Sources and Interpretations

The Treaty of Hartford (1638): Reconsidering Jurisdiction in Southern New England

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ON September 21, 1638, a treaty was concluded at Hartford, on the Connecticut River, between the English settlers of the embryonic River Colony (Connecticut) and the Indian polities that had fought alongside them in the recent Pequot War. This accord has long been an important source for scholars of settler-indigenous relations in early New England. Historians have favored two slightly different copies of the treaty, both of which were produced as part of a legal dispute between the Connecticut colony and the Mohegan Indians that spanned much of the eighteenth century, commonly referred to as the Mohegan land case or, more formally, *Mohegan Indians v. Connecticut* (1705–73). The first and more frequently cited copy likely reproduces the text submitted to the first hearing of the case in 1705, which was published in the *Collections of the Rhode-Island Historical Society* (hereafter *RIHS*), whereas the second was prepared as part of the *Book of Proceedings* of the 1743 hearing (hereafter *Mohegan*).[1] Both versions of the treaty create the impression that the

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[1] The first of these treaty copies, likely from 1705, is available in "Articles between ye Inglish In Connecticut and the Indian Sachems," in Elisha R. Potter Jr., *The Early History of Narragansett*, in *Collections of the Rhode-Island Historical Society* 3 (1835): 177–78. This text is reproduced in Alden T. Vaughan, *New England Frontier: Puritans and Indians, 1620–1675*, 3d ed. (Norman, Okla., 1995), 340–41;

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agreement had two ostensible functions. First, they suggest that it was intended to establish a lasting peace between the indigenous allies of the English: the Narragansetts, under the joint sachemship of Miantonomi and his uncle Canonicus, and the Mohegans, under the leadership of Uncas. This peace was to be supervised by the English at Connecticut, and the sachems agreed to appeal any grievances that arose between them to the colonists before resorting to war. Second, these versions of the treaty highlight the plan for disposing of the remnants of the Pequot polity: granting the Pequot country to the English, requiring that the Narragansetts and Mohegans assist the English in capturing or killing the Pequot warriors responsible for killing colonists during the war, and dividing the surviving Pequot captives among the victors. The canonical copies of the treaty, that is, give the impression of an agreement that disproportionally addressed the interests of the English at Connecticut.

Until recently, scholarly attention to the Treaty of Hartford has tended to focus on the second of the treaty's ostensible purposes, scrutinizing the treatment of the Pequots for evidence of the colonizing or genocidal intentions of English settlers.[2] Identifying the apparent bias in

and Daniel R. Mandell, ed., *New England Treaties, Southeast, 1524–1761*, vol. 19 of *Early American Indian Documents: Treaties and Laws, 1607–1789*, ed. Vaughan ([Washington, D.C.], 2003), 134–35. The second copy, from 1743, is available in both published and manuscript form and is almost identical in form and content to the *RIHS* text. "Governour & Company of Connecticut & Mohegan Indians by their Guardians. Certified Copy of Book of Proceedings, before Commiss[ione]rs of Review. 1743," Mar. 5, 1743/44, Colonial Office 5/1272, 50–52, National Archives of the United Kingdom, Kew; *Governor and Company of Connecticut, and Mohegan Indians, by their Guardians. Certified Copy of Book of Proceedings before Commissioners of Review, MDCCXLIII* (London, 1769), 33–34 (hereafter *Book of Proceedings*). An additional manuscript copy of the 1743 text can be found at the Connecticut State Library: "Articles of agreement between the English in Connecticutt And the Indian Sachems," copy dated June 28, 1743, Connecticut Archives: Indians, ser. 1, vol. 2, no. 120, Connecticut State Library, Hartford (also available at http://cslib.cdmhost.com/cdm/ref/collection/p128501coll11/id/3860). A transcript of this copy can be found at Yale Indian Papers Project (YIPP), 1638.09.21.00, http://jake.library.yale.edu:8080/neips/data/html/1638.09.21.00/1638.09.21.00.html. On the Mohegan land case, see Mark D. Walters, "*Mohegan Indians v. Connecticut* (1705–1773) and the Legal Status of Aboriginal Customary Laws and Government in British North America," *Osgoode Hall Law Journal* 33, no. 4 (Winter 1995): 785–829; Paul Grant-Costa, "The Last Indian War in New England: The Mohegan Indians v. the Governour and Company of the Colony of Connecticut, 1703–1774" (Ph.D. diss., Yale University, 2008); Craig Bryan Yirush, "Claiming the New World: Empire, Law, and Indigenous Rights in the Mohegan Case, 1704–1743," *Law and History Review* 29, no. 2 (May 2011): 333–73.

[2] For debate over the genocidal intentions behind the Pequot War and the Treaty of Hartford's terms, see Richard Drinnon, *Facing West: The Metaphysics of Indian-Hating and Empire-Building* (1980; repr., New York, 1990), 41–45; Neal Salisbury, *Manitou and Providence: Indians, Europeans, and the Making of New England, 1500–1643* (New York, 1982), 215–25; Steven T. Katz, "The Pequot War Reconsidered,"

the treaty toward the interests of the English, some scholars have argued that it offers evidence—albeit to varying degrees—of a wider Indian submission, whereby the Narragansetts and Mohegans accepted the Connecticut colony's authority over them. Andrea Robertson Cremer, for example, argues that "rather than treat the Mohegans and Narragansetts as equal partners in the war," the Treaty of Hartford "rendered them colonial subjects," confirming a subordinate status that she sees in evidence throughout the war.[3] Others have pointed to the provision that enabled the Connecticut settlers to adjudicate disputes between the Mohegans and Narragansetts as evidence of Indian submission to English authority, with Alden T. Vaughan going furthest in seeing this as "formally extend[ing] British authority" in the region.[4] Finally, Michael Leroy Oberg argues that by agreeing to pay a tribute to the English for each captive Pequot held by their respective communities, the Mohegan and Narragansett sachems established "a relationship between the governor of Connecticut and [themselves] akin to that between a superior and inferior sachem."[5] In these accounts, the Treaty of Hartford not only made good on the conquest of the Pequots, it also secured Connecticut's authority over its indigenous allies. This focus on the treaty's supposedly colonizing function in subjecting the region's Indians to English authority is understandable, given that this was an agreement that sought to extinguish a Pequot polity that until 1633 had been ascendant in the region. Moreover, as Andrew Lipman notes, even if one finds no evidence of Narragansett or

New England Quarterly 64, no. 2 (June 1991): 206–24; Michael Freeman, "Puritans and Pequots: The Question of Genocide," *New England Quarterly* 68, no. 2 (June 1995): 278–93; Vaughan, *New England Frontier*, xxiii–xxix, 150–51; Alfred A. Cave, *The Pequot War* (Amherst, Mass., 1996), 147–51, 209–10 n. 47; Benjamin Madley, "Reexamining the American Genocide Debate: Meaning, Historiography, and New Methods," *American Historical Review* 120, no. 1 (February 2015): 98–139, esp. 120–26. On the enslavement of Pequot captives after the war, see Michael L. Fickes, "'They Could Not Endure That Yoke': The Captivity of Pequot Women and Children after the War of 1637," *New England Quarterly* 73, no. 1 (March 2000): 58–81; Andrea Robertson Cremer, "Possession: Indian Bodies, Cultural Control, and Colonialism in the Pequot War," *Early American Studies* 6, no. 2 (Fall 2008): 295–345.

[3] Cremer, *Early American Studies* 6: 333 (quotations), 329, 342.

[4] Alden T. Vaughan, "Pequots and Puritans: The Causes of the War of 1637," in *Roots of American Racism: Essays on the Colonial Experience* (New York, 1995), 177–99 (quotation, 192); Francis Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (Chapel Hill, N.C., 1975), 259; Cave, *Pequot War*, 161–62; Mary Sarah Bilder, "Salamanders and Sons of God: The Culture of Appeal in Early New England," in *The Many Legalities of Early America*, ed. Christopher L. Tomlins and Bruce H. Mann (Chapel Hill, N.C., 2001), 47–77, esp. 62; Yasuhide Kawashima, "Uncas's Struggle for Survival: The Mohegans and Connecticut Law in the Seventeenth Century," *Connecticut History* 43, no. 2 (Fall 2004): 119–31, esp. 121.

[5] Michael Leroy Oberg, *Uncas: First of the Mohegans* (Ithaca, N.Y., 2003), 85. Oberg specifically references Uncas in this quotation, but his logic should hold for the Narragansett sachems as well.

Mohegan submission in the treaty itself, the English increasingly exploited the agreement to assert control over these Indian polities.[6] However, for all that the treaty aimed to extinguish the Pequots, and although it would later be invoked by the English in the region as evidence of their supremacy over the Narragansett and Mohegan polities, nothing in the text of the treaty amounted to a submission by Connecticut's Indian allies to colonial authority.

While still sensitive to the colonizing undercurrents of the accord, a new historiography of the Treaty of Hartford highlights how the agreement attempted to establish a regime of accommodation among the victors of the Pequot War. In the words of the Commissioners of the United Colonies of New England in 1643, this was a "Tripartite agreement," which Vaughan notes was designed to maintain the "peace and equity among the victors" of the recent war.[7] Far from merely serving the interests of the English settlers in Connecticut, the Treaty of Hartford was shaped by the interests of the Mohegans, Narragansetts, and English alike.[8] To be sure, the fact that the treaty reflected these plural interests

[6] A Pequot polity would reemerge by the 1650s, though the Treaty of Hartford would continue to constrain its territorial claims. Kevin A. McBride, "The Legacy of Robin Cassacinamon: Mashantucket Pequot Leadership in the Historic Period," in *Northeastern Indian Lives, 1632–1816*, ed. Robert S. Grumet (Amherst, Mass., 1996), 74–92, esp. 74–75, 84–86; Amy E. Den Ouden, *Beyond Conquest: Native Peoples and the Struggle for History in New England* (Lincoln, Neb., 2005), 172; Katherine A. Grandjean, "The Long Wake of the Pequot War," *Early American Studies* 9, no. 2 (Spring 2011): 379–411, esp. 392–95; Linford D. Fisher, "'It Provd But Temporary, & Short Lived': Pequot Affiliation in the First Great Awakening," *Ethnohistory* 59, no. 3 (Summer 2012): 465–88, esp. 468–69. For Andrew Lipman's discussion of the treaty, see Lipman, "'A meanes to knitt them togeather': The Exchange of Body Parts in the Pequot War," *William and Mary Quarterly*, 3d ser., 65, no. 1 (January 2008): 3–28, esp. 25–26. The Mohegans, for their part, continued to adduce the treaty as evidence of their independence from Connecticut. *Book of Proceedings*, 6[2]–63; Grant-Costa, "Last Indian War," 85.

[7] David Pulsifer, ed., *Acts of the Commissioners of the United Colonies of New England*, vol. 1, in *Records of the Colony of New Plymouth in New England*, vol. 9 (Boston, 1859), 10 ("Tripartite agreement"); Vaughan, *New England Frontier*, 151 ("peace and equity"). Alden T. Vaughan and Jenny Hale Pulsipher echo the commissioners' language in referring to this as a "tripartite" accord. Ibid., 151; Pulsipher, *Subjects unto the Same King: Indians, English, and the Contest for Authority in Colonial New England* (Philadelphia, 2005), 22. I read Vaughan's discussion of the treaty in *New England Frontier* to be at odds with his later account of it in *Roots of American Racism* (see page 463).

[8] Andrew Lipman concedes that "the only obvious Indian contributions to the treaty were a few inky marks on the bottom of the page" but notes that "Indians had a large influence on the specific terms of peace." Lipman, *WMQ* 65: 26. In contrast, Michael Leroy Oberg speaks of the treaty as having been "dictated to Miantonomi and Uncas" by the men of Connecticut. Oberg, "'We Are All the Sachems from East to West': A New Look at Miantonomi's Campaign of Resistance," *New England Quarterly* 77, no. 3 (September 2004): 478–99 (quotation, 486).

hardly means that it was devoid of a colonizing spirit. In addition to seeking to dismantle the Pequot polity, the treaty also exhibited, as Katherine A. Grandjean has noted, a kind of colonial impulse behind English efforts to "force peace between the Mohegans and Narragansetts" on Connecticut's terms.[9] But this aspiration for Indian subjection was neither likely in practice nor supported by the treaty text. Instead, the Treaty of Hartford drew on plural legal foundations to frame an accommodation among these three communities and to preserve their respective claims, as they saw them, to southern New England.

This new historiography of the Treaty of Hartford can be advanced and extended by drawing attention to a largely overlooked copy of the accords held among the Lansdowne Manuscripts at the British Library (hereafter Lansdowne). This copy of the treaty (Figure I), prepared in 1665, suggests that the Mohegans, Narragansetts, and Connecticut settlers reached an agreement in 1638 that was far more wide-ranging than has been suggested by the copies of the treaty ordinarily cited by historians, including four provisions that are absent from the later copies.[10] Although the Lansdowne manuscript also offers only a partial record of the treaty, a section of the document itself having been lost, I have used all the surviving copies of the treaty to substantially reconstruct the 1638 accord.[11] This reconstruction of the treaty indicates that English settlers in early New England recognized their indigenous neighbors as exercising autonomous jurisdictions over people and space, and that even as the treaty attempted to finalize the conquest of the Pequots, it simultaneously marked a moment of English accommodation with and formal

[9] Grandjean, *Early American Studies* 9: 392 (quotation). Francis Jennings offered a similar account of the treaty. Jennings, *Invasion of America*, 259.

[10] "Couenants & Agreements made between the English Inhabitants within the Jurisdiction for ye River Conecticut . . . & Miantinome the cheife Sachem of ye Narregansets . . . And Poquaum or Unkas the cheife Sachem of ye Indians called the Monhegins . . . at Hartford The 21: Septbr: 1638," copy dated May 25, 1665, Lansdowne MS 1052, fol. 7, British Library (BL), London. An imperfect transcript of the Lansdowne text was published in 1892 by Charles Hervey Townshend. See Townshend, "The Hartford Treaty with the Narragansets and the Fenwick Letters," *New England Historical and Genealogical Register* 46 (1892): 354–58, esp. 355–56. Michael Leroy Oberg and Glenn W. LaFantasie have made use of the Townshend transcript. Paul Grant-Costa, Tobias Glaza, and Michael Sletcher recently noted the existence of the Lansdowne text and have also noted (as did LaFantasie with respect to Townshend's transcript) that it differs from the regnant copy, though no scholar has explored the implications of these differences. LaFantasie, ed., *The Correspondence of Roger Williams* (Hanover, N.H., 1988), 1: 187 n. 10, 193–94 n. 4; Oberg, *Dominion and Civility: English Imperialism and Native America, 1585–1685* (Ithaca, N.Y., 1999), 116, 120; Oberg, *Uncas*, 84–86; Oberg, *New England Quarterly* 77: 486–87; Grant-Costa, Glaza, and Sletcher, "The Common Pot: Editing Native American Materials," *Scholarly Editing* 33 (2012): 1–18, esp. 4–5, 14 n. 10.

[11] The transcript of the reconstructed treaty can be found on 495–98.

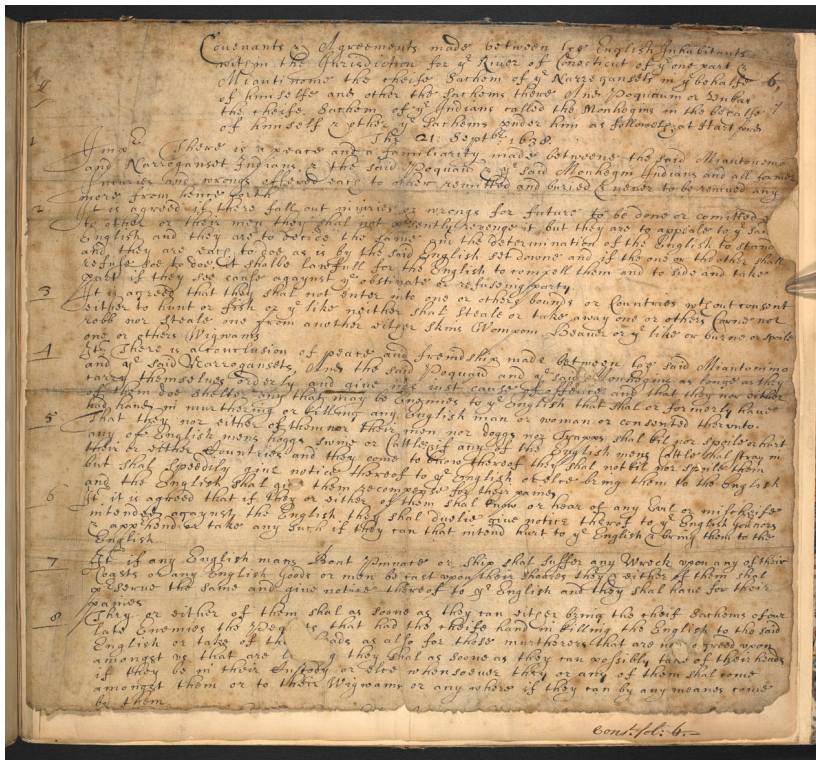

FIGURE I

Copy of the Treaty of Hartford, May 25, 1665, Lansdowne MS 1052, fol. 7 recto. Courtesy of the British Library.

recognition of the Mohegan and Narragansett polities. The Treaty of Hartford, in other words, sketched out a modus vivendi by which the Mohegans, Narragansetts, and English were to share the space of southern New England. This accommodation was especially important for the colonists of the inchoate Connecticut settlements, who were attempting to gain control over a territory that was variously claimed by the English at Massachusetts and Plymouth, the Dutch at New Netherland, and a host of Algonquian polities.

Scholars have long recognized the play of jurisdictional politics in the history of early New England. Whether in the struggle between the Dutch and the English for control over the Connecticut River valley or in the contest between the Massachusetts Bay Colony and the River Colony for primacy in English-Indian relations in the region, historians have identified the Pequot War and its aftermath as an especially

important moment in the establishment of English colonies in southern New England.[12] However, where these accounts have emphasized the importance of the war in establishing European claims to jurisdiction, the Lansdowne manuscript suggests that the Pequot War was initially just as crucial to ensuring English recognition of existing Narragansett and Mohegan jurisdictions, which the accord anticipated would play a critical role in maintaining peace among the English and Indians in the region. The revised text of the Treaty of Hartford presented here repeatedly acknowledges the existence of autonomous indigenous polities in the region, with the implication that the willing support of these polities was necessary to the establishment of an English colony on the Connecticut River. At the same time that the treaty imagined southern New England as a patchwork of European and indigenous jurisdictions, however, the English at Connecticut, and in due course the United Colonies of New England, also presumed that their indigenous neighbors would fall under a supreme English authority centered on the Puritan colonies. This contradiction did not rest upon a foundation of English military supremacy, nor did it manifest itself in the "perfect settler sovereignty" that Lisa Ford argues characterized the extension of regular settler jurisdiction over intratribal affairs in the early nineteenth century.[13] It was rather a presumption that rested on the idea that "civilized" European polities should wield a superintending authority over their "savage" neighbors.[14] This claim to a kind of sovereign authority, although by no means

[12] On the centrality of jurisdiction in the intracolonial politics of New England and in settler-indigenous relations, respectively, see Nan Goodman, "Banishment, Jurisdiction, and Identity in Seventeenth-Century New England: The Case of Roger Williams," *Early American Studies* 7, no. 1 (Spring 2009): 109–39; Katherine A. Hermes, "Jurisdiction in the Colonial Northeast: Algonquian, English, and French Governance," *American Journal of Legal History* 43, no. 1 (January 1999): 52–73. On jurisdictional politics more generally, see Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (New York, 2002). For a useful overview of recent scholarship on jurisdiction, sovereignty, and legal pluralism in empire, see Benton and Richard J. Ross, "Empires and Legal Pluralism: Jurisdiction, Sovereignty, and Political Imagination in the Early Modern World," in *Legal Pluralism and Empires, 1500–1850*, ed. Benton and Ross (New York, 2013), 1–17. On the Dutch-English rivalry in southern New England, see Mark Meuwese, "The Dutch Connection: New Netherland, the Pequots, and the Puritans in Southern New England, 1620–1638," *Early American Studies* 9, no. 2 (Spring 2011): 295–323. On jurisdictional conflicts among the English colonies, see Jennings, *Invasion of America*, 257–60; Vaughan, *New England Frontier*, 152; Mandell, *New England Treaties*, 116; Pulsipher, *Subjects unto the Same King*, 23; Grandjean, *Early American Studies* 9: 392.

[13] Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1826* (Cambridge, Mass., 2010), 2 (quotation), 183–203.

[14] For a preliminary sketch of this argument, see Daragh Grant, "On the 'Native Question': Understanding Settler Colonialism's Logics of Domination" (Ph.D. diss., University of Chicago, 2012), esp. chaps. 1 and 4.

conceded by the Mohegans or Narragansetts in the Treaty of Hartford, increasingly led English colonists to assume for themselves both a right to pass judgment on the actions of indigenous sachems and an authority to define the very limits of indigenous jurisdictions.[15] This eventual outcome notwithstanding, in 1638 the English colonists in Connecticut were all too willing to recognize the existing jurisdictions of the Mohegans and Narragansetts and to acknowledge the dependence of their fledgling settlements on the cooperation of these Indian polities.

The subsequent history of the Treaty of Hartford bears out, to some degree, the claim that the unilateral and often merely aspirational assertions of sovereignty contained in colonial charters were nevertheless crucial to the fashioning of colonial jurisdictions by those men and women who migrated to and settled in early America. However, these assertions of sovereignty and practices of settlement only tell one side of the story, leaving out the role of indigenous peoples in shaping colonial jurisdictions through their own claims to power and authority. It was in the dynamic jurisdictional politics that pitted assertions of English sovereignty over American space, on the one hand, against the fact of indigenous jurisdictions over which colonists had little power and authority, on the other, that colonial and imperial polities took shape. Moreover, far from being antithetical to the advance of claims of English sovereignty in the Americas, the recognition of autonomous indigenous jurisdictions was a crucial conduit through which such claims were advanced. It was precisely in the working out of the jurisdictional conflicts that followed the Treaty of Hartford that English settlers began to claim sovereignty over southern New England.[16]

[15] A claim to sovereignty can be distinguished from a claim to jurisdiction in two ways. First, where jurisdictional claims assert a right to determine a just course of action based on an application and adjudication of existing laws, claims to sovereignty additionally imply a claim to the exclusive right to create or impose these laws. Second, while jurisdictions can be multiple, overlapping, and conflicting and can occupy different levels in a jurisdictional hierarchy, a claim to sovereignty makes reference to a supreme legal and political authority within a given territory that brooks no multiplicity, conflict, or overlap. Constantin Fasolt, *The Limits of History* (Chicago, 2004), 155–218, esp. 200–201.

[16] Ken MacMillan and Christopher Tomlins provide important accounts of the ways in which charters and acts of settlement shaped English colonial jurisdictions in America. Their accounts remain partial, however, inasmuch as they fail to attend to the contributions that indigenous polities made to the shaping of these jurisdictions. MacMillan, *Sovereignty and Possession in the English New World: The Legal Foundations of Empire, 1576–1640* (Cambridge, 2006); Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580–1865* (Cambridge, 2010), esp. 93–190. Attending to English-Indian relations as an additional site of jurisdictional politics also supplements scholarship that investigates how the ideological commitments of the Puritan founders of the Bay Colony contributed to the crafting of relatively "unified" jurisdictions in early New England. See Richard J. Ross, "Puritan

The Connecticut River, known to the Dutch as Fresh River, had long been a site of jurisdictional disputes among Europeans. Until the mid-1630s, for example, settlers might have been more inclined to situate the river within the eastern bounds of New Netherland rather than in New England. Although both the English Crown and the States General of the Dutch Republic had issued charters that claimed the land in question, the Dutch had a firm grip on the region's lucrative fur trade through their alliance with the Pequots. Moreover, they had comprehensively mapped the region and its coastline, bolstering their claim to the river valley against their European rivals. The first incursions of English settlers into the Connecticut River valley, by way of the Plymouth Colony's establishment of a trading post upriver of the Dutch-owned Fort Huys de Goede Hoop, expressly sought to undo the Dutch-Pequot control over the fur trade.[17] This contest between the Dutch and the English for rights over the valley masked a more fundamental reality, however: the still relatively small communities of European traders and settlers in the region could not easily contend, as John Winthrop put it, with "three or four thousand warlike [Pequot] Indians," who were enough to keep the Massachusetts Bay Colony from joining Plymouth in establishing a trading house.[18] The struggle for jurisdiction in southern New England not

Godly Discipline in Comparative Perspective: Legal Pluralism and the Sources of 'Intensity,'" *American Historical Review* 113, no. 4 (October 2008): 975–1002, esp. 986–94 (quotation, 986). On the relationship between jurisdictional politics and claims to sovereignty, see Benton, *Law and Colonial Cultures*; Bradin Cormack, *A Power to Do Justice*: *Jurisdiction, English Literature, and the Rise of Common Law, 1509–1625* (Chicago, 2007), 5–10; Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (New York, 2010); Ross and Philip Stern, "Reconstructing Early Modern Notions of Legal Pluralism," in Benton and Ross, *Legal Pluralism and Empire*, 109–41.

[17] On the competing English and Dutch claims over the Connecticut River valley, see John Winthrop, *The History of New England from 1630 to 1649*, 2d ed., ed. James Savage (Boston, 1853), 1: 134; Meuwese, *Early American Studies* 9: 300–304. On the Dutch alliance with the Pequots and their consequent dominance in the region's fur trade before 1633, see ibid., 306–11. On the importance of cartographic knowledge to colonial projects, see Benjamin Schmidt, "Mapping an Empire: Cartographic and Colonial Rivalry in Seventeenth-Century Dutch and English North America," *WMQ* 54, no. 3 (July 1997): 549–78. On the importance of knowledge of and control over the seacoasts in particular, see Katherine A. Grandjean, "New World Tempests: Environment, Scarcity, and the Coming of the Pequot War," *WMQ* 68, no. 1 (January 2011): 75–100; Andrew C. Lipman, "Murder on the Saltwater Frontier: The Death of John Oldham," *Early American Studies* 9, no. 2 (Spring 2011): 268–94. On the Plymouth Colony's efforts to supplant Dutch control of the fur trade, see William Bradford, *History of Plymouth Plantation, 1620–1647*, ed. Worthington C. Ford (Boston, 1912), 2: 164–71; Winthrop, *History of New England*, 1: 134–35; Meuwese, *Early American Studies* 9: 311–13.

[18] Winthrop, *History of New England*, 1: 125. The Plymouth traders were no less aware of the "duble danger in this attempte, both the Dutch and the Indeans." Bradford, *History of Plymouth Plantation*, 2: 168.

only pitted rival European colonizers against one another but also forced the English and the Dutch to contend with established indigenous polities.[19]

After a smallpox epidemic severely weakened the Pequots in 1633–34, Massachusetts colonists became more inclined to settle in Connecticut, setting their sights on Matianuk (now Windsor), within the territory claimed by both Plymouth and the Dutch.[20] By the end of the Pequot War, these settlers had resolved to fashion an independent colony on the river. The Treaty of Hartford's exclusion of the Bay Colony, which had also been party to the anti-Pequot alliance in the recent war, reflected an additional complexity in the jurisdictional politics of southern New England. By forging an agreement with the Narragansetts and the Mohegans independent of the Bay Colony, the Connecticut settlers attempted to secure an exclusive jurisdiction over the Pequot country and to subvert two existing agreements through which Massachusetts had sought to play the major role in English-Indian affairs in the region. In 1636–37 the Narragansetts had reached a series of alliance agreements with Massachusetts in which, among other things, they agreed that following the defeat of the Pequots the Bay Colony would have a right to Block Island and the Pequot country, in return for which the Narragansetts were promised hunting rights in the area around Mystic.[21] Uncas, for his part, had visited Massachusetts in June 1638 and, according to Winthrop, "promis[ed] to submit to the order of the English touching the Pequods he had, and the differences between the Naragansetts and him," for which he was rewarded with a "fair, red coat," some corn, and a letter of protection for his men.[22] Although Massachusetts expected the Connecticut settlements to be bound by its existing treaties, residents

[19] To be sure, the arrival of Europeans did transform indigenous polities, bringing new possibilities for trade and alliances at the same time that they exploited or worked to foster divisions among indigenous communities. Roger Williams to Henry Vane or John Winthrop, May 13, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 79; Edward Winslow, *Hypocrisie Unmasked: A True Relation of the Proceedings of the Governor and Company of the Massachusetts against Samuel Gorton. . . .* (Providence, R.I., 1916), 86. On the "new worlds" encountered by Indians and settlers alike, see Colin G. Calloway, *New Worlds for All: Indians, Europeans, and the Remaking of Early America* (Baltimore, 1997).

[20] Plymouth objected to this usurpation of its right to the valley. Bradford, *History of Plymouth Plantation*, 2: 216–24. On the effects of the 1633–34 epidemic on the Pequots, see Meuwese, *Early American Studies* 9: 316.

[21] Winthrop, *History of New England*, 1: 237–38, 291; Roger Williams to John Winthrop, July 10, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 97. The Eastern Niantics also claimed hunting rights in the area. Pulsifer, *Acts of the Commissioners*, 1: 169. See also Paul A. Robinson, "Lost Opportunities: Miantonomi and the English in Seventeenth-Century Narragansett Country," in Grumet, *Northeastern Indian Lives*, 13–28, esp. 23.

[22] Winthrop, *History of New England*, 1: 319.

of the River Colony viewed these earlier agreements as prejudicial to their interests in and jurisdiction over the conquered territory.[23] As well as bringing the Pequot War to a close, the Treaty of Hartford ushered in yet another set of jurisdictional conflicts, this time in the struggle between Massachusetts and Connecticut over the Pequot country and over the leadership of English-Indian relations in southern New England. This intercolonial competition contributed to the animosity between Uncas and Miantonomi, which deepened in the wake of the treaty as the sachems struggled for control over Pequot captives and for the favor of the English in Boston and Hartford.[24]

Although the Dutch-English wrangling over the Connecticut River would continue into the 1650s, one thing was almost universally agreed upon: these lands were not *vacuum domicilium*, or vacant land, before the entry of the English and the Dutch but had been held by various indigenous polities whose agreements to alienate lands to the colonists were key pieces of evidence for determining which colonizing power had a right to occupy the valley. Indian polities, therefore, were not only obstacles for colonizing projects. From the standpoint of Europeans anxious to secure legal title over the land, they also facilitated colonization. Deeds conveying Indian land were thought to offer colonial governments a firm title of possession, which was especially important in New England, where the colonial settlements rested on a tenuous basis in English law.[25] What

[23] Ibid., 1: 344; Roger Williams to John Winthrop, Aug. 14, 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 176, 177–78 n. 5; "Letter of Thomas Hooker to John Winthrop," ca. 1638, YIPP 1638.00.00.00, http://findit.library.yale.edu/catalog/digcoll:3843.

[24] Bradford, *History of Plymouth Plantation*, 2: 363–64; Roger Williams to John Winthrop, ca. Sept. 9, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 119; John A. Sainsbury, "Miantonomo's Death and New England Politics, 1630–1645," *Rhode Island History* 30 (Fall 1971): 111–23, esp. 114; Eric S. Johnson, "Uncas and the Politics of Contact," in Grumet, *Northeastern Indian Lives*, 29–47, esp. 35–37; Oberg, *Uncas*, 73, 79; Oberg, *New England Quarterly* 77: 482–83, 487.

[25] Plymouth claimed to hold land in the river valley by purchase from the Podunk Indians, while the Dutch claimed the land by purchase from the Pequots, conquerors of the Podunks, as well as by the assent of the Podunk sachem. Pulsifer, *Acts of the Commissioners*, 2: 65–66; Edward Winslow, "Letter from Gov. Edward Winslow to Gov. John Winthrop in 1644, in Relation to Early Matters in Connecticut," *New England Historical and Genealogical Register* 29 (July 1875): 237–40. In addition to Winslow's view that the river valley could not be designated as *vacuum domicilium*, see Bradford's refutation of the claims of the settlers from Dorchester in the Bay Colony, who had begun to settle around Matianuk in 1638 on what they claimed were vacant lands. Ibid., 239; Bradford, *History of Plymouth Plantation*, 2: 216–24, esp. 2: 220–22. On the importance of English purchases of Indian lands to the project of colonization, and in particular of Uncas's land grants to Connecticut to the growth of that colony, see Sainsbury, *Rhode Island History* 30: 120–21; Salisbury, *Manitou and Providence*, 226. By 1638 none of the New England colonies could claim a firm foundation in English law. The Bay Colony—the only settlement to have possessed a charter from the king

is less clear, however, is why this title of possession was understood to entail a concomitant right to jurisdiction. Given that charters granted by England's king did not envisage Indians as being among the "Subjects of Us" that the colony was empowered to govern, why would the simple purchase of Indian land (even assuming that was how the Indians themselves understood the transaction) have extinguished Indian jurisdiction over that land?[26] Addressing this question is especially important given the tendency for English settlers to assume that disputes over land purchases were to be adjudicated in colonial courts. Explicit submission by indigenous communities to colonial rule did sometimes answer this question in favor of European jurisdiction.[27] However, in the absence of such submissions, colonial governments often simply assumed that the transfer of a title to possession also extinguished indigenous jurisdiction, an assumption that frequently lacked explicit foundation in deeds of sale.[28]

As the Treaty of Hartford shows, colonial governments were willing to acknowledge an abstract territorial jurisdiction in certain indigenous sachems, often misreading prevailing understandings of authority among Algonquians in the process. However, they remained implacably opposed to the idea that any English person could be subjected to Indian jurisdiction, even for offenses committed against a sachem's people or within his or her territory. Where one party to a dispute was a colonial subject, whether English or Indian, colonists simply assumed the primacy of colonial jurisdictions in adjudicating the question.[29] This assumption

in the 1630s—saw this charter revoked in a quo warranto proceeding before the King's Bench in 1637. The crown never enforced this judgment against the Massachusetts Bay Company, having more pressing concerns in the late 1630s. Charles Francis Adams, *Three Episodes of Massachusetts History* (Boston, 1892), 1: 291–304; Charles M. Andrews, *The Colonial Period of American History* (New Haven, Conn., 1934), 1: 419–23.

[26] "The Charter of Massachusetts Bay," Mar. 4, 1628/29, in Francis Newton Thorpe, ed., *Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America* (Washington, D.C., 1909), 3: 1858.

[27] Scholars focused on the deeded transfer of lands have largely ignored the question of jurisdiction. See for example Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge, Mass., 2005). For examples of Indian submissions, see Nathaniel B. Shurtleff, ed., *Records of the Governor and Company of the Massachusetts Bay in New England* (Boston, 1853), 2: 40, 55.

[28] For examples of land deeds that purported to transfer ownership of Indian lands to English settlers without making any mention of a transfer of jurisdiction, see "Major Masons First Deed from Uncas," Aug. 15, 1659, Lansdowne MS 1052, fol. 6, BL; Deed from Uncas, Oweneco, and Attawanhood to Major John Mason, Dec. 14, 1665, Lansdowne MS 1052, fol. 5, BL; "Uncas His Deed to Liut. [Thomas] Holister, 1677," Mar. 18, 1675/76, Lansdowne MS 1052, fols. 1–2, BL.

[29] Three of the original treaty articles that appear in the Lansdowne manuscript acknowledge that the Mohegans and Narragansetts possessed bounded territories of their own, over which they exercised jurisdiction. Lansdowne, art. 3, art. 5, art. 7. For a somewhat different account of the place of territorial jurisdiction in

indicated a claim, albeit often implicit, to exercise a kind of supreme, superintending authority over settler-indigenous relations themselves, and by implication entailed an assertion of an abstract sovereignty over the indigenous peoples of southern New England. As a result, Indian jurisdictions appeared as if they existed at the sufferance of the English colonies. The reality could not have been more different, but in the subsequent history of the Treaty of Hartford, Connecticut settlers, and later the United Colonies of New England, assumed for themselves an authority to adjudicate disputes arising out of the treaty and increasingly equated it with an authority to unilaterally revise the terms of their relationship with their indigenous neighbors.[30] In the aftermath of the treaty, colonial governments in New England and the imperial and colonial tribunals hearing

European-Algonquian relations in early America, see Hermes, *American Journal of Legal History* 43: 56–61. Roger Williams was outraged that an Englishman, William Baker, had "turned Indian" and was living as a member of the Mohegan polity. Williams to John Winthrop, ca. Oct. 26, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 126; Williams to Winthrop, Jan. 10, 1637/38, ibid., 140; Williams to Winthrop, May 22, 1638, ibid., 1: 155. Winthrop's 1638 suggestion that an Irish servant who murdered a Narragansett could be sent to the Indians for execution might suggest a willingness to subject colonists to Indian justice. However, Winthrop's suggestion was contingent on the fact that this man "was certainly known to have killed the party," and on the condition that he would not be "put . . . to torture" by the Indians. Judgment here was still assumed to be an English monopoly. Winthrop, *History of New England*, 1: 321–22 ("certainly," 1: 321, "torture," 1: 321–22); Bradford, *History of Plymouth Plantation*, 2: 263–68. This claim to an English monopoly on judgment was especially clear in the 1620–21 treaty between Plymouth and the Wampanoags, which required that any Wampanoag Indian who injured an English person should be handed over to the colonists for punishment, while English people who injured the Indians were to be pursued through the colonial courts. William Bradford and Edward Winslow, "A Relation . . . of the English Plantation setled at Plimouth," in *The Story of the Pilgrim Fathers, 1606–1623 A.D.: As Told by Themselves, Their Friends, and Their Enemies*, ed. Edward Arber (Boston, 1897), 458. For additional examples of this monopolization of judgment, see Winthrop, *History of New England*, 1: 312–13; Nathaniel B. Shurtleff, ed., *Court Orders: 1651–1661*, vol. 3 of *Records of the Colony of New Plymouth in New England* (Boston, 1855), 133–34; J. Hammond Trumbull, ed., *The Public Records of the Colony of Connecticut* (Hartford, 1850–59), 1: 19–20, 2: 117, 3: 103.

[30] Far from Indian jurisdictions existing at the sufferance of the English, in the early years of colonization English settlers depended on food offered or traded to them by neighboring Indians to avoid starvation. This was especially true of the three embryonic settlements on the Connecticut River. Grandjean, *WMQ* 68: 75–100, esp. 90–100. This claim to an abstract sovereignty over the Indians is related to the New England colonies' claims to a right of preemption over Indian lands. Colonists' purchases of Indian land were declared invalid if they had not been licensed by colonial governments, presupposing that colonial jurisdiction always already stretched over Indian polities. Trumbull, *Public Records of Connecticut*, 1: 402; Shurtleff, *Records of Massachusetts Bay*, 1: 112; Nathaniel B. Shurtleff, ed., *Court Orders: 1633–1640*, vol. 1 of *Records of the Colony of New Plymouth in New England* (Boston, 1855), 133; John Russell Bartlett, ed., *Records of the Colony of Rhode Island and Providence Plantations, in New England* (Providence, 1856), 1: 236; Oberg, *Uncas*, 89–90, 200–201.

the Mohegan land case asserted a similar authority to define the limits and status of otherwise autonomous indigenous jurisdictions.

Nowhere were the implications of English interpretations of the Treaty of Hartford clearer than in the colonists' shifting relationship with the Narragansetts. By the mid-1640s, New England's colonial governments had encroached on Narragansett lands, attempted to redefine the boundaries of the Narragansett polity, and ordered and supervised the execution of a Narragansett sachem, Miantonomi, an execution they justified under the terms of the Treaty of Hartford. The reconstructed treaty accompanying this article might complicate existing accounts of the subsequent history of English-Narragansett affairs. Drawing on reports of a Narragansett "plot" against English and Dutch colonists, scholars have characterized the breakdown of relations between the Narragansetts and the English variously as a consequence of Miantonomi's hostility toward the English, as a response to ecological pressures created by patterns of European settlement, as a result of Narragansett dissatisfaction with the treaty terms reached at Hartford, and as an effort to create a pan-Indian alliance against European colonization. This copy of the treaty offers a way to draw together elements of these different explanations of Miantonomi's travels among the Long Island Indians in the summer of 1642. Specifically, the similarity between the provisions of the Treaty of Hartford contained in the Lansdowne manuscript and Miantonomi's alleged grievances against the English might suggest that the Narragansett sachem's so-called plotting was in fact an effort to establish an Indian coalition capable of enforcing the provisions of the 1638 agreement against the errant English settlers. As a result, this copy of the treaty could shed light on how some Indian sachems contested English claims to authority in southern New England by asserting their own right to adjudicate English and Indian conformity with the treaty. Miantonomi's attempt to raise a force against the English in 1642–43, that is, was arguably consistent with the treaty's mechanisms for bringing recalcitrant parties—in this case, the English—into line. According to this reading, the Narragansetts' campaign of resistance might best be understood as an assertion of their role in adjudicating the Treaty of Hartford.

As noted earlier, the two most frequently cited copies of the Treaty of Hartford, the *RIHS* text and the *Mohegan* text, reproduce documents submitted during hearings of the Mohegan land case in 1705 and 1743, respectively. The texts themselves are very similar and have an identical structure, comprising a preamble, four numbered articles, and a concluding clause. Forty years before the first hearing of the Mohegan land case, in May 1665, the then-secretary of the Connecticut Company, Daniel Clark, made a copy of the Treaty of Hartford for a land dispute between the Connecticut colony and the Mohegans (Figure II). Unlike the canonical copies of the

FIGURE II

Copy of the Treaty of Hartford, May 25, 1665, Lansdowne MS 1052, fol. 7 verso. Courtesy of the British Library.

treaty, this Lansdowne manuscript is made up of a preamble and thirteen articles. However, this manuscript is also incomplete, being torn following the eighth article on the recto and restarting on the verso midway through the twelfth article. Of the ten articles that remain in the Lansdowne copy, four are entirely omitted from the *RIHS* and *Mohegan* texts, and the remaining six are combined into the four articles of the canonical copies. The transcript accompanying this article uses all three texts to reconstruct the original agreement.[31]

[31] For what I am claiming are the 1705 and 1743 texts of the treaty, respectively, see *RIHS*, in Potter, *Early History of Narragansett*, 177–78; and *Mohegan*, in *Book of Proceedings*, 33–34. Differences among the copies are noted in the transcript. Both copies diverge from one another and from the Lansdowne text, though the *RIHS* copy is closer to the 1665 manuscript in some important respects. The *Mohegan* text, which was copied into the *Book of Proceedings* of 1743 from the records of the Dudley

Substantively, the Treaty of Hartford addressed three main issues. First, it established "a peace and a familiarity" between the Narragansett and Mohegan Indians and empowered the English on the Connecticut River to adjudicate disputes between these two communities (articles 1–4).[32] Second, in a series of provisions that only appear in the Lansdowne manuscript, the parties addressed challenges posed by the juxtaposition of European and indigenous jurisdictions. Mohegans and Narragansetts agreed to safeguard the property and lives of English settlers that strayed, literally in the case of livestock, onto their lands and to warn the English about mischief directed against them. In return, the English offered to compensate the Indians for their "paines" (articles 5–7). Third, the treaty divided the spoils of the Pequot War. The Mohegans and the Narragansetts were tasked with pursuing the remaining Pequots. They were also permitted to incorporate some of the captive Pequots into their own communities, paying a wampum tribute to the Connecticut colonists for each male Pequot awarded to them. Meanwhile, the River Colony claimed all of the Pequot country for itself by right of "conquest" (articles 8–12). Finally, the treaty concluded with a provision governing breaches of the accord. All three parties agreed to keep the agreement "inviolable," and in the event that any party should violate the treaty it was agreed that "the other two may ioyne and make war upon such as shal breake the same unles satisfaction be made being resonably required" (article 13).[33]

Commission's 1705 hearing of the Mohegan land case, also seems to have introduced additional (if minor) copyist errors that are not present in the *RIHS* text. This suggests that the *RIHS* text is a more faithful copy of the treaty document submitted to the Dudley Commission in 1705. See ibid., ii, 6[2]–63. The Lansdowne manuscript may have been prepared for a dispute between Uncas and the Connecticut colony initiated in October 1664, which came before the Connecticut Court in November 1665. In June 1665, claiming that the court had failed to address his grievance, Uncas brought his complaint before the Royal Commission then visiting New England, and it is also possible that this copy of the treaty was prepared in anticipation of that hearing. Trumbull, *Public Records of Connecticut*, 1: 434, 2: 26, 511–12; "William Leete and Robert Chapman to the Governor and Assistants of Connecticut," June 30, 1665, *Collections of the Massachusetts Historical Society*, ser. 4, no. 7 (1865): 556–57; Grant-Costa, "Last Indian War," 38. The Lansdowne copy may have been reused in later land disputes, as suggested by the fact that the manuscript is bound with five Mohegan land deeds with dates and endorsements ranging from 1659 to 1735. "Sundry original Deeds of Conveyance of Lands ceded by Indian Sachems to English Settlers in New England," Lansdowne MS 1052, fols. 1–6, BL. Articles 3, 5, 6, and 7 of the Lansdowne text are missing from the *RIHS* and *Mohegan* texts. Articles 1 and 2 of all three texts cover the same provisions. Articles 4 and 8 of the Lansdowne text make up article 3 of the *RIHS* and *Mohegan* texts, and articles 12 and 13 of the Lansdowne text are included in article 4 of the *RIHS* and *Mohegan* texts (presumably along with the missing provisions of the Lansdowne manuscript).

[32] Lansdowne, art. 1 (quotation). See also Grandjean, *Early American Studies* 9: 392.

[33] Lansdowne, art. 5 ("paines"), art. 13 ("inviolable"); *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 177–78 ("conquest," 178).

As Grandjean has noted, the English in Connecticut were primarily concerned with pacifying southern New England to allow for the peaceable farming of the land, a crucial objective in a colony struggling to produce enough food to fend off starvation.[34] Drawing on both English and Indian treaty languages, the two rival sachems agreed that any former differences between them would be "remitted and buried & neuer to be reniued." In a further provision excluded from the canonical copies of the Treaty of Hartford, the Indians also agreed that they "shal not enter into one or others bounds or Countries wthout consent either to hunt or fish" and that they would not steal or spoil one another's crops, wampum, skins, beaver, or wigwams.[35] This provision is interesting because it seems to recognize that the Indian sachems held a territorial jurisdiction over their hunting lands, which often extended for great distances and traversed colonial boundaries. Moreover, this section of the treaty runs contrary to a dominant discourse in early New England that declared supposedly unimproved hunting lands to be *vacuum domicilium* over which Indians had no right of ownership or jurisdiction and which were therefore open to English appropriation. The fact that the Mohegans and Narragansetts were seen to possess (and, in later provisions, to control) these lands is even more telling if one considers that, on their own culturally specific terms, the Connecticut settlers had yet to constitute themselves into a body politic.[36] Inasmuch as the treaty entailed an

[34] Williams to Winthrop, Jan. 10, 1637/38, in LaFantasie, *Correspondence of Roger Williams*, 1: 140; Grandjean, *Early American Studies* 9: 392; Grandjean, *WMQ* 68: 100. The specter of famine would have haunted New England's settlers, for whom famine was a familiar occurrence in England and who could not know, as Richard Tuck put it, "that the famine of 1623 was the last true famine which England was ever to experience." Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford, 1999), 233.

[35] Lansdowne, art. 1 ("remitted"), art. 3 ("shal not enter"). On Indian treaty practices, see "Samuel Sewall to Stephen Sewall," Dec. 24, 1680, *New England Historical and Genealogical Register* 24, no. 2 (April 1870): 120–23, esp. 121; Robert A. Williams Jr., "'The People of the States Where They Are Found Are Often Their Deadliest Enemies': The Indian Side of the Story of Indian Rights and Federalism," *Arizona Law Review* 38 (1996): 981–98, esp. 991, 996. The article requiring that the Narragansetts and Mohegans not spoil or seize one another's crops may also have reflected a concern for colonial food supplies, which had long depended on trading for corn with surrounding Indians. It is noteworthy, for example, that early in the Pequot War the Narragansett sachems had proposed that they and the government of the Bay Colony might divide the corn of the vanquished Pequots among themselves. Lipman, *Early American Studies* 9: 285; Grandjean, *WMQ* 68: 100; Williams to Winthrop, July 10, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 97.

[36] The Narragansett sachems insisted in 1639 that "they remember not any Agreements that have passed about the Natives yealding up their Hunting places, Advantages etc. with in praescribed Limits etc." Roger Williams to John Winthrop, May 2, 1639, in LaFantasie, *Correspondence of Roger Williams*, 1: 195. For English claims that Indian hunting lands were *vacuum domicilium*, see John Cotton, "A Reply to Mr. Williams his Examination," *Publications of the Narragansett Club* 2 (1867): 46–47;

exchange of recognition, then, it perhaps should be read as an act through which established Mohegan and Narragansett polities agreed to recognize the Connecticut colonists' jurisdiction over their nascent settlements at Hartford, Windsor, and Wethersfield.

The role afforded to the English on the Connecticut River in arbitrating disputes between the Mohegan and Narragansett polities has further disguised the autonomous jurisdiction of these two groups recognized in the Treaty of Hartford. The parties agreed that "if there fall out iniuries or wrongs" between the Mohegans and the Narragansetts, the sachems would appeal to the English "to decide the same," with each party agreeing to "doe as is by the English set downe." Moreover, it was declared "lawfull for the English to compell them and to side and take part if they see cause agaynst ye obstinate or refuseing party." In essence, the English were to act as guarantors of the peace between the Mohegans and Narragansetts, who also agreed not to "shelter any that may be Enemies to ye English."[37] Supervised in their peace with one another, the allied Indians were bound to defend the interests of the English settlers.

The recognition of the Connecticut settlers as competent to adjudicate disputes between the Narragansetts and the Mohegans certainly marked a concession to English power. This concession might well have been inspired by the awesome bloodlust displayed by the English in the massacre at Mystic in May 1637, which claimed the lives of between three and seven hundred Pequot men, women, and children.[38] In the context

Winthrop, *History of New England*, 1: 162–63, 349; Winthrop, "General Considerations for Planting New England," in *Chronicles of the First Planters of the Colony of Massachusetts Bay, from 1623 to 1636*, ed. Alexander Young (Boston, 1846), 275–76; Shurtleff, *Records of Massachusetts Bay*, 3: 281; Pulsifer, *Acts of the Commissioners*, 2: 13. These should be compared with Williams's contention that the Indians had a just and firm title to their hunting lands. Williams, quoted in Cotton, *Publications of the Narragansett Club* 2: 46–47; Williams, *A Key into the Language of America*, ed. J. Hammond Trumbull, *Publications of the Narragansett Club* 1 (1866): 180, 249. The Connecticut settlers declared themselves a "Publicke State or Comonwealth" in early 1639. "Fundamental Orders of Connecticut," Jan. 14, 1638/39, in Thorpe, *Constitutions, Charters, and Laws*, 1: 519. On the precarious conditions of the Connecticut settlements before the Pequot War, see Grandjean, *WMQ* 68: 91.

[37] Lansdowne, art. 2 ("if there fall out"), art. 4 ("shelter any").

[38] Having requested in advance of the attack on Mystic that "women and children be spared," the Narragansetts condemned the massacre at the fort as wicked, declaring, "Mach it, mach it; that is, It is naught [wicked], it is naught, because it is too furious, and slays too many men." Roger Williams to Henry Vane and John Winthrop, May 1, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 73 ("women and children"); John Underhill, *News from America. . . .* , in *History of the Pequot War: The Contemporary Accounts of Mason, Underhill, Vincent and Gardener*, ed. Charles Orr (Cleveland, 1897), 84 ("Mach it"). On the effects of English warfare on the Indians, see Adam J. Hirsch, "The Collision of Military Cultures in Seventeenth-Century New England," *Journal of American History* 74, no. 4 (March 1988): 1187–212, esp. 1196–211; Patrick M. Malone, *The Skulking Way of War: Technology and Tactics among the New England Indians* (Lanham, Md., 1991), 7–24, 78–81; Ronald Dale Karr, "'Why Should

of the rest of the agreement, however, it is difficult to envisage it as evidence of English authority or jurisdiction over the Narragansetts and the Mohegans. First, far from simply empowering the English, the treaty makes clear that any two of its parties can "ioyne and make war upon such as shall break" it, which would also justify any coalition between the sachems to right wrongs committed by the English.[39] Second, the treaty does not accord with English understandings of the form that any Indian submission to colonial authority would have to take, which required at the very least an explicit statement of such submission. That Connecticut was still entering into treaties of amity with the Mohegans in 1681 further supports the idea that the English themselves did not understand the Treaty of Hartford to entail Mohegan or Narragansett submission to colonial jurisdiction.[40] Uncas and Miantonomi continued to preside over independent political communities exercising their own autonomous jurisdiction after the Pequot War.

This recognition of the Mohegan and Narragansett jurisdictions becomes even clearer when we turn to the provisions, absent from the canonical versions of the treaty, that aimed to forge a modus vivendi between Indian and English polities in southern New England. All three provisions acknowledged the existence of autonomous indigenous jurisdictions over defined territories.[41] At the same time, they explicitly addressed themselves to English interests that were to be secured through the agency of independent Indian polities. However, reading against the grain, one can also discern the Narragansett and Mohegan interests beneath the surface of these ostensibly biased provisions.

Narragansett and Mohegan interests are most apparent in article 5 of the treaty, which dealt with a critical point of contention across early colonial America—namely, disputes arising from the damage done by roving livestock.[42] The Indian signatories agreed not to kill any English "hoggs

You Be So Furious?' The Violence of the Pequot War," *Journal of American History* 85, no. 3 (December 1998): 876–909.

[39] Lansdowne, art. 13 (quotation).

[40] For a contemporary understanding of the conditions required for Indians to become subjects of an English colony in New England, see William Pynchon to Deputy Governor Thomas Dudley, July 5, 1648, in Winthrop, *History of New England*, 2: 467–68. For a discussion of the 1681 treaty of amity between the Mohegans and the Connecticut colony, see Walters, *Osgoode Hall Law Journal* 33: 804.

[41] For alternative conceptions of jurisdiction in addition to "territorial jurisdiction" in early New England, specifically "personal jurisdiction" based on relations of voluntary submission and "subject-matter jurisdiction" over particular matters, see Hermes, *American Journal of Legal History* 43: 62–73.

[42] For a discussion of the effect of the introduction of livestock on English-Indian relations in early America, see Virginia DeJohn Anderson, "King Philip's Herds: Indians, Colonists, and the Problem of Livestock in Early New England," *WMQ* 51, no. 4 (October 1994): 601–24; Robinson, "Lost Opportunities," 26–27; William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England*, rev. ed. (New

swine or Cattle" that strayed "in their or either Countries" and to give the English notice of such incursions by their animals. In return, the English promised to compensate the Indians "for their paines."[43] Although certainly a response to English concerns about the safety of their livestock, this provision must also be understood as a response to Indian demands for restitution in those instances where animals destroyed Indian crops, damaged Indian fisheries, or cleared the land of foodstuffs necessary for the survival of the deer population on which indigenous communities depended.[44]

Two further issues were handled more unambiguously in the service of English interests, though they also reinforced the idea, at least in principle, that the Mohegans and Narragansetts were responsible for managing the affairs of their own territories and communities. The seventh article of the treaty continued to focus on the preservation of English lives and property, with the Indians agreeing to rescue any English people or goods that were shipwrecked "upon any of their Coasts." Once again, the Indians were to be compensated "for their paines."[45] In addition, the Indians agreed to inform the colonial government of "any Evil or mischeife intended against the English" and to capture any such conspirators and bring them before the English.[46] The Indians of southern New

York, 2003), 129–31; Anderson, *Creatures of Empire: How Domestic Animals Transformed Early America* (Oxford, 2004); Kawashima, *Connecticut History* 43: 125–26; Oberg, *New England Quarterly* 77: 489, 491.

[43] Lansdowne, art. 5 (quotations).

[44] For specific disputes over livestock, see Williams to Winthrop, Aug. 14, 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 176; Roger Williams to John Winthrop, ca. October 1638, ibid., 1: 189–90; Williams to Winthrop, ca. October 1638, ibid., 1: 191–93; Williams to Winthrop, May 2, 1639, ibid., 1: 195; Trumbull, *Public Records of Connecticut*, 1: 19, 2: 165, 3: 42–43, 56, 81; Shurtleff, *Records of Massachusetts Bay*, 1: 121, 209, 293–94; Pulsifer, *Acts of the Commissioners*, 1: 111, 217, 2: 199; "Records of the Particular Court of Connecticut, 1639–1663," *Collections of the Connecticut Historical Society* 22 (1928): 79–80, 208, 247. See also Anderson, *WMQ* 51: 606–9, 616–18; Cronon, *Changes in the Land*, 129–31.

[45] Lansdowne, art. 7 (quotations). Article 7's focus on securing the lives and property of ship owners lends support to Andrew C. Lipman's account of the importance of southern New England's waterways as the conduits that bound Algonquian, English, and Dutch communities together in a zone of interdependence. Lipman, *Early American Studies* 9: 270–71. There was a history of indigenous peoples offering assistance to shipwrecked Europeans, though a wreck on Long Island in 1636 had led to the killing of two Englishmen by a group of Indians who also seized the ship's cargo. Ibid., 275–76; Winthrop, *History of New England*, 1: 217–18; John Winthrop to Sir Simonds D'Ewes, June [24], 1636, in *Winthrop Papers* (Boston, 1943), 3: 276–77. As Grandjean notes, blame for these killings fell quickly upon the Pequots, who were also rumored to be preparing to attack English boats navigating and trading along the New England coast. Grandjean, *WMQ* 68: 85, 90 n. 43; Lipman, *Early American Studies* 9: 293.

[46] Lansdowne, art. 6 ("any Evil"). Sachems had previously informed the English of such potential conspiracies. Williams to Winthrop, Aug. 14, 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 176.

England were to provide a first line of defense for their English allies, but they were to do so as autonomous polities bound to fulfill their obligations under a treaty of amity, rather than as subjects or subordinates to English settler polities.

In contrast to the air of accommodation examined thus far, the third and final function of the Treaty of Hartford unambiguously sought to secure English domination over the defeated Pequots and Connecticut's supremacy over their erstwhile lands. The tripartite agreement at Hartford (and the conquest of the Pequots to which it attested) was especially important to the River Colony's attempts to secure its claims to jurisdiction. By claiming a title over the Pequot country "by conquest," the Connecticut settlers simultaneously challenged Dutch and rival English claims over the land.[47] The treaty also sought to foreclose contending Indian claims. The surviving Pequots were prohibited from resettling on their former lands, while the Narragansetts and Mohegans were precluded from settling in "any part of the Pequots Countrey without leave from the English alwaies excepted."[48] Although the English Crown would ultimately confirm Connecticut's claim to the Pequot lands by including them within the bounds of the colonial charter in 1662, Mohegans, Narragansetts, and Pequots, as well as colonists from Massachusetts and New Netherland, continued to challenge the annexation.[49]

But the subordination of the Pequots was not only an English affair. All three parties to the treaty participated in the dismembering of the Pequot polity and used the treaty to enshrine their respective claims to authority over the remnants of the Pequot community. Reflecting the still-unfinished work of the war, the treaty enjoined the Mohegans and

[47] *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 177–78 (quotation, 178). On the importance of the Pequot War and the Treaty of Hartford in weakening the Dutch position on the Connecticut River, see Meuwese, *Early American Studies* 9: 320–21. Massachusetts Bay also claimed a right by conquest over the Pequot country based on its earlier treaties with the Narragansetts, but the Connecticut settlers denied that Miantonomi was bound by these earlier agreements with the Bay Colony. Winthrop, *History of New England*, 1: 291, 344; Shurtleff, *Records of Massachusetts Bay*, 1: 216. The jurisdictional conflict with the Dutch might explain the extraordinary repetition of the word *English* in the treaty. In the transcript of the reconstructed treaty, *English* appears twenty-six times, compared with seven mentions of the Narragansetts, six of the Mohegans, and five of the Pequots. The treaty makes painfully clear that its terms apply only to the English, and the undercurrent of rivalry with the Dutch perhaps also influenced the treaty's sixth provision, which promised that the Indians would warn the English of any mischief intended against them. Since the treaty was signed at Hartford, within sight of Fort Huys de Goede Hoop, the threat that the Dutch posed to the Connecticut settlements cannot have been far from the minds of the colonists. I am indebted to Andrew Lipman for this observation.

[48] Lansdowne, art. [12] (quotation); Trumbull, *Public Records of Connecticut*, 1: 10.

[49] Pulsifer, *Acts of the Commissioners*, 1: 19, 50, 100–101, 169; Trumbull, *Public Records of Connecticut*, 1: 311, 355, 570–72, 3: 478–80; Vaughan, *New England Frontier*, 152.

Narragansetts to continue to pursue and execute the Pequot sachems "that had the cheife hand in killing the English," including those currently living under the protection of Uncas and Miantonomi.[50] The agreement then proceeded to divide the surviving Pequot captives among the victorious parties, somewhat ominously declaring that the captives held by the Indians "shall no more be called Peaquots but Narragansetts and Mohegans."[51] The available evidence suggests that the English envisaged this provision as a fitting punishment for the Pequot polity. With biblical sanction, the English would erase all memory of the Pequots from southern New England, blotting them out of the geographic imaginary and proscribing Pequot political identity.[52] As John Mason recalled, echoing Psalm 34:16, the erasure of the Pequot name allowed people to "see, How the Face of God is set against them that do Evil, to cut off the Remembrance of them from the Earth."[53] Not content with effacing the Pequot identity, however, the English subjected their captives, especially the women and children, to forced servitude or enslavement, either within the households of New England colonists or on Caribbean plantations.[54]

[50] Lansdowne, art. 8. For charges that the Mohegans and Narragansetts were harboring Pequot warriors, see Roger Williams to John Winthrop, June 7, 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 161; Williams to Winthrop, ca. June 14, 1638, ibid., 1: 163–64; Williams to Winthrop, after Sept. 21, 1638, 1: 183–84.

[51] *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 177–78 (quotation, 178). Andrea Robertson Cremer has argued that this language "also rendered Mohegans and Narragansetts subject to English authority" and that by enslaving Pequot women and children against the wishes of their Narragansett allies, the English "rejected any degree of Indian political autonomy." I find little evidence for these claims in the terms of the Treaty of Hartford. Cremer, *Early American Studies* 6: 333 ("rendered"), 342 ("rejected").

[52] On the proposed renaming of places to remove the name *Pequot* from geographic landmarks, see Trumbull, *Public Records of Connecticut*, 1: 310, 313; Williams to Winthrop, after Sept. 21, 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 184; Lion Gardener, *Leift Lion Gardener his relation of the Pequot Warres*, in Orr, *Pequot War*, 120; Pulsifer, *Acts of the Commissioners*, 1: 100–101. See also J. B. Harley, "New England Cartography and the Native Americans," in *The New Nature of Maps: Essays in the History of Cartography*, ed. Paul Laxton (Baltimore, 2001), 181–82; Grandjean, *Early American Studies* 9: 394.

[53] John Mason, *A Brief History of the Pequot War. . . .* , in Orr, *Pequot War*, 44.

[54] On the enslavement of captives during the Pequot War, see Williams to Winthrop, July 10, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 97; Bradford, *History of Plymouth Plantation*, 2: 256; Shurtleff, *Records of Massachusetts Bay*, 1: 181; Winthrop, *History of New England*, 1: 279. The Pequots sent to the Caribbean ended up as slaves on Providence Island. The use of Pequot women and children as servants in New England reinforced the gendered division of labor in the colonies and inaugurated a gendered distinction between "savage" male Indian warriors and putatively compliant Indian women. Fickes, *New England Quarterly* 73: esp. 63–66; Cremer, *Early American Studies* 6: 295–345. For a discussion of the shifting attitudes of English settlers toward Indian enslavement in the seventeenth century, see Linford D. Fisher,

The colony's Indian allies were also apportioned a share of the Pequot captives, but they seem to have displayed little interest in abolishing the Pequot identity. Under the terms of the treaty, the Mohegans and the Narragansetts each received eighty Pequot captives, with a further twenty being awarded to the Eastern Niantics. To be sure, the sachems welcomed the opportunity to wield power over these captives, though the division of the Pequot survivors also served the colonists' interest in preventing the reemergence of the Pequot polity as a threat to the settlements.[55] Scholars have differed over whether the incorporation of captive Pequots into the Narragansett and Mohegan polities reflected a long-standing practice of captive adoption.[56] Although early in the war the Narragansetts had indicated an interest in incorporating captive Pequots, and although Uncas quickly began to draw large numbers of Pequots under his protection and even to blur the boundary between his Pequot captives and his Mohegan compatriots, there is little evidence to suggest that captive adoption on this scale was a regular practice among the Mohegans and Narragansetts. Moreover, if this provision of the treaty was primarily motivated by existing practices of captive adoption, it is difficult to account for why the Narragansetts and Mohegans seemed so content to preserve the captives' Pequot identity before and after the signing of the treaty. The Algonquians of southern New England seem to have seen no

"'Dangerous Designes': The 1676 Barbados Act to Prohibit New England Indian Slave Importation," *WMQ* 71, no. 1 (January 2014): 99–124, esp. 105–9.

[55] The reconstructed transcript of the Treaty of Hartford makes no mention of the twenty Pequot captives awarded to the Eastern Niantics, though John Mason reported this information in his account of the Pequot War. The clause covering the distribution of Pequot captives is absent from the Lansdowne text, coming after the tear in the manuscript. It is possible, therefore, that the Lansdowne copy did originally include an article awarding captives to the Eastern Niantics, and that this was subsequently edited out of the *RIHS* text along with the other missing articles. *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 177–78; Mason, *Brief History*, 40. See also LaFantasie, *Correspondence of Roger Williams*, 1: 187 n. 10. For Williams's proposal to divide the Pequots among the Narragansetts and Mohegans as a means to prevent any further threat from them to the English, see Williams to Winthrop, July 10, 1637, ibid., 1: 97; Williams to Winthrop, Feb. 28, 1637/38, ibid., 1: 146; Williams to Winthrop, Apr. 16, 1638, ibid., 1: 150.

[56] Andrea Robertson Cremer has argued that the adoption of "war captives . . . was common among the Indians of seventeenth-century New England," while Paul Grant-Costa has noted a resemblance between the adoption of Pequot captives after the 1637 war and the Haudenosaunee practice of capturing and adopting their enemies in so-called mourning wars to compensate for population losses due to disease and increased conflict. However, as Adam J. Hirsch notes, "it is unclear whether, or to what extent, New England tribes practiced prisoner adoption." Cremer, *Early American Studies* 6: 334 ("war captives"); Hirsch, *Journal of American History* 74: 1190 n. 9 ("it is unclear"); Grant-Costa, "Last Indian War," 35–36 n. 96. On captive adoption during the Haudenosaunee mourning wars, see Daniel K. Richter, "War and Culture: The Iroquois Experience," *WMQ* 40, no. 1 (October 1983): 528–59.

contradiction in bearing a local communal affiliation (Pequot, say) while being politically obligated to other communities through tributary relationships (with the Narragansett sachems, for example). On the contrary, the attractiveness of Pequot captives to Uncas and Miantonomi lay not in erasing their prior identities and incorporating them as fellow Mohegans and Narragansetts but precisely in exploiting the captives' existing kinship ties to gain access to lucrative trade networks.[57] In the space between the treaty's language and its implementation, we can discern the very different interests—both English and indigenous—that shaped the domination of New England's vanquished Pequots.

In addition to their claims over conquered lands and captive Pequots, the Connecticut settlers sought monetary benefit from the war in the form of a wampum tribute. These white and purple shell beads were produced by the Indians of New England and used as currency by the colonists. They also held ritual significance among the Indians and formed an important means of diplomatic and trade exchange in the inland fur trade. For each male Pequot captive awarded to Uncas or Miantonomi, the sachems agreed to pay a wampum tribute to Connecticut: a fathom for each adult, half as much for a youth, and a hand of wampum for each child. Although the Mohegans and Narragansetts would have understood this tribute as a freely given gift offered to an ally with the expectation of reciprocation, scholars have argued that the English understood this tribute as symbolic of their jurisdictional supremacy over their erstwhile

[57] For a Narragansett proposal that, having killed the Pequot sachems, they would "make the rest Nanhiggonsicks [Narragansetts]," see Williams to Winthrop, ca. Sept. 9, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 118. Following the Pequot War, Uncas claimed that his Pequots were "Monahiggens all." Williams to Winthrop, ca. June 14, 1638, ibid., 1: 163. On Uncas's drawing of large numbers of Pequots under his protection, see Williams to Winthrop, ca. Sept. 9, 1637, ibid., 1: 117; Williams to Winthrop, ca. Oct. 26, 1637, ibid., 1: 126–27; Roger Williams to John Winthrop, Nov. 10, 1637, ibid., 131–32; Williams to Winthrop, Jan. 10, 1637/38, ibid., 1: 140; Williams to Winthrop, July 23, 1638, ibid., 1: 168. For instances where the Mohegan and Narragansett sachems seem to have continued to recognize Pequot identity without perceiving it as inconsistent with their own authority over their captives, see Williams to Winthrop, Jan. 10, 1637/38, ibid., 1: 140; Williams to Winthrop, Sept. 10, 1638, ibid., 179–80; Williams to Winthrop, July 21, 1640, ibid., 1: 202–3. On the value that the Mohegans and Narragansetts placed on Pequot kinship ties both for accessing indigenous trade networks and for securing their authority, see Williams to Winthrop, Feb. 28, 1637/38, ibid., 1: 146; Oberg, *Uncas*, 72. The recent historiography of wars among the Mohegans, Narragansetts, and Niantics between the Pequot War and King Philip's War does not support the claim that large-scale captive adoption was common in New England, though captives were taken for ransom or to secure key alliances through marriage. For an overview of these conflicts, see Oberg, *Uncas*; Julie A. Fisher and David J. Silverman, *Ninigret, Sachem of the Niantics and Narragansetts: Diplomacy, War, and the Balance of Power in Seventeenth-Century New England and Indian Country* (Ithaca, N.Y., 2014). I am indebted to Andrew Lipman for suggesting this line of argument.

allies.[58] The available evidence does not support this claim, however. Writing six months before the treaty was signed, for example, Roger Williams suggested the idea of such a tribute to John Winthrop, albeit in the form of "wolves heads" that would have the additional benefit of reducing the threat to English cattle. As Williams saw it, dividing the surviving Pequots among the Narragansetts and Mohegans, and suffering them "to incorporate with the Natives," would render the Pequot captives—not the Narragansetts and Mohegans—"subject to your selves in the Bay and at Qunnticut."[59] The tribute charged to the Mohegans and Narragansetts, that is, did not mark their subjection to English jurisdiction. Instead, it confirmed the notion, implicit in the colony's claim to an exclusive right over the Pequot country, that the recent war had ended in an *English* conquest of the Pequots, rather than in a shared conquest by the three signatories to the Treaty of Hartford.[60]

The Lansdowne manuscript suggests, therefore, that the Treaty of Hartford was a legally plural accommodation that drew on Indian and English norms of treaty making. Substantively, the treaty did not enshrine English authority in southern New England, except over the conquered Pequots. Instead it formalized a means by which the nascent Connecticut polity, the expanding jurisdiction of the Mohegan sachem, and the established jurisdiction of the Narragansetts could share the space of southern New England. When it came to implementing the treaty, however, this accommodation was to prove hollow. As Connecticut and Massachusetts worked out their differences over the Pequot country, they did so at the

[58] On wampum and its role in fueling conflict in southern New England, see Salisbury, *Manitou and Providence*, 147–52; Neal Salisbury, "Indians and Colonists in Southern New England after the Pequot War: An Uneasy Balance," in *The Pequots in Southern New England: The Fall and Rise of an American Indian Nation*, ed. Laurence M. Hauptman and James D. Wherry (Norman, Okla., 1990), 81–95. On the tribute promised for each Pequot captive, and Connecticut's enduring efforts to extract this tribute from the Narragansetts in particular, see *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 177–78; Bradford, *History of Plymouth Plantation*, 2: 385. On the different ways in which English settlers and Native Americans understood wampum tributes, see Salisbury, "Indians and Colonists," 87; Oberg, *Uncas*, 85–86; Lisa Brooks, *The Common Pot: The Recovery of Native Space in the Northeast* (Minneapolis, Minn., 2008), 60. As noted earlier, Michael Leroy Oberg affirms the English interpretation of these tributes as "establish[ing] a relationship between the governor of Connecticut and Uncas akin to that between a superior and inferior sachem." Oberg, *Uncas*, 85.

[59] Williams to Winthrop, Feb. 28, 1637/38, in LaFantasie, *Correspondence of Roger Williams*, 1: 146 (quotations).

[60] Daniel Patrick made a similar observation in 1637, noting that the Narragansetts, in particular, would not consent to becoming tributaries to the English, though he thought that "the Inglish if god will, may, I doubt not, receiue tribbute of all but Narregansets." Patrick to Increase Nowell, ca. July 6, 1637, in *Winthrop Papers*, 3: 440–41 (quotation). The notion that the English claimed an exclusive right over the Pequot captives is similar to Andrew Lipman's claim that the tribute acted as a "purchase" of the Pequot captives. Lipman, *WMQ* 65: 25–26.

expense of the Treaty of Hartford and its Indian signatories, making progressively more extensive claims to jurisdiction over their autonomous indigenous neighbors. Specifically, they began to depict the treaty's legal pluralism as itself subject to the superintending power of the Puritan colonies, casting themselves as the arbiters not only of Mohegan-Narragansett relations but also of their own relations with the Indians.

Although the Connecticut colony recognized the autonomous jurisdictions of the Mohegan and Narragansett sachems at Hartford in 1638, English encroachment on those jurisdictions soon followed. These assertions of supreme authority over indigenous communities proceeded primarily through manipulation of the terms of the Treaty of Hartford. Far from being the consequence of cultural misunderstandings, these claims to sovereign jurisdiction had their roots in an imperial ideology that took for granted the moral authority of civilized European judgment. In the face of these encroachments, indigenous rulers reacted by reiterating the terms of their agreements with the English. When that did not suffice, there is reason to believe that they sought to enforce the treaty through the only means the treaty itself allowed: war.

Although the Massachusetts Bay Colony had been left out of the Treaty of Hartford, one of the treaty's most striking effects was the expansion of Massachusetts's demands on its Indian neighbors, not least the Narragansetts. The colony sought to revise its existing treaties with Miantonomi to include those provisions the sachem had agreed to with Connecticut at Hartford. As early as October 1638, for example, Massachusetts demanded that Miantonomi and his co-sachem Canonicus make restitution for the killing of English livestock.[61] The sachems objected that they "remember not that either in the first Agreement and League (in the beginning of the Pequt Warrs) or since, in any Expression, that ever they under tooke to answer in their owne Persons or Purses what their subjects should faile in." Although they were happy to have the offending Indians held to account, this "Satisfaction" was to "be made out of the Bodies or goods of the Delinquents" and not from the purses of the sachems themselves. Where Massachusetts sought to extend the benefits of the Treaty of Hartford to itself, the Narragansett sachems refused this unilateral imposition, noting that they did not "believe that the English Magistrates doe so practice, and therefore they hope that what is Righteous amongst our Selves [the English] we will accept of from

[61] Williams to Winthrop, ca. October 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 189–90; Williams to Winthrop, ca. October 1638, ibid., 1: 192; Williams to Winthrop, May 2, 1639, ibid., 1: 195. In 1640 Massachusetts demanded that a similar provision be added to its treaty with the Narragansetts. Winthrop, *History of New England*, 2: 19.

them."[62] In the absence of any preexisting agreement or of a willingness by the colony to ensure reciprocal compensation for the damage wrought by colonists or their livestock, the Narragansetts refused to offer any further concessions to the Bay Colony. The colony's unilateral demands persisted, however, and in 1639 the colonial government went so far as to demand compensation for some horses caught in an Indian trap even after the Narragansett sachems made clear that the traps belonged to an Indian who did not live under their jurisdiction.[63] Massachusetts, in effect, was claiming the right to police the boundaries of the Narragansett polity, to determine who was and who was not a subject of the sachems.

Four years later, in 1643, the colony was less subtle still. In an effort to draw the English followers of Samuel Gorton under its jurisdiction, the Bay Colony accepted the submission of two sachems—Pumham and Socononcocco—who were tributaries of the Narragansetts. When Miantonomi, who had sold the land to Gorton with Pumham's supposed consent, objected to this submission as an encroachment on his authority, he was summoned to Massachusetts to make his case before the General Court.[64] When the Narragansett sachem appeared in Boston as requested, the General Court adduced the evidence of Englishmen and an Indian sachem, Cutshamakin, to dismiss Miantonomi's claim that the Indians were "his vassalls," declaring them instead to be "free Sachims."[65] Irrespective of the justness of Pumham and Socononcocco's submission to the Narragansetts, or of Miantonomi's forcing Pumham to sell lands to

[62] Williams to Winthrop, ca. October 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 192 (quotations).

[63] Williams to Winthrop, ca. October 1638, ibid., 1: 192; Williams to Winthrop, May 2, 1639, ibid., 1: 195; Robinson, "Lost Opportunities," 26–27.

[64] On the submission of Pumham and Socononcocco to the Bay Colony, see Winthrop, *History of New England*, 2: 148; Shurtleff, *Records of Massachusetts Bay*, 2: 38, 40–41. For a discussion of the efforts of the Bay Colony to draw the Gortonists under its jurisdiction, not least through this act of submission by the sachems, see ibid., 2: 24; Samuel Gorton, "Simplicities Defense against Seven-headed Policy. . . . ," in Peter Force, ed., *Tracts and Other Papers, Relating Principally to the Origin, Settlement, and Progress of the Colonies in North America. . . .* (Washington, D.C., 1846), 4: 24–28, 45–46; Winslow, *Hypocrisie Unmasked*, 28, 30, 69–70. On Gorton, see Kenneth W. Porter, "Samuell Gorton: New England Firebrand," *New England Quarterly* 7, no. 3 (September 1934): 405–44. For disputed accounts of the relationship of Pumham and Socononcocco to the Narragansett sachems, see Gorton, "Simplicities Defense," 24; Winslow, *Hypocrisie Unmasked*, 2. For the deed by which Miantonomi sold land at Shawomet to Gorton and his followers, with Pumham's apparent consent, see Bartlett, *Records of Rhode Island*, 1: 130–31. For the summoning of Miantonomi before the Bay Colony, see Winthrop, *History of New England*, 2: 145.

[65] Winslow, *Hypocrisie Unmasked*, 2–3 ("vassalls," 2, "Sachims," 3); Winthrop, *History of New England*, 2: 145. Edward Winslow claimed Roger Williams among the authorities for this decision, though Williams would later defend Miantonomi's jurisdiction over Pumham. Williams to the General Court of Massachusetts Bay, May 12, 1656, in LaFantasie, *Correspondence of Roger Williams*, 2: 451. On the dubiousness of Cutshamakin's evidence, see Salisbury, *Manitou and Providence*, 230.

Gorton, no treaty provision afforded the English colony at Massachusetts the right to adjudicate the limits of Indian jurisdiction or to begin gathering Narragansett tributaries under its own jurisdiction. It is no small irony, of course, that the freedom of "free sachems" such as Pumham and Soconomocco was to take its fullest expression in their submission to the colonial government at the same time that Miantonomi's free exercise of his sachemship was to be constrained by the judgment of that same government, to which he had never submitted.[66] In effect, the English were treating Indian jurisdiction in southern New England as if it were an artifact of colonial recognition rather than a feature of Indian community itself.

This period from 1639 to 1643 also saw rising tension between Uncas and Miantonomi, and with it a flurry of rumors in Connecticut, likely the result of Uncas's whisperings, that Miantonomi was gathering Indian allies to launch a devastating attack on the English of New England and the Dutch of New Netherland.[67] The scholarly literature has cast Miantonomi's alleged campaign of resistance in a number of guises: as a reaction to the ecological pressures that resulted from the introduction of English livestock, as a conspiracy to violate the peace treaty signed at Hartford in 1638, as an effort to work against the English interests, or as some "farsighted" pan-Indian strategy to undermine an as-yet-incipient colonization.[68] Miantonomi's efforts to convince the Long Island Indians to join an offensive against the English demonstrate that some of these elements were at work. As Lion Gardener reported the "plot," Miantonomi had adduced the voraciousness of the colonists' land hunger and suggested that because "their cows and horses eat the grass, and their hogs spoil our clam banks," New England's Indians would starve unless they struck the English, killing "men, women, and children, but no cows, for they will serve to eat till our deer be increased again."[69] The fragmentary evidence of Miantonomi's so-called plot suggests that the Narragansett sachem sought

[66] John Winthrop seems to have recognized as much by July 1643. While insisting that the colony's acceptance of Pumham and Soconomocco "into our Jurisdiction" was "lawful and expedient for vs," he also noted "how offensive it would be to the Naragansets, and so likely to ingage vs in a warre with them," though these "doubtfull dangers" were outweighed by the fact that this move, among other things, opened "a doore to the Conversion of some of them." Winthrop to Richard Saltonstall and others, ca. July 21, 1643, in *Winthrop Papers*, 4: 410 (quotations).

[67] Johnson, "Uncas and the Politics of Contact," 27, 32. For the possible connection between Miantonomi's alleged plotting and the outbreak of Kieft's War between New Netherland and its neighboring Indians, see Oberg, *Uncas*, 95; Oberg, *New England Quarterly* 77: 493; Grandjean, *Early American Studies* 9: 404–9, esp. 409.

[68] Oberg, *New England Quarterly* 77: 479–80 (quotation, 480); Vaughan, *New England Frontier*, 166; Robinson, "Lost Opportunities," 14; Cronon, *Changes in the Land*, 162–63; Anderson, *Creatures of Empire*, 206–7.

[69] Gardener, *Pequot Warres*, 142–43 ("plot," "men," 143, "cows and horses," 142).

to ground his resistance in a list of grievances suffered by the Indians living in proximity to European settlements, but these injuries were likely not the only foundation of his initiative.[70] The additional terms of the Treaty of Hartford discussed here, for example, present the tantalizing possibility that Miantonomi's turn to confrontation may have marked an effort to enforce a legal claim to restitution that was grounded, in part, in the agreement of 1638.

The Narragansetts had long complained of English infidelity to various treaty obligations, and Miantonomi's speech, along with records of disputes over livestock, suggests both that Indians were being arbitrarily blamed for damage to English animals and that they were not being compensated for the "paines" caused by those animals.[71] As Miantonomi traveled through the villages of Long Island, he would have heard of similar grievances suffered by his indigenous neighbors.[72] Faced with English people who violated the terms of the Treaty of Hartford, which Massachusetts was now also claiming the benefits of without reciprocating in any way, Miantonomi may have turned to the very same treaty for remedy. In the event that a signatory was to "make breach of [the treaty,] the other two may ioyne and make war upon such as shal breake the same unles satisfaction be made being resonably required."[73] That Uncas had little interest in joining with Miantonomi against his English benefactors would not have

[70] It is worth noting that there is little direct evidence that Miantonomi was plotting against the English. Until the eve of his execution, the government of the Bay Colony was content to dismiss these rumors as the likely product of Uncas's efforts to undermine the Narragansett sachem. Winthrop, *History of New England*, 2: 9, 96–97, 159–60. Moreover, although Lion Gardener offered a detailed account of the rumors he heard of Miantonomi's "plot," it was not published until some twenty years after the events in question, by which time it might have been embellished to suit Gardener's own ends. Grandjean, *Early American Studies* 9: 401 n. 68. Nevertheless, I am broadly persuaded by Virginia DeJohn Anderson's claim that the content of the speech that Gardener attributed to Miantonomi reflects an Indian, rather than an English, sensibility, and that had Gardener "intended to invent, rather than record, an inflammatory speech, he would surely have emphasized Miantonomi's innate depravity or lust for power, themes that spoke more directly to English prejudices than a sachem's anxiety about cows replacing deer in the forest." Anderson, *Creatures of Empire*, 207. The details of Miantonomi's speech as recorded by Gardener are also partly corroborated by contemporaneous reports of the "plot," including reports received by the Dutch at New Netherland of a Narragansett plan to target both the English and the Dutch. "Relation of the Plott—Indian," *Collections of the Massachusetts Historical Society*, ser. 3, no. 3 (1833): 163–64; E. B. O'Callaghan, ed., *Documents Relative to the Colonial History of the State of New-York. . . .* (Albany, 1856), 1: 183.

[71] Lansdowne, art. 5 (quotation); Roger Williams to John Winthrop, Aug. 20, 1637, in LaFantasie, *Correspondence of Roger Williams*, 1: 112–14; Williams to Winthrop, ca. October 1638, ibid., 1: 190; Williams to Winthrop, May 2, 1639, ibid., 1: 195.

[72] John A. Strong, "The Imposition of Colonial Jurisdiction over the Montauk Indians of Long Island," *Ethnohistory* 41, no. 4 (Autumn 1994): 561–90, esp. 567–68.

[73] Lansdowne, art. 13.

precluded the Narragansett sachem from seeking out other allies in the pursuit of his treaty rights.[74] Moreover, in spite of Miantonomi's threat to kill the English—which in any case may have been added to Gardener's account for rhetorical effect—it is likely that any conflict would have accorded with Indian norms of war, making such massacres less likely. As Neal Salisbury has noted, if successful, Miantonomi's resistance would have established an "institutional counterweight" to the English in the region.[75] That is, it would have been a war within the logic of the Treaty of Hartford, rather than in violation of it.[76]

Instead of thinking of Miantonomi's campaign of resistance as grounded in a committed anticolonialism or an aspirational pan-Indianism, it seems reasonable to read his actions through the Treaty of Hartford itself. Against colonial chroniclers who have painted Miantonomi as a faithless conspirator, and contrary to the more sympathetic view that deep-seated cultural differences made misunderstandings all but inevitable in crafting colonial treaties, the Narragansett sachem's "plot" might best be understood as an act of fidelity to the agreement that concluded the Pequot War.[77]

Miantonomi, however, was not to see the treaty honored. Instead, that very document was invoked to justify his execution in September 1643. Drawn into a conflict between Uncas and Sequasson, a sachem on the Connecticut River allied to the Narragansetts, Miantonomi was captured by the Mohegan sachem. A stern warning from Samuel Gorton not to harm Miantonomi may have convinced Uncas to bring him before the magistrates at Hartford in accordance with the 1638 treaty. Although Miantonomi had abided by his agreements with the English, seeking permission from Massachusetts and Connecticut before attacking Uncas, he was held at Hartford until the newly formed Commissioners of the United Colonies of New England could pass judgment on the case.[78]

[74] For Miantonomi's belated efforts to draw Uncas to his side through a marriage alliance, see Winslow, *Hypocrisie Unmasked*, 86. See also Salisbury, *Manitou and Providence*, 232–33; Oberg, *Uncas*, 104; Oberg, *New England Quarterly* 77: 496; Brooks, *Common Pot*, 62–63.

[75] Salisbury, *Manitou and Providence*, 232.

[76] This view is at odds with Julie A. Fisher and David J. Silverman's suggestion that the Narragansetts interpreted the Treaty of Hartford less as a binding agreement than as a symbol of peace. Fisher and Silverman, *Ninigret*, 42.

[77] The Mohegans were similarly committed to the Treaty of Hartford. Their repeated recourse to the crown to redress the Connecticut colony's misdeeds before and during the Mohegan land case can be seen as a similar effort to enforce the treaty against the recalcitrant colonial party.

[78] On the conflict between Uncas and Miantonomi in the run-up to the Narragansett sachem's execution, see Sainsbury, *Rhode Island History* 30: 111–24; Salisbury, *Manitou and Providence*, 231–35; Oberg, *Uncas*, 87–109; Brooks, *Common Pot*, 59–64. On Samuel Gorton's warning to Uncas, see Winslow, *Hypocrisie Unmasked*, 73; Winthrop, *History of New England*, 2: 158; Sainsbury, *Rhode Island History* 30: 117–18. John

The commissioners came to two swift determinations. First, they "were all of the opinion that it would not be safe to set him [Miantonomi] at liberty," and second, they noted that they lacked "sufficient ground for us to put him to death." Miantonomi had to be executed, but the commissioners had no legal grounds for doing so. Faced with this impasse, they called on five church elders to decide the question, which they did by agreeing with the commissioners' view that Miantonomi should be executed. The commissioners then ordered Uncas to carry out the sentence, although "not in the English planta[tio]ns" but "so soon as he came within his own jurisdiction."[79] Once again, the concept of an independent Indian jurisdiction was crucial to colonists' management of Indian affairs, affording the English an opportunity to distance themselves from the execution of Miantonomi that they had ordered.[80]

Scholars have argued that by handing Miantonomi back to Uncas the commissioners were not so much deciding his fate as they were refusing to intervene on his behalf. Katherine A. Hermes, for example, has suggested that this action amounted to the colonies' recognition of Uncas's "personal jurisdiction" over the captive Miantonomi, and it is certainly correct that the commissioners went to great pains to give the appearance that this was, as Michael Leroy Oberg puts it, a case of Miantonomi being "put to death by a Mohegan sachem, and not an English court."[81] And yet, the conditions set for Miantonomi's execution bore all the hallmarks of a colonial command. The commissioners not only dictated Miantonomi's fate but also placed restrictions on where and how he was to be executed. His death was to take place in Uncas's "owne Jurisdic[tio]n" and "all [mer]cy and modera[tio]n" were to be shown him, "contrary to the practise of the Indians who exercise tortures & cruelty." Two Englishmen

Winthrop reported that Miantonomi sought leave to attack Uncas in mid-1643 from the governments of both the Bay Colony and the Connecticut colony. Winthrop suggests that in both cases the English confirmed that they would not take sides in the conflict. Winthrop, *History of New England*, 2: 155. The United Colonies brought together Connecticut, Massachusetts, New Haven, and Plymouth with the aim, among other things, of managing Indian affairs in the region and countering Indian threats against the English settlements. Pulsifer, *Acts of the Commissioners*, 1: 3. See, for comparison, Michael Leroy Oberg's claim that the English acted in strict accordance with the Treaty of Hartford in this affair. Oberg, *Uncas*, 105, 107.

[79] Winthrop, *History of New England*, 2: 158 ("opinion," "so soon"); Pulsifer, *Acts of the Commissioners*, 1: 11–12 ("English," 1: 11), 15, 52; Bradford, *History of Plymouth Plantation*, 2: 365. For a later justification of Miantonomi's execution, see Pulsifer, *Acts of the Commissioners*, 1: 51–52.

[80] Winthrop, *History of New England*, 2: 158.

[81] Hermes, *American Journal of Legal History* 43: 62 ("personal"); Oberg, *Uncas*, 105–6 ("put to death," 105). The commissioners stressed that "Vncus was *aduised* to take away the life of Myantenomo *whose* [*sic*] *lawfull Captiue he was*." Pulsifer, *Acts of the Commissioners*, 1: 14–15 (emphasis added).

were also sent along with Uncas to witness the manner of punishment.[82] Implicit in this arrangement was an English claim to ultimate authority over how Uncas exercised his own jurisdictional authority over Miantonomi. Most telling, perhaps, is the much-overlooked fact that the commissioners put in place a contingency plan in the event that Uncas would not kill Miantonomi. Should Uncas "refuse to execut justice vpon Myantenomo," the commissioners declared, the Narragansett sachem was to be taken by sea from Hartford to Boston, where he was "to be kept in safe durance [imprisonment] till the Commissioners may consider further how to dispose of him."[83]

It is difficult to discern the commissioners' recognition of Uncas's independent ("personal") jurisdiction over Miantonomi here, when they were simultaneously declaring that a refusal to execute the Narragansett sachem would vacate Uncas's jurisdiction over him and return Miantonomi to an English prison. Rather, it seems more plausible that the colonial governments were again treating Indian jurisdiction as if it were an effect of colonial recognition. Moreover, the terms on which Miantonomi was to be executed reveal the implicit claim to sovereignty that the United Colonies were asserting over the Mohegan polity, even though the commissioners had recognized that the Mohegan sachem exercised a distinct territorial jurisdiction. For all that Miantonomi's spatial removal into Uncas's jurisdiction marked an acknowledgment of an autonomous Mohegan polity, the fact that the court also saw fit to dictate the means of the execution and to send Englishmen along with Uncas to supervise the punishment betrays the lurking sovereignty that the New England colonies were asserting over their indigenous neighbors. Uncas's jurisdiction was treated as if it were simultaneously autonomous of the English colonies and subject to their supreme, superintending authority.

Paradoxically, then, even though the text and subsequent context of the Treaty of Hartford suggest that indigenous jurisdictions were recognized as being autonomous of colonial legal jurisdictions, colonial governments claimed the right to adjudicate the limits of those same indigenous jurisdictions. This paradox was a hallmark of imperial legal imaginaries that presupposed the superiority of "civilized" Christian judgment in dealings with "savage" Indians. Agreements such as the Treaty of Hartford that wove English and Indian norms of justice together and deployed them anew nevertheless presupposed a residual (sovereign) authority in the Englishman to judge adherence to such agreements. This tension was not

[82] Pulsifer, *Acts of the Commissioners*, 1: 11–12 ("owne," 1: 11, "contrary," 1: 11–12), 15, 52; Winthrop, *History of New England*, 2: 158.

[83] Pulsifer, *Acts of the Commissioners*, 1: 15 (quotations); Winthrop, *History of New England*, 2: 158.

lost on the Narragansetts. Reacting to the execution of Miantonomi and trying to secure themselves against their erstwhile allies in Massachusetts Bay, the chief sachems of the Narragansetts, Canonicus and Miantonomi's brother Pessicus, rendered their polity subject to and under the protection of the English Crown.[84] The sachems refused to be held to the arbitrary procedure that decided Miantonomi's fate and informed the Bay Colony that they were "*subjects now . . . unto the same King and State your selves are*" so that "if any great matter should fall [out between us] . . . then neither your selves nor we are to be Judges, but both of us are to have recourse, and repaire *unto that honourable and just Government* [of England]."[85] Rejecting the presumed supremacy of the colonial government and setting aside their own right to judge any conflict, the Narragansett sachems turned to the royal government to fulfill the role of sovereign decision maker in the future.[86]

In 1704 the Mohegans would pursue a similar strategy, petitioning the crown to secure their independence and land rights from further encroachments by the Connecticut colony. There is some evidence to suggest that the Mohegans may have gone as far as the Narragansetts and placed their polity under the sovereignty of Charles II in the late seventeenth century, and certainly throughout the hearings of the Mohegan land case the Mohegans were treated like a subordinate polity within the British Empire.[87] While both the Narragansetts and the Mohegans were

[84] Gorton, "Simplicities Defense," 90–92; "Submission of the Chief Sachem of the Narragansett to Charles I," Apr. 19, 1644, YIPP, 1644.01.19.01, http://findit.library.yale.edu/yipp/catalog/digcoll:3983.

[85] Gorton, "Simplicities Defense," 93.

[86] Acts of submission to a distant empire, as Lauren Benton notes, did not necessarily extinguish the authority of indigenous rulers. Certainly neither the Narragansetts nor the Mohegans imagined their sachems to have ceded their regular authority to the crown. Benton, "Shadows of Sovereignty: Legal Encounters and the Politics of Protection in the Atlantic World," in *Encounters: Old and New*, ed. Alan Karras and Laura Mitchell (Honolulu, forthcoming). For evidence that the Narragansetts continued to reject the idea that they were subjects of the English colonies, see Oberg, *Dominion and Civility*, 130–34. For a discussion of the transatlantic dimensions of settler-Indian relations, see Pulsipher, *Subjects unto the Same King*.

[87] On the Mohegan petition to the crown, see Walters, *Osgoode Hall Law Journal* 33: 804–5. On the favorable treatment of the Mohegans before the 1705 Dudley Commission and the 1706 appeal before the Privy Council, see ibid., 811–15. For evidence of a possible Mohegan subjection to the English Crown before 1684, see Grant-Costa, "Last Indian War," 59–60, 173–74. One member of the 1743 Commission of Review of the Mohegan land case, Daniel Horsmanden, did argue that the Mohegans were an independent people who were not subject to British sovereignty. Instead, he suggested that the case should be adjudicated by the British Crown under the law of nations (*ius gentium*). His position is noteworthy, though its dependence on the *ius gentium* is hardly without imperial overtones, and one wonders whether he would have been as sanguine about this mode of adjudication had the judging party been the Iroquois Confederacy instead of the British Crown. On Horsmanden's position, which was in the minority among the judges in 1743, see

initially dealt with favorably by the courts impaneled to hear their cases on behalf of the crown, they increasingly found themselves at the mercy of institutions that placed the rights and claims of English colonists above those of Indians, who were after all still the objects of English fantasies of conversion and civilization.[88] In the end both the Narragansetts and the Mohegans found themselves dispossessed by the very mechanisms of accommodation by which they had sought to share southern New England with the colonists.

Legal pluralism initially served Narragansett and Mohegan interests, to be sure, though it did so at the same time that it enveloped these Indians, unwittingly perhaps, in English frameworks of law and authority that treated them as essentially subordinate parties. Documents such as the Treaty of Hartford operated simultaneously as the vehicles of Indian-English interdependence and as the frameworks for extending English claims to authority over neighboring Indians.[89] Indian communities, struggling in the face of colonial expansion and demographic collapse, found it increasingly difficult to escape the webs of colonial authority that were replacing the plural imaginaries of the Treaty of Hartford.

Walters, *Osgoode Hall Law Journal* 33: 820–26. On the constitutional basis on which the empire claimed a right to adjudicate disputes between indigenous polities and colonies, see ibid., 807–15. Craig Bryan Yirush highlights the ambiguities around the question of Mohegan subjection. Even as the Mohegans claimed independence from and even equality with the English Crown, Oweneco, their sachem and Uncas's son, pledged in 1705 that "he and his sons would be '*ever under the allegiance and government of the queen* and crown of England.'" The English position, for its part, was no less ambiguous, describing the Mohegans as allies rather than subjects and yet treating them as being "under your Majesty's Dominion." Yirush, *Law and History Review* 29: 351 ("he and his sons"), 348 ("under," quoting no. 171, in Cecil Headlam, ed., *Calendar of State Papers: Colonial Series* [London, 1916], 22: 72–73), 346, 357–58, 363–66, 368–69. See also *Book of Proceedings*, 66.

[88] The Royal Commission of 1664–65 heard the grievances of the Narragansett Indians against the United Colonies of New England and was generally favorable to the Indians' interests. However, the commissioners also placed the Narragansetts under the jurisdiction of the Rhode Island colony, which soon precipitated the seizure of Narragansett lands. "Memoranda by Colonel Cartwright concerning Massachusetts and Rhode Island," no. 35, in *The Clarendon Papers*, in *Collections of the New-York Historical Society for the Year 1869* (New York, 1870), 107; Potter, *Early History of Narragansett*, 179–82; Bartlett, *Records of Rhode Island*, 2: 442; "Instructions to the Royal Commissioners to Massachusets," Apr. 23, 1664, Egerton MSS 2395, 389–90, BL.

[89] On interdependence, see Salisbury, "Indians and Colonists," 82.

The Treaty of Hartford (1638)[90]

[fol. 7 recto] Couenants & Agreements made between the English Inhabitants within the Jurisdiction for ye River Conecticut of ye one part & Miantinome the cheife Sachem of ye Narregansets in ye behalfe of himselfe and other the sachems there[91] And Poquaum or Unkas the cheife Sachem of ye Indians called the Monhegins in the behalfe of himself & other ye sachems under him as followeth; at Hartford

The 21: Septbr: 1638.

1 Imp'r There is a peace and a[92] familiarity made betweene the said Miantonomi and Narroganset Indians & the said Poquam & ye said Monhegin Indians and all former Iniuries and wrongs offered each to other remitted and buried & neuer to be reniued any more from hence forth.

2 It is agreed if there fall out iniuries or wrongs for future to be done or committed e[ach][93] to other or their men they shal not prsently revenge it but they are to appeale to ye sai[d][94] English and they are to decide the same and the determination of the English to stand and they are each to doe as is by the said[95] English set downe and if the one or the other shall

[90] The majority of this transcript comes from a document held among the Lansdowne Manuscripts at the British Library. "Couenants & Agreements. . . . ," copy dated May 25, 1665, Lansdowne MS 1052, fol. 7, BL. Where the Lansdowne manuscript is damaged, I have interpolated information from other surviving copies of the treaty, in particular the *RIHS* and *Mohegan* copies. These interpolations are indicated in the transcript using brackets. This includes a significant portion of the text following article 8, which is the result of a tear in the Lansdowne manuscript. Where interpolations were necessary in the articles that were excluded from these later copies, I have consulted Townshend's 1892 transcript of the Lansdowne manuscript. The source of each interpolation is provided in the notes. Any differences (with the exception of differences in spelling, punctuation, and capitalization) across the surviving copies of the treaty are also indicated in the notes. Where a part of the text is or appears to be missing, these gaps are indicated using an asterisk (*). All superscript characters have been brought down to the line and end-of-line punctuation has been removed for ease of reading.

[91] In the preamble the *Mohegan* copy describes Miantonomi as acting "in the behalf of himself and the other chief Sachems there," whereas the word "chief" is omitted from this version and the *RIHS* text. Compare to *RIHS*, preamble, in Potter, *Early History of Narragansett*, 177; *Mohegan*, preamble, in *Book of Proceedings*, 33.

[92] The *Mohegan* copy omits this "a." *Mohegan*, art. 1, in *Book of Proceedings*, 33.

[93] "e*"; completed from *RIHS*, art. 2, in Potter, *Early History of Narragansett*, 177.

[94] "sai*"; completed from Townshend, *New England Historical and Genealogical Register* 46: 355, art. 2. Here the *RIHS* and *Mohegan* texts omit "said." Compare to *RIHS*, art. 2, in Potter, *Early History of Narragansett*, 177; *Mohegan*, art. 2, in *Book of Proceedings*, 33.

[95] Here the *RIHS* and *Mohegan* texts omit "said." *RIHS*, art. 2, in Potter, *Early History of Narragansett*, 177; *Mohegan*, art. 2, in *Book of Proceedings*, 33.

refuse soe to doe, it shalbe lawfull for the English to compell them[96] and to side and take part if they see cause agaynst ye obstinate or refuseing party.

3 It is agreed that they shal not enter into one or others bounds or Countries wthout consent either to hunt or fish or ye like neither shal steale or take away one or others Corne nor robb nor steale one from another either skins Wompom Beauer or ye like or burne or spoile one or others Wigwams.[97]

4 th: There is a conclusion of peace and freindship made between the said Miantonimo and ye said Narrogansets, And the said Poquam and ye said Monhegins as longe as they carry themselues orderly and giue noe iust cause of offence and that they nor either of them doe shelter any that may be Enemies to ye English that shal or formerly haue had hand in murthering or killing any English man or woman or consented therunto.

5 That they nor either of them nor their men nor doggs nor Trapps shal kil nor spoile or hurt any of English mens hoggs swine or Cattle: & if any of the English mens Cattle shal stray in their or either Countries and they come to know thereof they shal not kil nor spoile them but shal speedily giue notice thereof to ye English or else bring them to the English and the English shall gi[ve][98] them recompense for their paines.[99]

6 th. it is agreed that if they or either of them shal know or hear of any Evil or mischeife intended agaynst the English they shal duelie giue notice thereof to ye English Gournors & apprhend or take any such if they can that intend hurt to ye English & bring them to the English.[100]

7 th if any English mans Boat Pinnace or Ship shal suffer any Wreck upon any of their Coasts or any English Goods or men be cast upon their shoares they & either of them shal prserue the same and giue notice thereof to ye English and they shal haue for their paines.[101]

[96] Here the *RIHS* text reads "him," rather than "them." *RIHS*, art. 2, in Potter, *Early History of Narragansett*, 177. The *Mohegan* copy reads "them." *Mohegan*, art. 2, in *Book of Proceedings*, 33.

[97] This article is absent from the *RIHS* text and the *Mohegan* copy.

[98] "gi*"; completed from Townshend, *New England Historical and Genealogical Register* 46: 355, art. 5.

[99] This article is absent from the *RIHS* text and the *Mohegan* copy.

[100] This article is absent from the *RIHS* text and the *Mohegan* copy.

[101] This article is absent from the *RIHS* text and the *Mohegan* copy.

8 They or either of them shal as soone as they can either bring the cheif Sachems of our late Enemies the Peq[uo]ts[102] that had the cheife hand in killing the English to the said English or take of th[eir he]ads[103] as also for those murtherers that are no[w a]greed[104] upon amongst us that are l[ivin]g[105] they shal as soone as they can possibly ta[k]e[106] of their heads if they be[107] in their Custody or else whensoeuer they or any of them shal come amongst them or to their Wigwams or any where if they can by any means come by them.
*[108]

[And whereas there be or is reported for to be by ye sd Narragansetts and Mohegans 200 Peaquots living that are men besides squawes and paposes.[109] The English do give unto Miantinome and the Narragansetts to make up the number of Eighty with the Eleven they have already, and to Poquime his number and that after they the Peaquots shall be divided as abovesd,[110] shall no more be called Peaquots but Narragansetts and Mohegans and as their men and either of them are to pay for every Sanop one fathom of wampome peage and for every youth half so much—and for every Sanop papoose one hand tobe paid at Killing time of Corn at Connecticut yearly and shall not suffer them for to live in the country that was formerly theirs but is now the Englishes by conquest.][111]

[102] "Peq*ts"; completed from *RIHS*, art. 3, in Potter, *Early History of Narragansett*, 177.

[103] "th* *ads"; completed from ibid., art. 3.

[104] "no* *greed"; completed from ibid., art. 3. In an undated letter to John Winthrop following the treaty negotiations, Roger Williams provides the names and places of these "Pequt sachims and murderers," which were given by Miantonomi "from Caunounicus and himself" and "acknowledged by Okace." Williams to Winthrop, after Sept. 21, 1638, in LaFantasie, *Correspondence of Roger Williams*, 1: 183–84 (quotations, 1: 183).

[105] "l*g"; completed from *RIHS*, art. 3, in Potter, *Early History of Narragansett*, 177.

[106] "ta*e"; completed from ibid., art. 3.

[107] Here the *RIHS* text reads "may be," rather than "be." Ibid., art. 3. The *Mohegan* copy reads "be." *Mohegan*, art. 3, in *Book of Proceedings*, 34.

[108] The tear in the Lansdowne manuscript occurs here, with the loss of articles 9, 10, 11, and part of 12.

[109] Here the *Mohegan* text reads (somewhat incomprehensibly), "And whereas therebe or is Reported for to be said Narragansetts and Mohegans two hundred Pequots living, that are men, besides squaws and papooses." I take this to be a copying error. *Mohegan*, art. 4, in *Book of Proceedings,* 34.

[110] In addition to the Pequots awarded to the Mohegans and the Narragansetts, twenty Pequot captives were granted to Ninigret, a sachem of the Eastern Niantics. The absence of that provision in the *RIHS* or *Mohegan* texts of the treaty may suggest it was lost with the missing section of the Lansdowne manuscript. Mason, *Brief History*, 40; LaFantasie, *Correspondence of Roger Williams*, 1: 187 n. 10.

[111] This section is included from *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 177–78.

[fol. 7 verso] Neither shal the Narronganset nor Monhegins possess any part of the Pequots Countrey without leave from the English alwaies excepted[112] the English Captiues are forthwith to be delivered to ye English such as belong to Conecticut to ye Sachems there and such as belong to the Massachusets to ye Sachems there.[113]

13 th: The said Agreements are to be kept inviolable by the parties abouesaid and if any make breach of them the other two may ioyne and make war upon such as shal breake the same unles satisfaction be made being resonably required.

Jo: Haines
Roger Ludlow
Edwa: Hopkins

The Mark of [a bow] Miantonimo
The Mrk of [a bird] Poquah alias Unkus

Extracted out of ye originall and Exa:ed
this 25th of May 1665
per Daniel Clark Sec:ry
to Conecticut Corporation.

[Endorsed]
The Covenant betw*
Unkos and Connecticut*[114]

[112] The *RIHS* and *Mohegan* texts differ here. The *RIHS* text reads: "without leave from the English And it is always expected that the English Captives." Ibid., art. 4, 178. The *Mohegan* text is substantially the same but is punctuated differently to read "without leave from the English; and it is always expected that the English captives." *Mohegan*, art. 4, in *Book of Proceedings*, 34.

[113] The *RIHS* and *Mohegan* texts leave out this second "to ye Sachems there." *RIHS*, art. 4, in Potter, *Early History of Narragansett*, 178; *Mohegan*, art. 4, in *Book of Proceedings*, 34.

[114] The remainder of this endorsement is lost, along with the lower half of the recto containing articles 9–11 and the beginning of article 12. It is difficult to tell if the final line reproduced here is complete or not.