Māori named farms now owned by 'white people'.

The Iron and the Clay: The River as Territory

Political ecology focuses on the interconnectedness of place, power, and the use and contestation of resources such as land, water, and soil; ways in which diverse visions of the environment represent, negotiate, and shape landscapes and actions within them (Gezon and Paulson 2005). Gezon and Paulson (2005) argue that the environment is not only made up of biophysical phenomena, but also of social practice and cultural meaning. Subsequently, Boelens and colleagues (2016, 2) describe territories as the outcomes of 'interactions in which the contents, presumed boundaries and connections between nature and society are produced by human imagination, social practices and related knowledge systems'. People are strongly involved in the everyday (re)production of the environment they live in; they inscribe their life worlds by using, inhabiting and/or managing their environments according to their ideologies, knowledge, and socio-economic and political power (Boelens et al. 2016). Through this process, people generate environments, environmental knowledge systems, and territory. Likewise, Hoogesteger and colleagues (2016) understand territories not as fixed spaces, but as spatially entrenched multi-scalar networks evolving from social interactions and practices, and materializations of these practices. As Swyngedouw (2004, 33) states: "Spatial scales are never fixed, but are perpetually redefined, contested and restructured in terms of their extent, content, relative importance and interrelations."

In other words, the landscape as a territory is embedded in dynamics of social realities, imaginaries and power relations. Such imaginaries can be understood as the socioenvironmental

worldviews and aspirations held by particular social groups (Boelens et al. 2016). For Hommes and colleagues (2018, 152) there are always multiple territories and territorial imaginaries ‘resulting from the diversity of people, communities and actor coalitions, trying to materialize their diverging interests, discourses and knowledge’. ‘Territorial pluralism’ is a term often used within political ecology, to point out that diverse territories are overlapping, interacting and sometimes conflicting in one geographical-political space (e.g. Hoogester et al. 2016; Hommes et al. 2018). Thus, ideas about how specific territories are or should be shaped not only lead to a coexistence of multiple territorial notions, but also to contestations between them (Hoogester et al. 2016).

Framing landscape as territories thus involves an idea of the landscape as embedded in a dynamic of social realities, relations and imaginaries. While different notions of territory could be plural and coexist, this often leads to contestations about how a territory is or should be shaped. In the narrative that frames nature as territory, nature is described as something that is inherently political. For Boelens (2008) negotiating meanings of nature is about more than nature itself; it is about who has the right to decide about nature, about the regimes of representation. Vandergeest and Peluso (1995) state that territorial narratives contain sociocultural, historical and/or physical characteristics that are ascribed to territory, in order to gain control over natural resources and the people who use them. In order to justify ideas about and control over meanings of land and its resources, different actors engage in processes of constructing territorial narratives in which nature is a central element (Cremers and Rash 2016). Conflicts over territory encompass conflicts over different meanings of nature and are fundamentally battles over authority, legitimacy and citizenship (Boelens 2008).

Imaginaries of the River

In the case of the Whanganui River, the river plays an important role for Whanganui and the people living around it. Most prominent, these dynamics are recognized in how both natural and social spaces of the Whanganui National Park are negotiated by the involved people and organizations. When we returned to our canoes after we visited the *marae* as described in the previous interlude, I noticed DoC warning signs about the spread of poison to prevent the current possum plague. I was surprised that this sort of interference would occur at a place that carries such spiritual importance for Māori. R. explained to me: “They did not consult with us. Further down the river, a hut was built on a Māori graveyard. My people pushed it into the water. They should have asked us, eh?” After the incident, the hut was moved elsewhere. However, when R. showed us the graveyard, I could imagine it not being recognized as such. To me it was a mountain, without visible graves or markings. The spiritual attachment to the place could easily be left unnoticed if there were no consultation with Māori peoples. Strikingly, while the DoC presents itself an institute that aims for co-management with local Māori groups, when I visited their office they proclaimed that they were not involved in the National Park due to accessibility reasons –

and they could not tell me who was. Another situation that makes clear how one single space could contain several meanings, is our later visit to a well-known landmark:

The Bridge to Nowhere is the touristic highlight of the river, appearing in many New Zealand movies.³⁰ We know we must be close now, since more and more frequently R. stands up in his canoe and yells ‘Jet boat!’ to us. That is our sign to move ourselves and our canoes towards the riverbed, sideways, to prepare for the fast, steep waves what will come our way. Luckily, when the jet boat driver is one of R.’s cousins or uncles, they would slow down to share a greeting. However, when we take off our life jackets to start our climb to the bridge, R. does not join us. While the signs about the bridge commemorate the fallen soldiers, for R., the bridge symbolizes his people’s stories of broken promises, of land loss, and slavery.

As with other indigenous peoples of the global community, Māori people make territorial claims based on their ancestral right, as sacred territory. Indigenous territorial narratives are often informed by ancestral connection to land as well as ecological concerns, rooted in a ‘taking care of nature’ (Cremers and Rasch 2016, 81). Indigenous groups produce narratives to claim their spiritual, cultural and historical rights to territory in which nature plays a key role (Cremers and Rasch 2016). Local communities further not only contest their right to natural resource use or access to land, but also question who the decision-making authority is and construct their own discourse to defend their normative constructs (Boelens 2008).

Māori lands are not marked by lines on a map as with British property, but by their histories, their ancestors and their relationships (Charpleix 2018). Likewise, Smith (2008) underlines the importance that Māori attach to tribal territories; their spiritual relationships to tribal land, mountains and rivers. Within this narrative, the Māori identity is considered to be inherently rooted in sacred meanings of land and other natural resources. On the basis of this identity, indigenous peoples can also formulate their relationship to the land as a political right (Cremers and Rasch 2016). Spirituality and sacred places are important elements of the ‘nature as territory’ narrative: “Nature and its resources are often related to the sacredness of the territory since indigenous people often advocate a strong connection with (self)declared sacred territory” (Cremers and Rasch 2016, 82). While the New Zealand government has a dominant approach to nature as a resource that can be deployed and extracted according to Western ideas about human-nature relations, Māori groups aim to claim their spiritual and ancestral rights to territory (Charpleix 2018). For Māori-heritage scholars Morris and Ruru (2010), the Crown’s assumption of sovereignty and attitudes about the absence or inferiority of Maori law have resulted in a general presumption of Crown ownership over land and waterways, as opposed to, for example, native title. Like the iron and the clay – two worldviews colliding.

³⁰ The Bridge to Nowhere is an iconic tourist destination in the Whanganui National Park. It was constructed in the 1930s to provide access to a *Pākehā* soldiers settlement. However, the valley was too hard to access and the area would become abandoned – hence the name of the bridge. In: DoC, n.d. *Bridge to Nowhere Walk*, doc.govt.nz/parks-and-recreation/places-to-go/manawatu-whanganui/whanganui-national-park/ (Accessed August 8 2020).

Senses of Place and Placelessness

Graham (2011) states that notions of place, or rather, of placelessness, have been fundamental to colonization processes of land and territorial dispossession. In the dominant *Pākehā* law system, places are understood as land; a commodity that can be owned and traded. The dominant value of property lies in this commodification. As such, property has the indefinite quality of being fungible: “Infinitely tradeable, limited neither spatially nor temporally. But the physical ‘things’ that are traded and owned as property are physically definable and specific, they have limits.” (Graham 2011, 8) By the placelessness within this discourse, law could be universalized and extended. However, places are not mere land but also hold senses of that place; something that carries meaning for people, what makes it unalienable. Linton (2010) uses the term ‘deterritorialization’ to describe the severance of the conceptual bond between specific groups of people and particular water bodies. Quoting the philosopher Bernard Kalaora, Linton (2010, 18) notes that the purpose of deterritorialization is to transfer ‘the responsibility for maintaining relations with water to experts’, a role which in the context of colonial New Zealand was filled by the government (Charpleix 2018).

Conceptions of time and space are considered Western fields of interests since in many indigenous languages, no such words exist or, as in *te reo* Māori, there is just one word for both (Smith 2008). Space is often viewed in Western thinking as being static or divorced from time. This view generates ways of making sense of the world as a ‘realm of stasis’; well-defined, fixed and without politics (Massey 1993). For example, this explains the DoC’s unawareness – just as my own – of the Māori graveyard, being bounded by spiritual attachments rather than any visible and definite demarcation. However, the DoC had the ability to interfere in the landscape in a way that both rejected and overruled a Māori view. Likewise, the diversion of water for the Tongariro Power Scheme is considered as one of the actions taken by the Crown to overrule Māori authority (NTT 2016a; WRMTB 2014). With this, spatial arrangements, as important parts of social life, have been rearranged and the indigenous world view, the land and the people, have been radically transformed in the spatial image of the West (Smith 2008).

Naming Spaces: (De)colonizing Space and Time

Also in the town Whanganui, the various different socio-spatial attachments and territorial claims become visible. Foremost, the very name of the town has been subject of debate because during British colonization, the diversity of Māori dialects often got misinterpreted and the aspired ‘H’ disappeared from its appellation. While the name of the Whanganui River got changed back to its traditional Māori spelling in 1992, alternative spellings for the eponymous town has been subject to debate until 2017 and

the city is still often referred to as ‘Wanganui/Whanganui’.³¹ Further, at the riverbeds, one of the main attractions is the Riverboat Museum. Here you could join the Paddle Steamer Waimarie on a cruise along the river, with the slogan: ‘Experience travel as it once was’. The introduction of steamer boats on the river has been a long going issue of protests and contestation between *Pākehā* and Māori; it is one of the remnants of past colonization (NTT 2016a) and furthermore resembles only one account of history. Another, Māori, account could be found only a few meters next to the museum, at the Moutoa Gardens. This is an important place for Māori as being a traditional trading place before European settlement and was occupied in 1995 for 79 days for the reclaim for indigenous grounds.³²

The appropriation of space from indigenous cultures is not only territorial, but also involved with a broader orientation of the world; the actual alienation and fragmentation of indigenous lands went together with the appropriation writing of the history of the same land. A critical aspect of the struggle for Māori self-determination has involved issues relating to the exclusion of intellectual and cultural property (Smith 2008). In addition, Ngũgĩ wa Thiong’o (1986) argues that language carries culture and colonizer’s language became the means by which the ‘mental universe of the colonized’ was dominated. While oral languages were still heard at home, the use of literature in schooling resulted in the alienation from the history, geography, music, and other aspects of culture. For Smith (2008, 1), the validity of indigenous people’s claim to ‘existence, to land and territories, to the right of self-determination, to the survival of our languages and forms of cultural knowledge, to our natural resources and systems for living within our environment’ are still denied. For her, the current status of such colonial power relations ask for more attention: “When the word globalization is substituted for the word imperialism, or when the prefix ‘post’ is attached to colonial, we are no longer talking simply about historical formations which are still lingering in our consciousness ... to the idea that colonialism is over, finished business.” (Smith 2008, 24)

In conclusion, this chapter has shown how the Whanganui River is subject to different attachments, meanings and imaginaries of the people who live around it. It is argued that landscapes are inseparable from territories, territorial narratives and spatial imaginaries. These imaginaries are often coexistent, overlapping and conflicting, and are embedded in a complex web of different actors. The presented field work shows different territorial understandings of the river by these actors, and claims to certain places resemble particular power relations embedded in a colonial context that still exist in contemporary Whanganui. While Māori people make a claim for the river as their ancestral territory, the ability to attain, express and practice an own, personal relation with the river seems to be overruled by another, dominant narrative about what a river is or should be.

³¹ Whanganui District Council/Te Kaunihera o Rohe o Whanganui, n.d. *How We Say ‘Whanganui’*, whanganui.govt.nz/About-Whanganui/Our-District/How-we-say-Whanganui (Accessed August 8 2020).

³² New Zealand History/Nga Korero a Ipurangi o Aotearoa, n.d. *Moutua Gardens Protest*, nzhistory.govt.nz/media/photo/moutoa-gardens-protest (Accessed August 8 2020).

Interlude. Liquidity

liquidity

the state in which a substance exhibits a characteristic readiness to flow with little or no tendency to disperse ... The property of flowing easily.³³

I have been sleeping in my travel hammock in the forest edging the campsite, surrounded by the streaming sounds of the river, the bright lights of the stars and the songs of many birds. The squeaking screams of the kiwi woke me up, which is the flightless, chicken-sized, endangered native bird that is New Zealand's national symbol. While I hoped to see one, they hide away deep in the national parks only to reveal themselves at night by their iconic screams.

This is well compensated by the wide variety of other birds and wildlife. Yesterday when picking a good spot for my hammock, I befriended my first Toutouwai, a small, unshy bird that hangs out around humans to feed himself through the drifted soil of our footsteps. I already feel at home in my little floorless hammock house, wiggling along with my roof of green tree branches that follow the wind.

This morning I was the last one to wake up, hided away from the morning fuzz at the kitchen unit of the camp. I unzip my mosquito net to collect my dried clothes and life jacket from a tree close to me.

I greet the group that is already scabbling around packing and we join the breakfast table where R. set up a carbs-and-meat-breakfast as usual.

Once I grasped the flow of paddling, gliding through the water almost is an hypnotizing experience. It is almost like flying; calm, soothing, ungrounded, wobbling along with the boat to balance on the waves. Then a rapid comes and you have to read the water, pick up speed and let go of control until it starts all over again.

After having spent several days up the river I soon became to learn that paddling along the river is a form of cooperation – not only with your co-paddler, but maybe even more so with the traits and qualities of the river and its surroundings. In order to find the right paddling rhythm you need to listen to the river, follow its rapids, become part of its drift. My body is getting used to being on the river already; my sea legs make the land feel like a liquid, blurring the lines between water and land.

The water is quiet today and at windless times reveals mirror-like reflections. Occasionally R. asks me to take a picture of the riverbeds; turning sideways, the reflection reveal images of faces, animals, ancestors.³⁴ It is one way of communicating with the river, R. tells me. When I ask how exactly his ancestors come to him, a leave falls out of a tree at the exact same moment. 'Like that,' R. replies.

³³ WordNet 3.0, 2003-2012 Farlex Clipart Collection. Princeton University, Farlex Inc.

³⁴ As can be seen in the picture of the epilogue.

Chapter 3.

The Ontological Divide

“It may be possible to think like a mountain, but it will never be possible to think as a mountain. [Instead] ... the issue may not be to think like, or as, a mountain, but rather to re-think the mountain.”³⁵

In the previous chapters, it became clear how the spiritual world is rooted in Māori historical accounts, and geographical and ancestral connection to land. As stated before, territories, territorial narratives and spatial imaginaries are informed by ontological ideas about human-nature relations. This chapter will explore these ontologies as divided into a Māori, reciprocal and interconnected relation with nature, and a dominant anthropocentric Western division of nature and culture. I argue for a rethinking of ‘the mountain’, that is, debunking dualistic thought towards a hybrid, multinaturalistic idea of cosmopolitics within legal theory, in which other-than-humans – animals, plants and the landscape – could play a more prominent role.

Talking with the River: The Māori Narrative

Māori view many rivers as *tupuna*/ancestors, living entities, and invoke the name of a river to assert their identity. There is a deep belief that humans and water are intertwined; ‘the river belongs to us just as we belong to the river’ (Morris and Ruru 2010, 49). Māori became intricately linked to the lands and waters, as *tangata whenua*, ‘people of the land’ (Morris and Ruru 2010, 49). This connection is embedded in *te reo* Maori as well, where for instance, *whenua* means both land and afterbirth. As explained before, the Whanganui River is described by the Whanganui River Māori as an indivisible whole, that can never be separated from its people and its physical and metaphysical elements. It, or rather, she, is ‘central to the existence of Whanganui Iwi and their health and wellbeing’, or, as Whanganui River Māori Kaumātua Niko Tangaroa explains: “The river is the heartbeat, the pulse of our people. Without the Awa we are nothing.” (WRMTB 2014, 13) The Māori narrative is shaped by a sacred view of nature and the – spiritual – ties between people and their ancestral territory (Morris and Ruru 2010, Iorn 2015; Roothaan 2019).

This narrative further involves a reciprocal and intertwined relationship, as many Māori explain: “We don’t speak about the river, we speak with the river,” and likewise, “We don’t pray to gods, we

³⁵ Leopold, in Pelizzon, A., and A. Ricketts. 2015. *Beyond Anthropocentrism and Back Again*, 112.

pray to the river.” For R., this relationship involved literal conversations with the river when he would drift off from the group, alone in his canoe: “I really felt stressed this morning. But the river made me calm. When the water is calm, I am calm. The river is our mother, our hospital, our university. Every time I need a cure, I just need to go up the Awa.” This ancestral relation furthermore resembles the deep responsibilities that Māori have to care for and nourish such land and waters, describing water’s naturalness as having its own spirit and life force (Iorn 2015) that affects the environment’s wellbeing as well.

The Māori worldview, including its legal system, is predominantly values, not rules, based (Charpleix 2018); it involves a certain way of life that depends on ‘the relationships between all things, including between people and gods, different groups of people, and people and everything in the surrounding world, including rivers’ (Morris and Ruru 2010, 49). In a documentary about the river’s legal personhood, Ted Napa, a Wanganui River Māori, agrees: “No water, no life.”³⁶ Because of this perceived interconnectedness between the people and the land, the processes of the dispossession of land and water during British colonization are about much more than the territory in itself. Rather, they hold a dispossessed understanding of history, as Geoffrey Hipango expresses: “When you carry the weight of your ancestors it’s not an easy position to be in. In one sense you feel them supporting you, the old people. Those who have gone on. And the other, sometimes you can’t carry the heaviness of it ... We see it as a living entity that carries our ancestors, that carries their memories. As a metaphor for our history.”³⁷ Toledo (2001) describes an indigenous cosmivision in which nature is the primary source of life that nourishes, supports, and teaches. For indigenous peoples, land and in general nature have a sacred quality which is almost absent from western thinking.

Othering Nature: The Western Dichotomy

In an opposite position, Graham (2011) describes a modern European paradigm within legal theory as anthropocentric; it holds a dichotomous model of the world that separates people from everything else, placing people in an imagined centre of their environment. Despite variation throughout different specific places, this paradigm insists that people are culture and everything else is nature. Generally, Classical Greek philosophy is regarded as the point at which ideas about these relationships changed from ‘naturalistic’ explanations to humanistic explanations that are still existent in a common Western thinking about the world (e.g. Graham 2011; Smith 2008).

³⁶ Lom, Petr., Corinne van Egeraat, & Ned Tapa. 2020, 29 maart. *Wij Zijn de Rivier*. Video, <https://www.human.nl/2doc-kort/kijk/overzicht/aflevering-42.html> (Accessed March 29 2020).

³⁷ Geoffrey Hipango (Māori community development) in: The Atlantic. 2019, April 22. *New Zealand’s Maori Won Personhood for This River*. Video, [youtube.com/watch?v=YQZxRSzxhLI](https://www.youtube.com/watch?v=YQZxRSzxhLI) (*Ibid.* footnote 29)

From this emerged scholarly traditions relating to human nature, the separation between mind and body and the distinction between sense and reason (Smith 2008). In the scientific revolution of the sixteenth and seventeenth centuries, the idea of civilisation became the basis of human self-perspective. Through their imagined superiority, humans became the standard or measure by which all other things could be understood and evaluated (Rose 1988; Descola 2013). Understanding things in the world was not based on what those things actually were in their own right, but on how they compared to ‘Man, the measure of all things’ (attributed to Protagoras, in Graham 2011, 29), subsequently becoming the masters and possessors of nature (Descartes 1978, in Graham 2011). The relationship between humans and ‘their’ environment is expressed as an opposition between culture and nature. Such anthropocentric thinking is commonly associated with an instrumentalist view of the world, in terms of use for human life, and resource-thinking (Graham 2011; Smith 1998).

‘Rethinking the Mountain’: Debunking Dualism

The nature-culture paradigm thus operates via the dichotomous logic of anthropocentrism which divides the world into two categories, human beings and the rest, and then places humans at an imaginary centre of that world (Graham 2011). With that, nature is positioned as a mere and single object: “Deprived of any autonomous life force, nature was open to be manipulated without restraint according to the human will” (Harvey 2000, 134). However, according to Latour (2011) the notion of a single ‘naturalism’ is inadequate for a world of cultural-natural hybrids. Multinaturalism (Latour 2011) stands for the inclusion of nature and different notions of nature instead of focusing and centralizing around humans. Like there is a dominant notion of cultures as being multiple, a multinaturalism could be imagined. This notion thus recognizes the existence of multiple ontological understandings of life, and rejects the dichotomous division of humans and nature. In addition, Harvey (2007) speaks of earth-practices as the interactions between humans and earth-beings – other-than-human entities. It are relations for which the dominant ontological distinction between human and nature does not work. However, different scholars from a wide range of disciplines criticize this dualistic understanding of nature-culture, and propose systems of thinking to include the excluded (e.g. Cadena 2010; Latour 2011; Bos 2016; Boelens et al. 2018; Roothaan 2019).

Dutch philosopher René ten Bos (2016) argues for the reintroduction of nature intimacy within the philosophical tradition, and for involving the landscape – the context – in which thinking takes place. Geophilosophy is a way of thinking about what thinks with us; the landscape, and specifically water, is a mental and active actor within thinking. For ten Bos (2016) thinking with and about water lies at the root of philosophical thinking, as the philosophical tradition begins with the perception of water as the primal principle of things (Thales of Miletus, in Bos 2016). Likewise, environmental ethics responds to the harmful effects of human activities on natural ecosystems by advocating for a paradigm shift away

from the traditional and predominant anthropocentrism (Lillo 2018). Through the lens of environmental ethics water could become visible not only as its natural dimensions but also as its socio-cultural aspects. Essentially, water is both bound by nature as by society and ‘can be conceived as a concomitant and consubstantial combination of the two; it is a hybrid object and a socio-natural entity’ (Lillo 2018, 172).

An anthropological approach to move beyond such a subject-object dichotomy is proposed by Descola (2013). He argues for a departure from this dualistic, anthropocentric model and a rethinking of our conceptions of humans, objects and the environment. He proposes an ‘ecology of others’; a worldview in which beings and objects, humans and nonhumans, are understood through the complex relationships that they possess with one another. Likewise, Tsing (2015) aims for an multispecies ethnographic practice that involves philosophies of being. Such philosophies, cosmologies together with the practices of world making, conceptualized assemblages as open ended gatherings of organisms, where species exist together, and perhaps interact.

Indigenous Knowledge and Cosmopolitics

Angela Roothaan (2019) is an intercultural philosopher and focuses on the intersection of cultural identity, political struggle and power relations, and fights for land rights and self-determination of indigenous peoples. She describes intercultural philosophy as a historical, existential and situated practice, that should always be critically aware of the political and economic frameworks in which intercultural encounters take place. She is critical towards the exclusive claim to knowledge of modern science and works towards a philosophical discourse that fully includes epistemological claims of spirit ontologies. The inclusion or exclusion of spiritual knowledge as a legitimate knowledge form ‘is not just a matter of ‘culture’, but also an expression of power relations, and ways to contest those relations’ (Roothaan 2019, xi).

These power relations are furthermore embedded in a perceived division between science and politics; an objective representation of nature is opposed to the negotiation of power to represent people vis-à-vis the state. Latour (1993) criticizes the universal purporting of this distinction by the proposal of a ‘modern constitution’; the regime of life that created a single natural order and separated it from the social by creating an ontological distinction between things and humans. Likewise, Stengers (2005) reintroduces an Ancient Greek notion of cosmopolitics. This is a politics where ‘cosmos refers to the unknown constituted by these multiple, divergent worlds and to the articulation of which they would eventually be capable’ (Stengers 2005, 995). It involves a different politics of nature, one that includes disagreement on the definition of nature itself. It holds the idea that all human beings could or should be members of a single communities. In this line, de la Cadena (2010, 360) proposes a socionatural pluriverse: “I think of the pluriverse as partially connected heterogeneous socionatural worlds negotiating their ontological disagreements politically ... The first step is to recognize that the world is

more than one socionatural formation; the second is to interconnect such plurality without making the diverse worlds commensurable.” (Cadena 2010, 360) This notion of socionatural worlds responds to Latour’s (1993) criticism on science-politics because other-than-human entities, such as a river, can be considered sentient entities and therefore contentious, because their presence in politics disavows the separation between nature and humanity (Cadena 2010).

Implications for the River’s Legal Personality

The political inclusion of other-than-humans furthermore denaturalizes the exclusion of indigenous practices from nation-state institutions, as mentioned by Roothaan (2019). For Cadena (2010), indigenous attachments to their environments should not only be explained as ‘beliefs or symbols’ but also as a legitimate form of knowledge. Moving back to the Whanganui River, the legal personhood that is given to it can be considered as such a hybrid.

The Māori adopt a reciprocal or a collaborative worldview (Plumwood, 2006): ‘land, water and people are treated as one and the same’ (Waitangi Tribunal, 1999: 46) while by contrast, the ontological foundations of Western approaches to law, society and geography are generally based on a nature-culture hierarchy in which humans have assumed supremacy and the natural environment is viewed through utilitarian, resourcist and economic lenses (Charpleix 2018). Roothaan (2019) states that going against existing ontologies by making certain territorial claims is not only about survival, but also serves as a way to protest the modern treatment of nature as resources and commodities. Affording legal personality to rivers is one way in which the law could develop to provide a lasting reconciliation with Māori perspectives. While the notion of legal personality ascribed to other-than-human entities could come across as radical, from a Māori perspective – and perhaps also other Indigenous perspectives – the idea is less radical as it aligns with a worldview perspective that believes there is a genealogical link between all living things, including rivers and people (Morris and Ruru 2010, 58). The health and wellbeing of the river is put at the forefront of decision making, and it provides for a secure place for Māori values within New Zealand’s society: “The beauty of the concept is that it takes a western legal precedent and gives life to a river that better aligns with a Maori worldview that has always regarded rivers as containing their own distinct life forces.” (Morris and Ruru 2010, 58) Legal personhood could possibly better protect the natural environment and recognise an alternative relationship between humans and nature (Iorns 2015).

In the course of this chapter, rights of nature are addressed as a way to include indigenous beliefs of the interconnectedness of nature and humans. After exploring different ontologies as divided into a Māori, reciprocal and interconnected relation with nature, and a dominant anthropocentric Western division of nature and culture, I argue that the worlds of ‘culture’ and ‘social’ are intertwined. The political inclusion of other-than-humans denaturalizes both the exclusion of indigenous knowledge

systems, as well as the representation of natural entities within a dominant Western, dualistic discourse. With that, I argue for debunking dualistic thought towards a hybrid, multinaturalistic idea of cosmopolitics within legal theory, in which both other-than-humans as spiritual notions of nature could play a more prominent role.

Conclusion

A river not only flows as a body of water; it flows through and within social realities as well. This thesis has told the story of the Whanganui River and its entanglements within a landscape that is plural, in the context of a postcolonial society. It analysed the multi-layered landscape through a juridical, political-territorial and ontological lens to uncover how the landscape, the water and the people interact in the Whanganui region. Through this, the different meanings and imaginaries that are negotiated with regard to the river by the people involved, both Whanganui *iwi* and *Pākehā* residents, could be explored. This thesis explored narratives that are constructed about nature by different actors operating up and around the Whanganui River. The discussed actors that are associated with the Whanganui River – either indirectly or directly – support or oppose the claim for the legal personhood, or live in communities near the river, and either way intervene in the landscape.

With providing an outline of the main actors throughout the geographical landscape from mountains to sea by a description of the field, it already became clear that the Whanganui River is intertwined in a complex web of actors, power relations, and territorial claims. A major subject of debate has been the water diversion to provide for hydro-electric power, what was considered as one of the actions taken by the Crown to overrule Māori authority. These contestations over authority are embedded in different, and conflicting, notions of what property and ownership means. Therefore, a historical elaboration of the river's lawscape explained the juridical course of the Whanganui River, and how its history is embedded in different notions of law and property that are negotiated with regard to the river. The juridical characteristics of British colonization show how juridical pluralism is both a fundamental characteristic of this colonization process, as currently used as a tool towards citizenship through the Māori claim for the river's legal personhood. While the claim for the river as a legal person enables and formally accepts a Māori notion of the river as an indivisible entity and resembles a coming together of Māori and *Pākehā* law systems towards a juridical pluralistic formation, it is argued that the settlement still operates within the boundaries of the legal model of the Crown and corresponding notions of rights. Such power relations are still visible in contemporary Whanganui.

Property and ownership are not merely about physical environments, but about social realities and contestations as well. Likewise, territories are not only places, but hold a sense of that place and political negotiations of that imaginary. Territory could be considered as a materialization of diverging interests and ideas, and underlines the interconnection of place, power, and the use and contestation of resources and land. Chapter 2 therefore provided for a political-ecological notion of the river, that showed how nature as a territory is negotiated, how certain spaces are claimed by different people, and how these claims could be overlapping and contesting. In a territorial narrative, the Whanganui River is

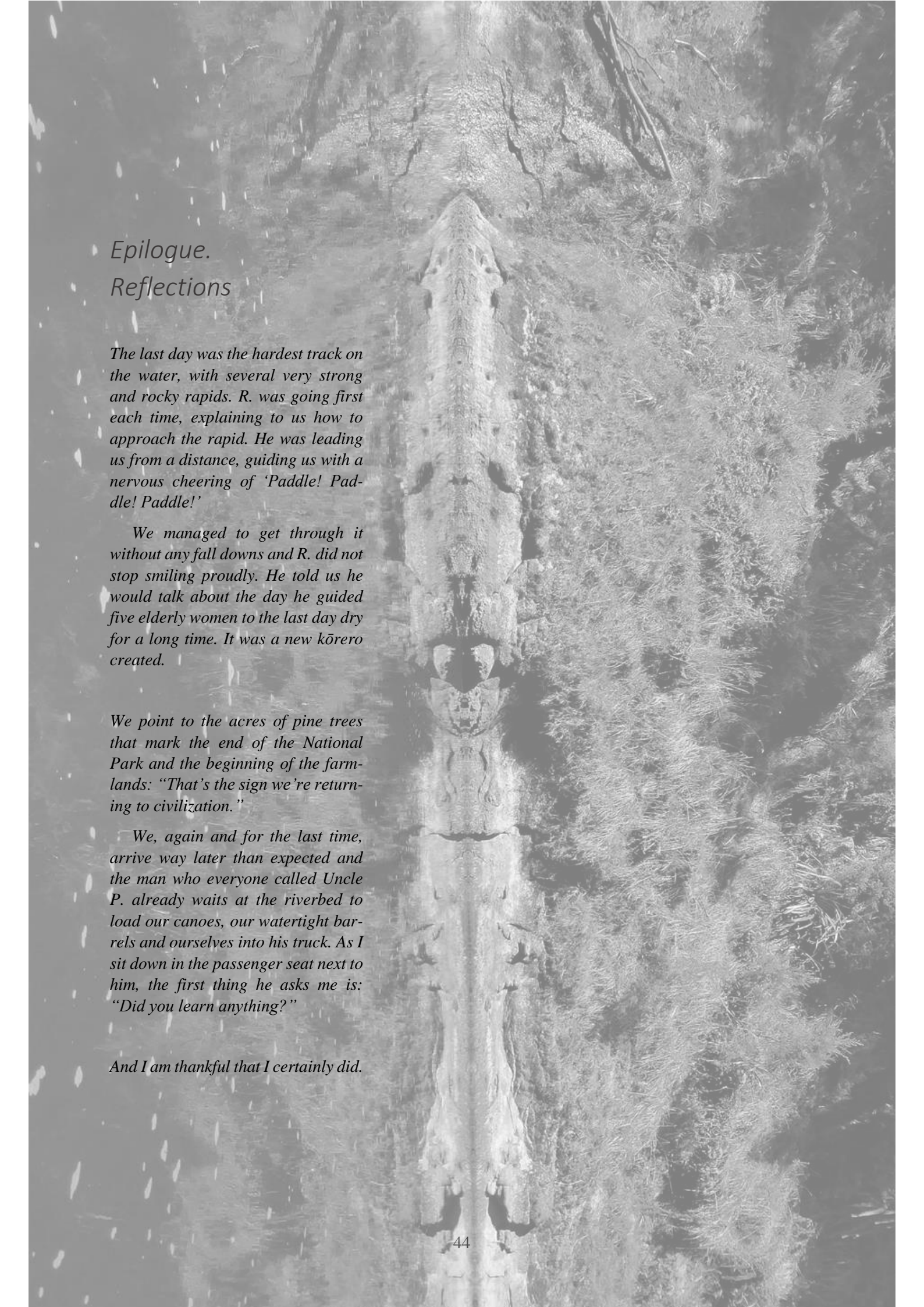
subject to different imaginaries about how the river is or should be shaped. These imaginaries are often coexistent, overlapping and conflicting, and are embedded in a complex web of different actors. The presented field work showed different territorial understandings of the river by these actors, and claims to certain places that resemble particular power relations embedded in a colonial context that still exist in contemporary Whanganui. While Māori people make a claim for the river as their ancestral territory, the ability to attain, express and practice an own, personal relation with the river seems to be overruled by another, dominant narrative about what a river is or should be.

The territorial narrative of Māori communities is one based on genealogical connections to land and waters, while in a second British narrative territory is imagined as property-based and resource-containing. The appropriation of space is not merely territorial, but is also involved with a broader orientation of the world. Furthermore, they are informed by conflicting ontological ideas about human-nature relations. In the third chapter I turned to the ontological roots of these tensions by discussing underlying ideas about how nature and culture relate to one another, and how humans could, or should, act in relation to their non-human environment. From the indigenous Māori worldview, nature is considered as a holistic, ancestral entity that is intertwined with its people. This is in several discourses and practices overshadowed by the dominant Western dualistic notion of a nature-culture dichotomy. Here, I made a claim for the inclusion of indigenous knowledge as a legitimate knowledge system and propose a multinaturalistic, cosmopolitical political system in which the excluded becomes included, and that aims to debunk this ontological divide. Envisioning water as a subject, instead of a mere object, of law will inevitably lead to a theoretical reconceptualization of the human-nature dichotomy. This system therefore provides room for spiritual, indigenous notions of nature as well as for the interactions that humans have with their environments.

This shows how the Whanganui River plays a prominent role in various ways, through different landscapes and within several imaginaries. While within the discussed disciplines the claim is made for an approach to landscape in which the interaction between humans and their environment is taken into account, they often continue to do so within their own discipline. This thesis aims to not only go beyond the assumed division between humans and their non-human environment, but also to do so in an interdisciplinary matter. The contemporary disrupting influences of humans on the Earth, grouped under the term ‘Anthropocene’, calls for a thinking beyond resources and ownership. The recognition of the legal personhood could provide insights into how relationships with nonhuman nature may be recognized into the future. This thesis contributes to an understanding of how such a less anthropocentric approach has a critical role to play in environmental management, particularly in relation to water, by including its political voice. This recognition is furthermore an important step towards the decolonization of colonized peoples. Through the acknowledgement of the Whanganui River as a legal person, therefore, the health and wellbeing of the river is put at the forefront of decision making, as well as provides for a secure place for Māori values within New Zealand’s society. With debunking the

dominant Western nature-culture dichotomy, this thesis also aims to serve as an example of multispecies ethnography through the formulation of my own dialogue with the river. The interludes therefore reflected on the use of the senses as a way to perceive the river.

The people who affiliate to which narrative, territorial imaginary and subsequent visions on nature, are not yet clearly outlined, as well as who sympathizes or contests with what social group. Therefore, following research could go into the ways in which abstract ideologies are embodied through daily practices and performances. This thesis is an attempt to render voices that have been unheard for so long within dominant discourses, of both natural entities and indigenous peoples. However, I do not pretend to provide a reflection of all voices that can be heard about the river, nor do I intend to claim any hierarchical assumptions of importance. However, I do believe that the voices that are given the least speaking time in global and local conversations should be included in these discussions as well.



Epilogue. Reflections

The last day was the hardest track on the water, with several very strong and rocky rapids. R. was going first each time, explaining to us how to approach the rapid. He was leading us from a distance, guiding us with a nervous cheering of 'Paddle! Paddle! Paddle!'

We managed to get through it without any fall downs and R. did not stop smiling proudly. He told us he would talk about the day he guided five elderly women to the last day dry for a long time. It was a new kōrero created.

We point to the acres of pine trees that mark the end of the National Park and the beginning of the farmlands: "That's the sign we're returning to civilization."

We, again and for the last time, arrive way later than expected and the man who everyone called Uncle P. already waits at the riverbed to load our canoes, our watertight barrels and ourselves into his truck. As I sit down in the passenger seat next to him, the first thing he asks me is: "Did you learn anything?"

And I am thankful that I certainly did.

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