



**Brief submitted to**  
**Standing Committee on Environment and Sustainable Development to Study Freshwater  
in Canada**

Study of the role of the federal government in protecting and managing Canada's freshwater resources in Canada

**By :**

**Observatoire international des droits de la Nature**

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## ***The Importance of Recognizing the Rights of Rivers to Improve the Legal Framework for Water Governance in Canada***

### **The St. Lawrence River should be given legal status.**

#### **Abstract**

*For many years, water (an essential element for life) has been reduced by humans to the status of a natural resource, ignoring its basic and vital functions in various ecosystems. Legislation around the protection of water does not sufficiently include a holistic perspective and thus provokes various problems relating to the deterioration of the rivers and lakes. Not only does the OIND recommend strengthening the existing protection mechanisms of Lakes and Rivers, but also recommend a paradigm shift from anthropocentrism to ecocentrism in designing public policies. In fact, this paradigm shift is fundamental for preserving Rivers and Lakes and also to strength relationships with First Nations through reconciliation. This shift will maintain that water can be considered as a living environment and not just a simple resource. The OIND will also stress the importance of bestowing the St. Lawrence River and other rivers in Canada a legal status to improve its legal protection, as well as recommending the formation of a Water Tribunal to handle those specific issues.*

#### **Introduction**

For many years, water (an essential element for life) has been reduced by human beings to the status of a natural resource, ignoring its function in the ecosystem and its status as a living environment. The use of the term *resource* reinforces a perception of water as a mere production factor that satisfies the various needs of human beings. Indeed, water has largely become an essential element in agriculture/livestock, industries and in the domestic sector, but we have forgotten that it is also an essential element that sustains life in all its forms.

Canada has not yet valued enough the environmental function of water in any legislative project to date, and instead, it's political, economic and administrative valuations continue to dominate. It is worth noting that Canada's anthropocentric legislative frameworks have excluded water's primary function to act as a living environment for the habitat of numerous species other than human beings. Moreover, recent studies indicate that anthropogenic activities have caused an 83% decline in the global number of freshwater vertebrate species since 1970, catalyzing one of the largest mass extinctions on the planet.<sup>1</sup>

Despite a substantial improvement in the quality of water in recent decades, acute problems continue to plague the water quality of rivers, resulting in significant biodiversity losses<sup>2</sup> (Vega Cardenas, 2012, p. 4).

#### **The Limits of Seeing Water as a Resource: Regulating, Sanctioning, and Developing Accountability to Improve Water Governance**

Industrial pollution of water sources, especially in the St. Lawrence River ecosystem, is closely related to the unregulated discharges of pollutants into the water by different economic sectors, such as the agriculture and livestock industries. Pollution in the St. Lawrence is also influenced by the lack of compliance with existing regulations, as is the case with the discharging of untreated wastewater by the domestic sector and the lack of analysis of the cumulative impact of various-user discharges on a receiving river.

In the late 1980s, the Quebec government took action to combat industrial pollution—the main source of pollution at the time (Ministère Développement Durable, Environnement et Parcs (MDDEP), 2019). The *Environment Quality Act* (hereinafter "EQA") further introduced regulatory measures to reduce pollution, however, the law is based on the "polluter pays" principle. This principle means that pollution is supposed to be controlled, but is albiet allowed. When the application for prior authorization is filed, it is granted by the Ministry of the Environment following verifications that the

waste discharges are within the standards and that no prohibited polluting materials would be discharged and no limits exceeded. These authorizations therefore play a key role in the Ministry's obligation to ensure that the conduct of industries is within the limits and objectives of the law (EQA, art. 22 et seq.). **Nevertheless, as the case law demonstrates, the Ministry does not always verify that the goals of the law are respected when it grants a certificate or after having granted an authorization, thus casting doubt onto the rigorousness of the State's control and oversight<sup>3</sup>.**

The current legal paradigm that sees water as a *resource* is ineffective because the State, the current stewardship of the water, generally finds itself in a conflict of interest since it grants certificates of authorization for various projects that sometimes infringe on the rights of Rivers and its inhabitant species.

Despite the great dissolving power of the St. Lawrence River, it is essential to also address not only industrial contamination but also urban pollution. There ought to be support and funding from municipalities to control and properly treat urban discharges as they are currently responsible for a significant degradation of the River's waters. Today, this situation remains one of the main problems to be addressed, along with the pollution produced by agriculture.

Consequently, the State can no longer act as the sole stewardship of the St. Lawrence River and, in general, waterways. The OIDN advocates for an innovative approach that could involve other actors in the protection of the River, such as First Nations, Experts, and NGOs.

#### **Recommendation 1:**

**The OIDN recommends adopting policies and a legal framework that integrates an innovative approach that recognizes legal rights to Rivers and Lakes in order to allow them to fulfill their essential functions. In this regard, OIDN proposes the creation of committees that would involve different actors, including governments (federal, provincial and municipal), First Nations, experts and NGOS that work together in the protection and management of the watershed at different levels.**

Since the Supreme Court of Canada's 2001 decision in *114957 Canada Ltd. (Spraytech, Société d'arrosage) v. Hudson (Town)*, two fundamental principles have been established with respect to municipal powers: the principle of subsidiarity *and* their role of environmental trustee or stewardship (Girard, 2010, p. 49). Under these principles, municipalities have the power to regulate and enforce standards related to water and the environment, since municipalities are considered to be the closest government representatives able to propose solutions to environmental problems in their respective territories. Similarly, *Scarborough v. R. E. F. Holmes Ltd.* confirmed that the protection of natural habitats and the environment in general is a fully legitimate jurisdiction of municipalities. The principles set out above clarify the role of these institutions, particularly with respect to the protection of water sources, rivers and lakes, thus enabling them to carry out interventions in the interest of water protection<sup>4</sup>. Moreover, sections 4 and 19 of the *Municipal Powers Act* and case law from the highest courts give municipalities a leading role in protecting the quality of the environment and water sources<sup>5</sup>.

Despite those two fundamental principles established by Canada's highest court, municipalities have been identified as active contributors to water contamination. Although municipalities are not legally obliged to build water and sewer systems, when a municipality undertakes those kind of services, they are responsible to provide drinking water for human consumption<sup>6</sup>. While the case law in *Drouin v. Ville de Ste-Agathe-des-Monts* establishes that municipalities cannot directly discharge wastewater into waterways given the harmful effects on public health and the ecosystem, today, approximately 100 municipalities in Quebec discharge untreated wastewater directly into the St. Lawrence River.<sup>7</sup>

For municipalities, the fault must be attributed to the lack of support of provincial and federal governments whose underinvestment in all municipalities has prevented the latter from ensuring proper management of services given the

growing size of the population. Indeed, the municipalities are invoking an obligation of means, not of results, in relation to this situation, which is tantamount to giving them an obligation equal to their means of action. If given the means, municipalities could become appointed guardians of the water and thus play an important role in the protection of Rivers and Lakes.

In the other hand, Indigenous reserves need also to be supported so they can fulfill their necessities on clean water for their population and treatment plants to prevent degradation of the waterbodies. It is worthnotng that drinking water advisories alert are highly concentrated in First Nations communities.

#### Recommendation 2:

**The OIDN recommends an increase of the federal and provincial investments and financial support in all municipalities and indigenous reserves to ensure that they have the means to fulfill their legal obligations to protect the human right to water and sanitation. This includes investing in wastewater treatment plants up to date and in adapting their services by considering the effects of population growth and legal responsibilities on the river, biodiversity and climate change.**

Major milestones to protect water and the environment have been reached by recognizing the human right to water and sanitation, and the preservation and restoration of water ecosystem's fundamental rights. The Environment Quality Act of Quebec through its amendments in 1978 is the first legislation that recognizes the right of a healthy environment. On June 13, 2023, Bill S-5, the Strengthening Environmental Protection for a Healthy Canada Act, introduces important amendments to the Canadian Environmental Protection Act 1999 (CEPA) for the first time in over twenty years. With this bill, the Government of Canada recognizes that every individual in Canada has the right to a healthy environment. Nevertheless, this act does not recognize the human right to water and sanitation.

We should highlight that in 2009, Quebec, by the *Act to affirm the collective nature of water resources and to promote better governance of water and associated environments* (hereinafter, the "Water Act"), the province explicitly recognizes the human right to water (art 2) on Quebec territory. Moreover, in order to reinforce the importance of the human right to a healthy environment, the Quebec Parliament amended the *Charter of Human Rights and Freedoms*<sup>89</sup> through the 2006 *Sustainable Development Act* by adding section 46.1, which states that "[e]very person has the right to live in a healthful environment in which biodiversity is preserved, to the extent and according to the standards provided by law."

Although it might be arduous for citizens to institute legal action against the polluter, the case law<sup>10</sup> directly confirms the importance of protecting the right to a healthy environment beyond any governmental authorization to pollute. One major drawback of the protection of water and the environment through human rights is that the jurisprudence does not benefit the environment in an autonomous way, but only humans when harm to the neighbours can be proven. It remains a very limited approach for water governance. Moreover, although the right to a healthy environment has been invoked to protect watercourses, and an abundant jurisprudence has developed on this subject, the recognition of water as a human right has not been as successful. We attribute this lack of success to the absence of a specific tool for its defense.

It is worth noting that the legislative affirmation of this right lies at the heart of the Quebec Water Strategy 2018-2030. At the international sphere, the Canadian government's recognition of the human right to water comes late, having abstained several times within the context of their work with the United Nations<sup>11</sup>. Canada finally recognized this right at the international level during the 2012 Earth Summit<sup>12</sup>; but currently, Canada has not recognized the human right to water and sanitation at the national (federal) level.

Although the recognition of the right to drinking water and the right to a healthy environment stem from an anthropocentric perspective, it increases awareness of the direct link between environmental and water quality and human health. Nevertheless, it is now important to count on legal reforms to preserve water, not only as a human right, resource, or production factor, but also as a living environment for other species with which we share this planet. Moreover, we need to reinforce the link that should be done between healthy rivers and ecosystems and human health.

In an innovative way, the 2009 Quebec's Water Act integrates the notion of a prejudice on Water. Section 8 of the Water Act reinforces the importance of protecting water as a living environment and not only as a human right or resource. It is a no-fault liability, because the person who infringes on it can hold its authorizations under the law. Although thus far, no court decision has been rendered on the basis of this article, the ultimate decision to prosecute the person who infringes on the water, even if a permit has been granted, rests on the shoulders of the Attorney General. This tool reflects the desire to reaffirm the importance of preserving water as a living environment.

Although Section 8 of the Water Act can be invoked for an action regarding damages to water without needing proof of an infringement of the rights of the affected person(s), unlike section 19 of the EQA, the former provision remains difficult to apply because the Attorney General is the only person able to use this remedy, and he is part of the government which is responsible for authorizing discharges and polluting activities that may damage the environment. The government therefore plays a dual role: on the one hand, it provides the necessary permits to pollute while on the other hand, it must prosecute the holders of these permits when their activities cause damage to the water as a living environment. While conflict of interest may exist, the Attorney General is subject to a judicial review action should they fail to prosecute a wrongdoer under section 8; this type of action has yet to happen.

### Recommendation 3:

**The OIDN recommends the recognition of the Human Right to Water and Sanitation at the national level, linking this human right to the important recognition of the accountability of those who caused serious harms to waterbodies as living environments. This should be harmonized with the bill of rights of Rivers that should highlight the right of ecosystems to be free of pollutants.**

The limits to the current anthropocentric approach lead the way toward an ecocentric approach adapted to the challenges of the twenty-first century. We are witnessing an evolution towards the recognition of water as not only a human right and *resource*, but also as a *living environment*. Quebec and Canada have been inspired by the movements across the globe, such as the cases of New Zealand, Colombia, New Caledonia, United States, India, Ecuador and Australia, which have recognized the rights of rivers and natural entities in general. Indeed, we have already the first case of a river been granted with rights in Quebec: the Magpie River/Mutehekau shipu in February 2021. By virtue of this international movement, humans are no longer considered above other species, but as part of Nature itself, which must be protected beyond purely economic interests. Now, we propose this paradigm shift by adopting a non-human person status for the St. Lawrence River and its tributaries. This movement recognizes Rivers and natural entities as subject of law.

The ecocentric current of thought, inspired by Indigenous traditions, is the basis for recognizing the rights of Nature. Challenging the Anthropocene era in which humans are the focal point of the planet and can use the environment and their "resources", the ecocentric posture considers humans as one element of Nature among many others. From this point of view, all other species and ecosystems are also entitled to respect for their lives, as they also possess intrinsic dignity.<sup>13</sup>

The recognition of the rights of Nature through a legal pluralism context, such as the one in Quebec and in Canada, favours the recognition of Indigenous legal traditions, because the legal norms enshrined in these traditions are based on a symbiotic relationship with the territory. In this way, this recognition ensures that First Nations' right to self-determination and bio-cultural rights are respected.

In the wake of these recognitions, many courts in various states (Colombia, India, Bangladesh, Inter-American Court of Human Rights)<sup>14</sup> have recognized the legal personhood and rights of Rivers. Indigenous communities around the world have strengthened this movement by also sanctioning declarations on elements of Nature as legal subjects. In this regard, we have identified several such ordinances, such as the one passed by the Innu Community of Ekuanitshit in Quebec, the T̄silhqot'in *Nation* concerning the Fraser/Sturgeon River in Canada, the National Assembly of First-Nations (Quebec-Labrador) concerning the St-Lawrence River, and in the United States the White Earth Band of Chippewa, the Yurok Tribe, the Passamaquoddy Tribe, the Nez Perce Tribe and the Menominee Tribe. These communities have passed resolutions to recognize ecosystem rights following their cultural traditions<sup>15</sup>.

The movement, influenced by the Nature-centered epistemology of many Indigenous peoples, has been followed by many municipalities around the world that have recognized rights to Nature through various legal instruments such as constitutions, as was the case of Mexico City, resolutions, as was the case for the Regional County Municipality of Minganie in Quebec, Canada, but also in the cities of Santa Monica, Crestone and San Francisco in the United States.

This movement demonstrates that the time has come to take decisive action to protect collective rights and the rights of future human beings and more than human generations. It is time for Quebec and Canada to transform the structures and systems that are causing climate change and environmental degradation. The recognition of water as a living environment is already enshrined in the new Quebec legislation, therefore the subjectivization of Nature appears to be a very relevant step in the right direction. The introduction of the eco-centered paradigm in a pluralistic legal system as Canada is promising. Especially in the context of the recognition of the Mutehekau Shipu/Maggie River as a legal person by the Innu council of Ekuanitshit and the Regional County of Minganie.<sup>16</sup> Hence, we consider the conditions are extremely favorable to take the step towards recognizing the St. Lawrence River as a legal subject with rights.

If governments and policy makers want to put a stop to the excessive degradation of the planet, valuing ecosystem services and creating a cross-cutting analysis that links economic development to the well-being produced by water are avenues that should be explored. To achieve this objective, it is essential to establish equivalences and a fair balance between economic and natural heritage. By recognizing natural entities as legal subjects capable of suffering estimable harms that can be claimed for their own benefit, Canada is moving closer and closer to the eco-centered position proposed by Christopher D. Stone.<sup>17</sup>

Nowadays, many stakeholders support adopting a norm that grants a *sui generis* legal personhood to the St. Lawrence River (<https://observatoirenature.org/observatorio/en/st-lawrence-river-alliance-2/>) and the resulting rights specific to such a status. Recently, On April 19, 2023, the Assembly of First Nations Quebec-Labrador has recognized the Legal Personhood of the Saint Lawrence River by the Resolution No. 04-2023. Chief Ghislain Picard had announced that news before the UN General Assembly during the interactive dialogue organized by Harmony with Nature Chapter on World Mother Earth Day. (<https://observatoirenature.org/observatorio/wp-content/uploads/2023/05/04-2023-Defence-on-St-Lawrence-River-Declaration-APNQL.pdf> )

In fact, although the River enjoys the status of a *historic site* under the Quebec *Cultural Heritage Act*, elevating the St. Lawrence's status to that of a "subject of rights" would ensure that its importance is reflected concretely. Moreover, according to the rights of Nature movement, this historical and cultural link between the communities and the river is the starting point to recognize biocultural rights that can engender a transformation of our relationship to Rivers and ecosystems. It would entail a change of the way we interact with water (nowadays as dominators) promoting a relationship of respect and responsibility with the element who sustain and allows all kind of forms of life on Earth.<sup>18</sup>

If the St. Lawrence River were to be granted *sui generis* legal personality, the situation would change, as it would be transformed from an *object* to a *subject* of law. This recognition would attribute it the right to protection, conservation and respect for its vital cycles<sup>19</sup> and restoration.

#### Recommendation 4:

**The OIDN recommends recognizing the Legal Personhood of the St. Lawrence River watershed into the boundaries of Canada’s jurisdiction. Also, the OIDN recommends adopting a St. Lawrence River Bill of rights to exist, to flow, to be preserved, restored, and protected. Also, the rights to its vital cycles, to its preserved shores, to its native biodiversity, to be fed by its tributaries and aquifers, to clean water, and to have legal standing.**

Recognizing its legal personhood would be a legal fiction that would allow the River—just as companies, children, and in some cases, animals have been—to be recognized as having specific rights and to be represented by guardians. These guardians would carry the voice of the River and have at their heart the interests of the river as a living environment. Like parents who look after the best interests of their children, the guardians would look after the best interests of the river. Of course, like a child, the river cannot have obligations or be held responsible for its overflow. Instead, it would have the right to its vital cycles and its natural fluctuations.

The appointment of guardians varies according to the situation or the country. In Colombia, where the Atrato River was recognized as a legal subject, the guardians came from the riparian environment communities, the scientific community and even from the State. In other places, such as New Zealand, the custodians were primarily from the Maori community, Indigenous to this territory for millennia. In Quebec and in Canada, given the size of the river and the major challenges it faces, including pollution from the agricultural, urban and industrial sectors, but also, the importance to reconcile with First Nations, we could consider involving several guardians from various backgrounds, such as riverside communities, Indigenous Peoples, municipalities, environmental organizations and the public sector. Supported by a committee of experts, these guardians would be responsible, among other matters, for asserting the rights of the river by various means, whether through concerted action, participating in decision-making for projects that may affect its rights or defending before the courts the rights and interests of the St. Lawrence River. The guardians can thus assert that the River is suffering harm and consequently claim that the individual or corporation that caused this harm can be sued for reparations.

To ensure that the decision-making process with regards to water governance is informed by the latest scientific advancements, the federal government should create an independent scientific water committee well versed into the model of governance informed by the legal personhood of the St. Lawrence River. This initiative should be in collaboration with First Nations communities that held ancestral wisdom and knowledge about the complexity of the ecosystem of the St. Lawrence watershed to work on an approach of *two eyed seeing*. There should be a transparency and accountability mechanism to ensure that future decisions regarding all projects of development that could affect the St. Lawrence River is informed by the work of this committee. This scientific water committee should also serve as expert for the water tribunal.

#### Recommendation 5:

**The OIDN recommends in order to operationalize the model of the legal personhood of the St. Lawrence River:**

- 1) The creation of a Guardian Committee with several appointment guardians coming from various backgrounds, such as riverside communities, Indigenous peoples, environmental organizations and the public sector;**
- 2) Creating a committee of experts with an approach of *two eyed seeing* to support the decision-making process of the River Guardians.**

Tribunals have shown in the past that they are ill-equipped to handle dispute when it comes to the protection of water and ecosystems. Water is more and more rare for different users that sometimes came into dispute. Contamination of water are affecting fisheries, maritime transportation are causing damages to aquatic wildlife, pesticides coming from



agricultural industries are affecting the human right to clean water and swimming activities. Therefore, proper management of those arisen disputes are fundamental, and it is crucial to build a legal expertise, in partnership with other experts coming from other disciplines (biology, hydrology, geography, anthropology, cultural sociology and economics) that would be able in the future to hear and resolve disputes with the full appreciation of what is at stake. To achieve that, the OIDN recommends the creation of a specialized Water tribunal, modelled on the Human rights Commission, to deal with water governance issues, in partnership with civil society organizations that share its concerns. Other jurisdictions have already institutionalized Water tribunals as water is more and more scarce. That tribunal should take into account regulations, science and human and ecosystems rights.

#### **Recommendation 6:**

**The OIDN recommends creating a specialized Water Tribunal to handle water related disputes in Canada.**

Many organizations have been working together for nearly three decades to restore, conserve and enhance the St. Lawrence, particularly through their work on the St. Lawrence Action Plan. Despite this long-term work and a tangible improvement in the environmental health of the river in several aspects, particularly in the last decade, the river is still considered a vulnerable ecosystem that is subject to multiple pressures. Some examples are related to the demographic pressure and artificialization of banks that have produced loss of wetlands meaning a huge loss of habitat for native species that have become vulnerable, even threatened by extinction. Another exemple is related with the emerging contaminants from various sources (plastic microbeads, personal care and pharmaceutical products, etc.) that are generally not treated. Some heavy metals and other toxic compounds may also end up in the water column or in the sediment. Also, non-sustainable approaches and practices of agriculture has caused detrimental to the St. Lawrence River. Fertilizers, pesticides, etc., is a major source of degradation. In the extreme, this leads to eutrophication of receiving water bodies. The reduction of this kind of pollution is an unavoidable condition for improving the quality of water of the St. Lawrence River.

It seems clear that accountability, but also, compromises and engagement coming from different actors and users of water should be achieved for dismishing contamination in order to improve the health of the River. For this reason, Integrated management that allows us to consider the cumulative effect of all anthropogenic activities on the St. Lawrence is essential for the preservation of the whole ecosystem. The application of integrated watershed management concepts will have to play a greater role in our future protection of the St. Lawrence ecosystem, which will truly reconcile and balance economic, social, and ecological issues. In this context, as a precautionary measure, it would be useful to consider putting in place a strategic committee that would, among other things, promote integrated and participatory governance.

#### **Recommendation 7:**

**The OIDN recommends the establishment of a Strategic Committee that would promote an integrated and participatory watershed model of governance. This committee would work in harmony with the Legal Guardians Committee and the Experts Committee in order to integrate the legal rights of the River into the Governance Model of the St. Lawrence.**



## Summary of the recommendations of the Observatoire International des Droits de la Nature

### The OIDN recommends:

**Recommendation 1:** The OIDN recommends adopting policies and a legal framework that integrates an innovative approach that recognizes legal rights to Rivers and Lakes in order to allow them to fulfill their essential functions. In this regard, OIDN proposes the creation of committees that would involve different actors, including governments (federal, provincial and municipal), First Nations, experts and NGOs that work together in the protection and management of the watershed at different levels.

**Recommendation 2:** The OIDN recommends an increase of the federal and provincial investments and financial support in all municipalities and indigenous reserves to ensure that they have the means to fulfill their legal obligations to protect the human right to water and sanitation. This includes investing in wastewater treatment plants up to date and in adapting their services by considering the effects of population growth and legal responsibilities on the river, biodiversity and climate change.

**Recommendation 3:** The OIDN recommends the recognition of the Human Right to Water and Sanitation at the national level, linking this human right to the important recognition of the accountability of those who caused serious harms to waterbodies as living environments. This should be harmonized with the bill of rights of Rivers that should highlight the right of ecosystems to be free of pollutants.

**Recommendation 4:** The OIDN recommends recognizing the Legal Personhood of the St. Lawrence River watershed into the boundaries of Canada's jurisdiction. Also, the OIDN recommends adopting a St. Lawrence River Bill of rights to exist, to flow, to be preserved, restored, and protected. Also, the rights to its vital cycles, to its preserved shores, to its native biodiversity, to be fed by its tributaries and aquifers, to clean water, and to have legal standing.

**Recommendation 5:** The OIDN recommends in order to operationalize the model of the legal personhood of the St. Lawrence River:

- 1) The creation of a Guardian Committee with several appointment guardians coming from various backgrounds, such as riverside communities, Indigenous peoples, environmental organizations and the public sector;
- 2) Creating a committee of experts with an approach of *two eyed seeing* to support the decision-making process of the River Guardians.

**Recommendation 6:** The OIDN recommends creating a specialized Water Tribunal to handle water related disputes in Canada.

**Recommendation 7:** The OIDN recommends the establishment of a Strategic Committee that would promote an integrated and participatory watershed model of governance. This committee would work in harmony with the Legal Guardians Committee and the Experts Committee in order to integrate the legal rights of the River into the Governance Model of the St. Lawrence.

## Mandate of Observatoire international des droits de la Nature (OIDN)

The International Observatory on Nature's Rights is a non-profit organization founded in 2018, whose mission is to promote the rights of Nature in Quebec, Canada and internationally. We work through three axes that are research, legal interventions and a global approach.

We firmly believe in collaboration, partnerships and the sharing of expertise, which is why we work on the importance of an extended network of experts and partners located in the territories in which we work.

The OIDN successfully participated on the draft of the mirror resolutions that have recognized legal status to the Magpie River and is leading the St-Lawrence River Alliance whose main goal is to preserve the St. Lawrence watershed ecosystems via the recognition of its rights. [www.observatoirenature.org](http://www.observatoirenature.org)

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<sup>1</sup> Crespo, C. (2018). Las especies de agua dulce disminuyen un 83% desde 1970, la mayor extinción de vertebrados a nivel mundial. *National Geographic*.

<sup>2</sup> Vega Cárdenas, Y. (2012). La préservation de l'Eau face à la pollution industrielle : le rôle de l'État québécois. *Lex Electronica*, (17-1), p.4.

<sup>3</sup> *Gélinas v. Grand-Mère (City of)*, (2001) J.Q. No. 6445; (2002) R.J.Q. 721. In this case, the authorization in question was declared null and void because the arguments put forward by the Ministry did not respect the reasonableness of the law. The Ministry failed to ensure that the project would not have a significant negative impact on the quality of the environment, an obligation set out in section 20 of the Act. The courts indicated that the Ministry did not impose any standards regarding the distance separating the sewage disposal pipes and the drinking water supply area for the municipality. (Halley, 2018, p. 220)

<sup>4</sup> *Beaulne v. Gatineau (City of)*, 2003 CanLII 9208 (QC CQ); *Bouchard v. City of Giffard*, 1973 CanLII 1014 (QC CQ). See also (Girard, 2010, p. 49).

<sup>5</sup> This role was recognized by the Supreme Court of Canada in *114957 Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)*, 2001 SCC 40; (2001) 2 SCR 241 and, more recently, in *Gastem inc. v. Municipalité de Ristigouche-Partie-Sud-Est*, 2018 QCCS 779.

<sup>6</sup> *St-Onge v. Corporation municipale de Paroisse Baie St-Paul*, J.E.99-2068, C.S. It is worth noting that there is a by-law that prevents owners of isolated dwellings from discharging wastewater that has not been treated by the devices provided for in the law. See Section 3 of the *Regulation respecting waste water disposal systems for isolated dwellings*, LQE, c. Q-2, r. 22. See also section 5 of the *Regulation respecting municipal wastewater works*, R.R.Q. c. Q-2, r. 34.1.

<sup>7</sup> Robillard, J-F. (2018, 26 September). 93 municipalités québécoises toujours sans un réseau d'égout. RadioCanada. <https://ici.radio-canada.ca/nouvelle/1126288/reseau-egout-eaux-usees-municipalites-ville-village-quebec-egout-environnement>

<sup>8</sup> The Charter is a quasi-constitutional document, derived from an ordinary statute but containing sections that prevent the Charter from being derogated by an ordinary statute, unless the statute makes an express derogation. This is a "notwithstanding" clause.

<sup>10</sup> See *Entreprises B.C.P. Ltée v. Bourassa, Gestion Serge Lafrenière inc.*

<sup>11</sup> Canada abstains from voting for the recognition of the human right to safe drinking water. *The Human Right to Water and Sanitation*, GA Res 64/292, UNGAOR, 64th Sess, Supp No 49 (vol III), UN Doc A/RES/64/292 (2010) 45.

<sup>12</sup> Article 121 of the resolution approved by the United Nations General Assembly on July 27, 2012, GA Res66/288 on the right to drinking water, online: <https://undocs.org/es/A/RES/66/288>. This resolution recognizes the obligation of states to ensure the implementation of the human right to water. Unlike previous years when Canada showed reluctance in debating the human right to water at the United Nations, this time the resolution was accepted without any reservations by Canada.

<sup>13</sup> Espinosa Gonzalez, A. (2012). La justicia ambiental, hacia la igualdad en el disfrute del derecho a un ambiente sano. *Universitas: Revista de Filosofía, Derecho y Política*, (16), p. 53.

<sup>14</sup> As for example, the Constitutional Court in Colombia declared the Atrato River as a subject of law in 2017 (Judgment No. T-622-16, November 10, 2016, paras. 9.27 to 9.3), India declared the same for the Ganges and the Yamuna River<sup>14</sup> and Bangladesh granted legal rights to all of its rivers in 2020.<sup>14</sup> It should be noted that in an advisory opinion, the Inter-American Court of Human Rights also recognized the intrinsic value of Nature and thus a legal interest separate from its benefit to humanity. In *Advisory Opinion OC-23/17*, issued in November 2017, the Inter-American Court of Human Rights emphasized that, as an autonomous right, environmental law protects the environment as a legal interest in itself, regardless of the benefit it provides to humanity: In this regard, the Court noted a trend in the judgments of constitutional courts of many countries and in their constitutions that recognize a legal personality for Nature (para. 62).

<sup>15</sup> The Innu of Ekuanitshit granted legal personhood and rights to the Mutehekau Shipu/Magpie River, first case in Canada : <http://files.harmonywithnatureun.org/uploads/upload1072.pdf>.

<sup>16</sup> Vega Cardenas, Y., & Mestokosho, U. (2023). Recognizing the Legal Personhood of the Magpie River/Mutehekau Shipu in Canada. Dans Y. Vega Cardenas, & D. Turp, *A Legal Personality for the St.Lawrence River and other Rivers of the World* (pp. 113-164). Montreal: JFD.

<sup>17</sup> Stone, C.S. (1972). Should Trees Have Standing? Towards Legal Rights for Natural Objects. *Southern California Law Review* 45, 450-501.

<sup>18</sup> As it was the case with two water bodies that have acquired *sui generis* legal personality: the Atrato River in Colombia (Corte Constitucional de Colombia, Sentencia T-622/16) and the Whanganui River in New Zealand (Te Awa Tupua (Whanganui River Claim Settlement) Bill, 129-2, online: <http://www.legislation.govt.nz/bill/government/2016/0129/latest/DLM6830851.html?src=qs>.(accessed March 23, 2019).

<sup>19</sup> During spring in Ecuador, nothing is built near the River to respect flooding.