

Rights of Nature Case Study

Manoomin (wild rice)

In December 2018, members of the Chippewa/Ojibwe tribe passed a tribal law recognising the rights of manoomin, a variety of wild rice, to exist, flourish, regenerate, and evolve, as well as its inherent rights to restoration, recovery and preservation.

Location	Minnesota, North America
Date	December 2018
Source	Legislation (Indigenous tribal law)
Jurisdiction level	Local
Context	<p>Manoomin, a variety of wild rice, is described as being “...a gift from the Creator or Great Spirit and continues to be an important staple in the diets of native peoples for generations, is a central element of the culture, heritage, and history of the Anishinaabe people, and is an integral part of the wetland ecosystems and natural communities of our traditional lands.” It is an important part of the tribal migration story and is considered to be both a crop and a relative.</p> <p>On 5 December 2018, the 1855 Treaty Authority passed a law recognising the rights of manoomin. On 31 December 2018, the White Earth Band of Ojibwe, part of the Minnesota Chippewa Tribe, passed a similar law in almost identical terms. The decision to take action in such context was a response to significant historical damage to other plant species, ecosystems and animals of particular importance to the Anishinaabe peoples, as well as current threats of ecological damage from proposed oil pipelines, worsening climate change impacts and dissatisfaction with a proposed government task force on wild rice which was perceived as privileging industry interests in its membership structure.</p> <p>The resolutions set out the necessity for legal protection, noting that:</p> <p>...manoomin and the habitats it thrives in are threatened by hybridization, genetic modification, sterilization, privatization, climate change, and other industrial and corporate practices, and we recognize that to protect manoomin and our people, we must secure its highest protection through the recognition of legal rights, and call upon the bands of the Anishinaabe Nation, and other relevant federations, commissions, and government entities, to secure and protect the legal rights of manoomin and our peoples.</p> <p>The White Earth Band of Ojibwe and 1855 Treaty Authority worked with the Community Environmental Legal Defense Fund, who assisted Honor the Earth,</p>

	<p>an indigenous-led environmental advocacy group, in the development of the law.</p>
Rights of Nature recognition	<p>Article 1(a) of the ordinances sets out the rights of manoomin, as follows:</p> <p>Manoomin, or wild rice, within all the Chippewa ceded territories possesses inherent rights to exist, flourish, regenerate, and evolve, as well as inherent rights to restoration, recovery and preservation. These rights include, but are not limited to, the right to pure water and freshwater habitat; the right to a healthy climate system and a natural environment free from human-caused global warming impacts and emissions; the right to be free from patenting; as well as rights to be free from infection, infestation, or drift by any means from genetically engineered organisms, trans-genetic risk seed, or other seeds that have been developed using methods other than traditional plant breeding.</p> <p>Section 2 prohibits any activity by, or permit or other authorisation issued to, any business entity or government, or any other public or private entity, that would violate the rights of manoomin. Under Section 3, in the event of any violation, the relevant entity would be required to pay the maximum fine allowable under tribal law and be liable for damages to restore the manoomin and its habitat to their pre-violation state.</p> <p>The ordinances also outline the enforcement of those rights, granting powers of enforcement to the White Earth Nation, the 1855 Treaty Authority and manoomin itself in any appropriate court, tribunal or legal forum. Further, the 1855 Treaty Authority ordinance explicitly states that if the 1855 Treaty Authority fails to enforce or defend the law, or a court fails to uphold it, any individual tribal members may take non-violent direct action to protect the rights of manoomin.</p>
Significance	<p>The Rights of Manoomin ordinances are significant in being the first laws to recognise legal rights of a plant species, through the formal codification of traditional Indigenous laws by a tribal government. This expands the imagination of what an ecological entity might look like under the rights of nature paradigm. Over time, this can offer a valuable illustration of how the law can reflect and protect or even enhance the relationship between human communities and a particular plant. In addition, this rights recognition of a specific plant species with long-term spiritual, cultural and practical significance to an Indigenous community can also offer an entry point for protecting and deepening a relationship with a wider habitat and ecosystem, upon which the plant depends to realise its rights in practice.</p> <p>The recognition of the rights of manoomin represents an important public statement of Indigenous-centred history and a reiteration of previously granted rights that have been eroded over time. In this regard, the 1855 Treaty recorded the ceding of lands by the Anishinaabe to the US government, with the retention by the Indigenous peoples of usufruct rights, that is, rights to continue traditional hunting, fishing, gathering – including the harvesting of</p>

	<p>wild rice – on ceded lands. The 1855 Treaty Authority was established to protect these and other treaty rights, with a key role being to protect and oversee the resource management rights and responsibilities of the signatory bands and tribal members. Given violations of treaty agreements by the government and harmful corporate practices over many years, the Chairman of the White Earth Band of Ojibwe emphasised in the press release on the rights of manoomin that the treaty rights “...are essential to protect and require consent and co-management with the State throughout our ceded territories.” Section 1(c) of the 1855 Treaty Authority ordinance reiterates that “[t]hese rights pre-date treaties and [are] derived from the individually held, usufructuary property rights protected by U.S. Constitutional due process, as part of the supreme law of the land.”</p>
Implementation	<p>Section 1(d) of the ordinances provides that “[a]ll rights secured by this law are inherent, fundamental, and unalienable, and shall be enforceable against both private and public actors without further implementing legislation.”</p> <p>Section 4 of the ordinances provides that they shall be effective immediately on the date of enactment, at which point “...the law shall apply to any and all actions that would violate this law regardless of the date of any applicable local, state, or federal permit.”</p>
Key documents and links	<ul style="list-style-type: none"> ☼ <u>“Rights of Manoomin” Resolution and Ordinance - 1855 Treaty Authority</u> (5 December 2018) ☼ <u>“Rights of Manoomin” Resolutions and Ordinance - White Earth Band of Ojibwe</u> (31 December 2018) ☼ <u>1855 Treaty Authority press release</u> (11 January 2019) ☼ <u>Honor the Earth</u> ☼ The <u>Community Environmental Legal Defense Fund</u> (CELDF) <p>See also:</p> <ul style="list-style-type: none"> ☼ The <u>Rights of Manoomin project</u> (including mapping, relevance, treaties, rights and further reading)

Updated February 2021

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