"What is it about wild rice anyway?" an Ontario bureaucrat asked me. Indeed, what is it about wild rice that, upon further inquiry with the Anishinaabe people of Treaty #3, led me to realize that it is neither "wild" nor "rice"? A member of the grass family, wild rice is North America's only native grain. An annual plant which requires reseeding, wild rice extended its territory by intentional seeding by the Anishinaabe and neighbouring peoples. Their methods of taking care of the plant ensured its continuance and growth, and developed into the longest-lasting form of aboriginal governance in this part of the land.

The Anishinaabe people of Treaty #3 live on 140,000 km$^2$ (55,000 sq. mi.) of the Boundary Waters from west of Thunder Bay, Ontario, into the Whiteshell area of what is now called Manitoba. The Treaty #3 territory includes the waters of Namakan Lake, Rainy Lake, Lac Seul, the Wabigoon and English Rivers, and Lake of the Woods.

While this area is presently known primarily for tourism, pulp and paper, and mining, it is the homeland to Anishinaabe people who can trace their heritage back to before 8000 B.P., as documented archaeologically at Lake of the Woods. Year-round settlements in the area have been excavated and determined to be 3000 years old; there is evidence of wild rice being used by the people then (Reid and Rajnovich 1991).

The rock painting of the anthropomorphized wild rice grain (Fig. 1) indicates the ancient relationship between manomin — as Anishinaabe people call wild rice — and the people. This drawing of the rice being is situated right next to the chisiki inini, the medicine man, and his shaking tent, and near the sturgeon, a creature central to Anishinaabe feasting and ceremony.

According to some Anishinaabe people, the root of the word manomin indicates their sacred relationship of the plant. Man- refers to the Creator and Great Spirit, Kizha Manitou, who gave the gift of -min,
Figure 1: Courtesy of the Royal Ontario Museum, Toronto, Canada.
a berry or delicacy, to the Anishinaabe. A more ancient term for wild rice, according to Elder Alex Skead of Wauzhushk Onigum, is manito gitigaan, the Great Spirit’s Garden. This term indicates the sacred relationship of stewardship and caretaking which the Anishinaabe people have for manomin. Historically, the locations of village sites and reserves have been adjacent to rice fields that the people sowed themselves (Rajnovich 1981; Vennum 1988; Moodie 1991; Syms 1982).

Manomin or wild rice can be explained from the perspective of the Treaty #3 Anishinaabe in three dimensions. As a symbol, manomin signifies the conflict in the constitutional division of powers in the Constitution Act, 1867, which in section 91(24) gives authority over “Indians and lands reserved for Indians” to the federal government while in section 92 reserving crown lands and natural resources to the provinces. This conflict continues in the Constitution Act, 1982, where section 35 “recognizes and affirms the aboriginal and treaty rights of the Aboriginal peoples of Canada”. Manomin as a symbol, then, affirms it as an aboriginal and treaty right rather than a provincial crown resource.

In fact, the culture and governance of manomin is the longest continuing form of self-government in the Treaty #3 area, including the ceremonies, preparation, control of the growing period, and harvesting camps where Elders regularly check the harvest and say when to pick and when to rest the rice. As Jenks (1900:1019) described it at the end of the 19th century, manomin provides a portrait of “an aboriginal economic activity which is absolutely unique, and in which no article is employed not of aboriginal conception and workmanship.” It is a solely Anishinaabe exercise of authority over a resource. And, manomin involves the organization of the Anishinaabe people that was untouched by successive Indian Acts and has survived other forms of suppression of the sovereignty of the people, such as residential schools, relocation of villages, anglicization of names, and the outlawing of traditional religion and ceremonies.

Manomin can also be seen as a metaphor for the continued existence and reassertion of aboriginal and treaty rights. Significantly for the cultural and political life of the Treaty #3 Anishinaabe, it affirms the spiritual foundation of Anishinaabe government. Mawedopenais, one of
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the main Anishinaabe negotiators at the final discussions about Treaty #3 in 1873, explained:

We think where we are is our property. I will tell you what he said when he planted us here; the rules that we should follow — us Anishinaabeg. He has given us rules that we should follow to govern us rightly. (Morris 1880:59)

Treaty #3 affirms for the people the nation-to-nation agreement that they negotiated. Although the federal government has its own printed version of Treaty #3, this document does not reflect the oral tradition of the people whose ancestors gathered in the thousands to be present at the treaty negotiations in 1873 and whose leaders instructed several of their own to record in memory the negotiations and promises made. The oral tradition is corroborated by written records, notably:

(1) the Paypom Treaty which the Anishinaabeg people believe to be the actual Treaty #3 document because it both reflects their oral tradition and can easily be translated into Ojibway from English. This parchment document was passed by an intermediary (C. G. Linde, a photographer) from Powassin of Animikwiwzing, one of the main Anishinaabeg negotiators, to Allan Paypom of Washagamis Bay, a later Chief and Elder. The Paypom family retains the document for safekeeping to this day. The Paypom Treaty is the Manito mazina’igaa’ or sacred document that the people speak of in reverent terms.

(2) shorthand notes by the Manitoban newspaper reporter giving the version of Nolin, a Métis interpreter hired by the Anishinaabeg, of the negotiations he attended in 1873; the notes were attached to Lieutenant Governor Morris’s final report to Ottawa, presently available in the National Archives of Canada.

(3) the report and later letters of S. J. Dawson, one of the three treaty commissioners at Treaty #3 and a visitor, explorer and developer in the Anishinaabeg territory for more than 20 years before the 1873 negotiations. Dawson was a member of the treaty party who had entered into four years of negotiations (1869–73) toward a treaty in this area.

While the printed federal government version of the treaty is silent about wild rice and states that hunting and fishing will be subject to regulations, the Paypom Treaty and corroborative documents listed above state that “the Indians shall be free as by the past for their hunting and rice harvest.” This freedom regarding wild rice would have included the seeding, caretaking during the growing period (for example, eliminating
competing plants, trapping predators such as muskrats, shielding the rice from blackbirds by bundling the rice, and holding the water levels constant for the growing period by using beaver dams), carrying out ceremonies, harvesting, processing, and marketing. While the commercial use of resources by Treaty and Aboriginal peoples is just beginning to be recognized in Canadian law, it is a documented historical fact for manomin.

The “commercialization of a traditional pursuit” changed the political situation concerning wild rice from one of de facto Anishinaabe control to provincial legislated control and commercial intrusion (Lithman 1973). Historically, manomin was one resource that the Anishinaabe of the Boundary Waters later known as Treaty #3 reserved for themselves. And, unlike fishing and hunting, there are neither records nor memories of white men ever being allowed to harvest manomin in the Treaty #3 area or ever doing so, until intermarriage increased from the 1950s on (Holzkamm 1984).

Beginning in the 1930s, and increasingly in the 1950s, white entrepreneurs entered the Treaty #3 area as buyers of hand-processed rice at lakeside and became the wholesalers and retailers. Hand processing of manomin is an elaborate business, involving curing and parching to remove moisture, threshing or “dancing” the rice to loosen the husk, and then winnowing to remove the husk by blowing it away. These are the basic steps; there are many variations according to the ingenuity of the people. With the development of processing machines to remove the husks, entrepreneurs began to buy green rice, just harvested from the field, while the Treaty #3 Anishinaabe continued to process the rice by traditional means for their own use.

Once manomin is processed it can be kept for years. This is one reason why it was so important to the fur trade, and why the Boundary Waters Anishinaabe were playing winter lacrosse with such gusto (Holzkamm, Waisberg and Lovisek 1995). However, unprocessed rice, sold right off the lake, must be disposed of quickly to avoid fermentation and spoilage. Since the lakeside sale of green rice began in the 1950s there has been increased pressure on Anishinaabe to see wild rice as a “cash crop” which would provide quick monetary income.
The history of Treaty #3 since 1873 has included the settlement of the Manitoba-Ontario boundary question and the infamous 1888 St. Catherine's Milling Co. case in British courts. In the St. Catherine’s case, the Judicial Committee of the Privy Council — men who had never set foot in North America — decided which level of the Canadian government (federal or provincial) could let timber cutting licenses in the Treaty #3 territory. However, this judgment also defined aboriginal rights as a “personal and usufructuary right... dependent upon the goodwill of the sovereign”. The effect of these two decisions was that the beneficial interest in the lands and resources of Treaty #3, which the Anishinaabe had signed with the Crown in right of Canada, came under the jurisdiction of the province of Ontario or (in the western portion, after 1930) the province of Manitoba. This is the same Judicial Committee decision that has to date deprived the Nishga, Gitksan-Wetsuweten and Temi-Augami people, and many others, of their just day in court, and recognition of their traditional governance of their lands. The legacy of the St. Catherine’s case has been so destructive and all-pervasive, that a lawyer experienced in land claims refers to it as the case where the "Indians were used and fructed" (Savino 1988).

The government of Ontario increasingly sought to assert its authority in Treaty #3 territory through the enactment and enforcement of laws and regulations against Anishinaabe fishermen, hunters and trappers. Commercial interests also asserted their authority by cutting immense tracts of timber in the Treaty #3 area, developing mines without benefit to Anishinaabe, and flooding the Lake of the Woods, Rainy Lake, Lac Seul and other boundary waters. The court judgments, regulation by outside authorities, and flooding took place without consultation with or notification given to the Anishinaabe people, and certainly without regard to Treaty #3.

As white entrepreneurs invested more in processing and marketing, they pressed the province of Ontario to become involved in this “cash crop”, which they considered to be a natural resource properly within the jurisdiction of the province under Canadian constitutional law. The Anishinaabe of Treaty #3 saw this as further evidence of the concept of koosh kwe damog, i.e., whites being ‘crazy to control everything’. In 1960, the Ontario legislature approved the Ontario Wild Rice Harvesting
Act, which established a permit system and provided for other measures of control. Significantly, the regulations governing the permits asked for the colour of the permit holder’s eyes, an obvious indication that this legislation was not designed to protect Anishinaabe interests.

Yet while western law has justified and legitimized conquest and control of aboriginal peoples, lands and resources, and was the “handmaiden of domination through control and regulation”, in the case of manomin, the Wild Rice Harvesting Act “constrained systems and provided arenas for resistance” (Merry 1992:53). The Act provided for ten vast tracts of lands and waters within the Kenora and Dryden districts of Ontario to be set aside as wild rice harvesting areas for certain bands in Treaty #3. In the southern portion of Treaty #3, the Fort Frances and Thunder Bay districts, bands’ traditional areas were set aside for annual permit renewal, in effect, whether applied for or not. Thus the provincial legislation provided recognition of aboriginal and treaty rights through its own regulatory procedures.

Grand Council Treaty #3, the present territorial organization of chiefs, traces its origin to traditional councils before 1873. The Grand Council led the fight against provincial incursions into manomin, in 1972 wedding commerce and treaty rights by forming the Anishinaabe Man-O-Min Co-op. The chiefs wished to establish an economic presence with their treaty and aboriginal right to exclusive use of manomin. During 1977 and 1978 Grand Council Treaty #3 made strong representations to the Ontario Royal Commission on the Northern Environment, which led to the province declaring in 1978 a five-year moratorium on new licences to harvest wild rice; this moratorium continues today.

The story of manomin involves the development of Grand Council Treaty #3 from a traditional form of government, through its years as a lobbying organization (from the 1930s to the early 1990s), to its eventual evolution into an adapted form of traditional governance with law-making ability. At the 1992 annual assembly, the Chiefs and Elders of Treaty #3 discussed passing the Treaty #3 Anishinaabe Manomin Law, which would reassert customary law across the 55,000 square miles of Treaty #3 territory. During the negotiations toward the Charlottetown Accord in 1991–92, and thereafter, Grand Council Treaty #3 pursued an initiative with the Ontario government that would see the province vacate the legal
field of manomin and recognize the jurisdiction of Treaty #3 traditional law. The New Democratic Party government of Ontario stated its commitment to a Statement of Political Relationship; in 1990 the Premier signed the agreement with status Indian leaders from across Ontario recognizing that aboriginal rights include “an inherent right to self-government”. In 1992 cabinet-level meetings were held with Grand Council Treaty #3 and other provincial organizations in Ontario, leading to the further clarification that the government recognized that the inherent right to self-government includes lands and resources. However, no concrete action has ever been taken by the Ontario government to recognize the Anishinaabe governance of manomin in Treaty #3, despite vigorous lobbying by the Treaty #3 chiefs’ organization and individual First Nations.

Some of the issues Treaty #3 chiefs, Elders and leaders are still debating are to what extent to codify traditional laws and what forum — Canadian courts, Anishinaabe processes, or international tribunals — will be used to reestablish traditional laws and traditional stewardship of the lands and resources given by the Creator to the Anishinaabe.

In considering Manito Gitigaan from an interdisciplinary perspective, I looked in many directions for a paradigm that would assist in explaining the conflicts of governance at issue here. In the field of communications, Neil Postman developed a paradigm of cultures along a continuum of toolmaking, technology and technocracy. Toolmaking cultures invent tools “to solve specific, urgent problems of physical life or to serve some symbolic need in the world of art, politics or religion” (Postman 1992:22). Such tools “did not attack the dignity or integrity of the culture that produced them” and did not disrupt the inextricable whole-ness of social, economic and spiritual life. According to Postman, this remains the case in many cultures of the Third World today. By the industrial revolution, technologies developed whereby “anonymously and inconspicuously the old tools were transformed into modern instruments” (Postman 1992:42). Indeed, machines were invented to make more machines. And these tools began to play a central role in the thought-world of the culture — the mechanized clock replaced other means of measuring time, and the printing press replaced oral tradition. In this age of technocracy, technologies and traditions were able to “co-exist in
uneasy tension”; while technology was stronger, traditions were still functional, still exerting influence (Postman 1992:48). The present age of “technopoly” is defined as the “surrender of culture to a totalitarian technocracy” (Postman 1992:48). “Technopoly hopes to control information and thereby provide itself with intelligibility and order ... To every Old World belief, habit or tradition, there was and still is a technological alternative”: instead of prayer, penicillin; family, mobility; sin, psychotherapy; restraint, immediate gratification; political ideology, polling to market popular appeal; death, cryogenics (Postman 1992:91).

The Postman paradigm has immediate application to governing in the Great Spirit’s Garden. The Anishinaabe first developed the tools which allowed the seeding and caretaking (by canoe), the harvesting (with canoes, threshing sticks, poles and paddles), and the processing (with pots, paddles, poles, threshers, and winnowing baskets). This is the absolutely unique economic activity “in which no article is employed not of aboriginal conception and workmanship” (Jenks 1900:1019). In an era of mechanization, Anishinaabe and non-Anishinaabe developed machines to do the harvesting (airboats with “speedhead” attachments like wireframe baskets) and processing (parching ovens and threshing drums). This second era of technocracy created some dissonance between the new technologies which allowed for the separation of the stages of labour involved in caring for the crop, and the traditions that fostered a familial closeness with the preparations for the wild rice season. Beginning with the provincial government’s incursions in the rice fields in the 1960s, and more increasingly with provincial statistical collection from the 1970s, the era of technopoly has sought to disassociate the Anishinaabe people from the Great Spirit’s Garden. Through provincial legislation and regulations, bureaucratic control of data and definitions, and the promulgation of research intended to wrest control of the rice from the Anishinaabe, governments have introduced the era of technopoly into the Great Spirit’s Garden. Technopoly is now threatening to separate the original peoples from the gifts the Creator has given them. Thus the provincial ideology of crown resources and economic development is confronting the Anishinaabe ideology of the Great Spirit’s Garden, their stewardship responsibility, and their identity as a people that this responsibility entails.
To relate and analyze the story of the Great Spirit’s Garden in Treaty #3 requires the adoption of Anishinaabe perspectives, concepts, and language. “Suppressed sovereignty”, a legal model argued in the American courts on behalf of the Mashpee people, speaks of the continuation of sovereignty or the right of self-rule by a people, and at the same time, the activities of an outside force seeking to overwhelm and subvert that self-rule. The model of “expressed or asserted sovereignty” and “suppressed sovereignty” is well applicable to the story of Manito Gitigaan, the Great Spirit’s Garden. And it fits well with the paradigm of organic rights, which grow and evolve within the people, despite the effects of predators, disease, or environmental onslaughts.

To provide the underpinning for this model of expressed versus suppressed sovereignty, it is necessary to look to an interdisciplinary field of law. Legal pluralism considers how customary or folk law is enhanced or undermined, and how state laws may be modified or adjusted to make way for the reassertion or continuation of customary aboriginal law (Morse and Woodman 1987; Dockstader 1993; Boldt 1993; Littlebear 1989). Legal pluralism provides an interdisciplinary perspective to add to the field of aboriginal or traditional law, which documents and analyzes Euro-Canadian law and its effects on aboriginal peoples.

In the discourse of legal pluralism, researchers are seeking the order of an “Indian common law”, or unwritten rules that have guided past behaviour and continue to do so today. To overcome the ethnocentric view that “custom” is something less or lower than “law”, or that laws imposed by an outside government are alone “powerful and binding”, the term “customary law” has been widely adopted (Zion 1987:123–4). Aboriginal customary law can be considered “a definable body of rules, practices and traditions accepted by the community or traditional society” which may exist “as part of an oral culture, with no written codes” (Crawford et al. 1987:37).

Legal analysis succinctly states that “state law may replace, reform or conserve the norms and concepts of customary law” (Morse and Woodman 1987:1). The story of manomin in Treaty #3 is one in which outside nation-state law seeks to replace and usurp the customary law of the Boundary Waters Anishinaabe. Grand Council Treaty #3 is working
toward alternatives to this ethnocide wherein the traditional law of Manito Gitigaan would be recognized.

It is not an easy task, because just as governments prefer to recognize more recent treaties, such as the U.S.–Canadian agreements which allowed the flooding of Treaty #3 territorial waterways, over the actual Treaty #3 which required an ongoing nation-to-nation, government-to-government relationship, so too do modern governments prefer their own myths to those of the Anishinaabe people. The earliest version of such “myths” began with the first explorers who visited the Boundary Waters ricebowl. “They reap, without sowing it, a kind of rye which grows wild in their meadows, and is considered quite superior to Indian corn” (Thwaites 1896–1901, 44:275). Despite the presumptuousness of this observation, it has been so often repeated that it is today an accepted “fact”. This is a myth of major impact because it depicts the Anishinaabe people as mere gatherers with a limited understanding of the plant, rather than the reality that their management of manomin enabled it to grow and expand its territory. Accepting the myth that “they reap but do not sow” allows newcomers unlimited access to this marvellous plant, and does not convey any sense of the tending and care required of Manito Gitigaan. And it allows scientists, rice-paddy farmers and non-Indian businessmen in the wild rice industry today to state, and believe, that they and their non-Indian culture developed the science and technology of wild rice.

And yet, the people of Treaty #3 draw strength from their understanding that manomin continues to overcome historic and pervasive threats to its survival too. High water levels, predators such as muskrats and blackbirds, competitors such as waterlilies, inclement weather and other factors affect the growth of manomin. Indeed, manomin has been known to be drowned out for more than 30 years but then re-emerge. So too, the Anishinaabe people of Treaty #3 see themselves as emerging from a prolonged period of what they characterize as “suppressed sovereignty”. To the people of Treaty #3, manomin, and the Treaty #3 Anishinaabe rights, will never disappear — as long as there is a seed.

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