

Indigenous Jurisdiction: A Monacan Land Claim in Seventeenth-Century Virginia

Stacey LeClair
Calgary, Alberta, Canada

Bachelor of Arts, University of Calgary
Master of Arts, University of Calgary

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Introduction: Amoroleck's Claim

In August 1608, up the coast of the Rappahannock River near modern-day Fredericksburg, Virginia, a group of a hundred Indigenous people of the Manahoac tribe spotted a boat sailing upriver carrying a small party of men unknown to them. The Manahoac hunters from the upriver town of Hasinninga were fishing in the river when they encountered these strangers near the base of the falls. Once spotted, the Manahoac immediately launched a shower of arrows from the trees above.

The men under attack by the people of the Virginian interior were Captain John Smith (1580-1631) and his crew that had been sailing up the river for a month, led by a Powhatan man named Mosco. Mosco had warned the newcomers of the hostility of the people who occupied the territory beyond the mountains and the riverheads, as they were known enemies of the Powhatans. Contrary to Mosco's advice, Smith and his crew sailed near the Rappahannock. Having not come across a single "hostile Indian" for miles, they were surprised when a "hundred nimble Indians skipping from tree to tree [let] fly their arrows so fast as they could."¹ Mosco defended the travelers by firing off his own arrows into the banks, and in the heat of the strike, managed to wound and capture one of the Manahoac warriors: Amoroleck, brother of the Manahoac chief Hasinninga, who led the people of the greater Monacan Nation.

Amoroleck justified their defensive action, viewing Smith's party as a potential threat, likely based on the Monacans' prior experiences with outsiders or inter-tribal conflicts. Although Smith's expedition was not explicitly colonial, its presence may have

¹ John Smith and Philip L. Barbour, *The Complete Works of Captain John Smith (1580-1631)* (Chapel Hill: University of North Carolina Press, 1986), 175.

symbolized future encroachment. Amorolect's defense of territory reflects broader Indigenous concerns about protecting ancestral lands from perceived incursions. Upon capture, Smith immediately intervened and ordered a surgeon named Anthony Bagnall to dress Amorolect's wounds. An hour into recovery, Amorolect spoke, interpreted by Mosco, as Smith questioned the captive about his people, the "world" they lived in, and the reasons for their assault. Amorolect justified their attack, explaining to Smith that their motivation was one of defense rather than of hostility, for they had heard that they were a "people who came from under the world, to take their world from them."² Amorolect then proceeded to establish claim to the land of his people, constructing a map of the region's human geography? in the minds of his captors of the physical landscape, borderlines, culture, and political relations of the people of the Virginian interior. Amorolect explained to Smith that three main tribes lived in the area, as all he knew "under the sky that covered him . . . were the Powhatans, with the Monacans, and the Massawomeck, that were higher up in the mountains." He explained that the Monacans resided in the "hilly countries by small rivers, living upon roots and fruits, but chiefly by hunting" and the Massawomeck "did dwell upon a great water, and had many boats, and so many men that they made war with all the world." Smith then asked what lay beyond the mountain range of the Massawomeck, to which Amorolect replied "The sun: but of anything else he knew nothing because the woods were not burnt."³

What Amorolect recounted to the colonists that day stands not only as the single known conversation between colonial Europeans and the Monacan people in the early

² Smith, *The Complete Works of Captain John Smith*, 175-176.

³ Smith, *The Complete Works of Captain John Smith*, 176.

seventeenth century but is also the first land claim made by a Monacan in the face of European incursion. According to contemporary historians and archaeologists, Amorolect's testimony describes the landscape and culture of the Indigenous peoples of the Virginian interior in 1608.⁴ This account establishes the earliest encounter between Europeans and the Monacans as a defense of property, and claim to territory, showing the role of the Monacans in the early Jamestown events as not one of hostility, but one of law.

This essay argues that Amorolect's encounter with John Smith not only represents one of the earliest Indigenous land claims against European incursion but also reveals the framework for a legal discourse of Indigenous sovereignty. What follows is an analysis of Smith's encounter narrative with Amorolect to show how the Monacans articulated their understanding of control over territory.

I define "land claim" as the pursuit of recognized territorial sovereignty by a group or individual with respect to disputed land. I draw upon tools derived from contemporary Indigenous land right claims, developed under later colonial jurisprudence of the Supreme Court of Canada and the High Court of Australia to help reveal the possible meanings of Amorolect's testimony to Smith. Together, these two jurisdictions offer a doctrine referred to as Native or Aboriginal title. Indigenous communities today can establish claim to ancestral territory by demonstrating the centrality of their relationship to the land, as well as offering historical evidence of their continued

⁴ Jeffrey Hantman, *Monacan Millennium: A Collaborative Archaeology and History of a Virginia Indian People*, (Charlottesville: University of Virginia Press, 2018), 42.

connection to the land through traditional land use. I will demonstrate how Amoroleck's words, as interpreted through Mosco, indicate both his central relationship to the land and his enduring connection to the land through continued traditional land use. This episode also demonstrates how the development of legal doctrines regarding Indigenous land rights can be traced back to early encounters, positioning seventeenth-century Indigenous responses to European incursion as foundational to contemporary jurisprudence.

Amoroleck's capture, and the information he relayed to Smith through Mosco, reveals how Europeans recognized Indigenous sovereignty vis-à-vis Indigenous articulation of their autonomy and authority in relation to the territory they were defending. Through a rereading of Smith's encounter with a Monacan man, I will show how Amoroleck's claim to territory constituted a declaration of Indigenous jurisdiction.

The Monacans and Their Historians

The Monacans are the Indigenous peoples of the Virginian interior who lived above the Falls of the James and Rappahannock Rivers. They are one of eleven state-recognized tribes in Virginia and received federal tribal recognition in 2018. Throughout history, however, the Monacans have received very little attention due to their rare appearance in the documentary record. Historical attention paid to Indigenous peoples depends on their contact with Europeans, through the written accounts of traders, missionaries, and colonial officials. The Monacans chose to limit their contact with the English in the early seventeenth century, and, as a result, their documentation in the European record is not nearly as extensive and comprehensive as tribes to the east, such as the Powhatan.

Although the Monacans appear in only two historical accounts, these sources provide valuable insights into their culture, way of life, and social and political organization,

offering a more complex image of the Monacans beyond the portrayals by English colonists.⁵

Despite appearing in only a few written sources, archaeology combined with historical methods reveal a rich history concerning the Monacan community. In the most recent work on Monacan history, *Monacan Millennium: A Collaborative Archaeology and History of a Virginia Indian People* (2018), Jeffery Hantman presents a *longue durée* expression of Indigenous historical perspective, charting the history of the Monacan people from A.D. 1000-2000. Combining 25 years of archaeological, historical and anthropological research, Hantman tells the story of the Monacan people through their eyes to demonstrate how they played a part in events in early Jamestown alongside their coastal plain Algonquian neighbours. Questioning why the English were “allowed to survive” at Jamestown in 1607, Hantman shows how the Monacans were instrumental in influencing Chief Powhatan’s (1545-1618) decision to tolerate the English, and in turn, shaping the perception the English had of the Monacans. By reconstructing the first impressions of the Monacans by the English, Hantman shows how the Powhatans, who frequently described the Monacans as ruthless enemies who invaded Powhatan territory every autumn, shaped the English perception of the Monacans, and consequently affected the tribe’s relative obscurity in the historical record. As a result, Chief Powhatan’s political strategy in choosing to engage with the English in the face of politically threatening Monacan infringement becomes clear.⁶

⁵ Two references of the Monacan people appear in the European record, one in Smith’s journals, and the other in his 1612 map, *Virginia*.

⁶ Jeffrey Hantman, *Monacan Millennium*, 7.

Hantman affirms the Monacan Nation's historical significance, focusing on how the spread of information from the Virginian coast throughout the interior shaped the knowledge of colonial Europeans, while in turn, reflecting and simultaneously motivating political relationships between tribes. The majority of Hantman's source material includes first-hand European accounts in English and Spanish, as well as an archeological study of thirteen burial mounds. Hantman also investigates the observations of Thomas Jefferson, who was the first to lead an excavation of a Monacan burial site and estimated that a thousand members were buried in one mound. As Hantman proclaims, Jefferson not only excavated but witnessed the continued use of such mounds by Indigenous peoples in the area near him throughout the mid to late eighteenth century.⁷ Hantman concludes by investigating the reasons for Monacan disappearance and their own contemporary views of their history and archeology.

While Hantman explains how Powhatan portrayals of the Monacans to the English mirrored their political relations, he does not delve deeply into the Amoroleck encounter or explore its implications for Indigenous land rights and ownership. Amoroleck's interaction with Smith not only depicts Monacan conceptions of jurisdiction, but also shows the first interaction between the Monacans and the English as a defense of territory, or in Amoroleck's words, a defense of "their world."⁸ I argue that Amoroleck's conversation with Smith highlights an historical example of Indigenous claims making, as he constituted his place in the world in relation to other Indigenous groups in the region.

⁷ Hantman, *Monacan Millennium*, 14.

⁸ Smith, *The Complete Works of Captain John Smith*, 175.

In a comparative study, Monacans and Miners: Native American and Coal Mining Communities in Appalachia (2000), Samuel Cook charts the political, social and economic history of the Monacans with those of Scottish and Irish settlers of West Virginia from the late eighteenth to the late nineteenth century. Cook shows how the colonial history of these two communities, while creating circumstances leading to both of their economic subordination and dependency, have ultimately resulted in two separate, yet comparable outcomes. By investigating the colonial experiences of the Monacan Nation in relation to their contemporary position in society as they strived to redefine their identity, Cook shows how the Monacan Nation represents an influential activist model for other minority Appalachian communities struggling against outside forces that place them in a position of economic and social inferiority and subordination.⁹

Despite enduring nearly five hundred years of colonial oppression, the Monacans have managed to maintain a sense of “ethnic peoplehood,” stemming from several social, political, and economic circumstances at the local and national level.¹⁰ For example, the Civil Rights movement led to the decline of the orchid industry in Amherst County, a system that had long exploited Monacan labor, often without pay. Since that time, the tribe has received both state and federal recognition, having reclaimed a large portion of their original land base.¹¹

⁹ Samuel R. Cook, *Monacans and Miners: Native American and Coal Mining Communities in Appalachia*, (Lincoln: University of Nebraska Press, 2000), 7.

¹⁰ Cook, *Monacans and Miners*, 7.

¹¹ Cook, *Monacans and Miners*, 7. At the time of Cook’s study, the Monacan Nation had only received State recognition.

Recognizing one of the earliest reports relating to the Monacans as Smith's map of Virginia (1612), Cook lays out the tribal relations and geographical information concerning the Monacans in the early seventeenth century by combining Smith's *Virginia* with his documented encounter with Amoroleck. Additionally, in combination with the archeological evidence of the various Monacan towns, Cook's study explores the relationship the Monacans had with neighboring tribes whose members spoke the same language. Cook argues that even though what Amoroleck said was through translation, in addition to his being under considerable duress at the time, the information he provided Smith as indicated on his map depicted that their town of Rassawek served as an "important economic, political, or ceremonial center."¹²

In March 2022, nearly twenty-one years after the publication of Cook's study, the Monacan nation won a multiyear legal dispute against the James River Water Authority that had planned to build a water intake and pump station originally planned for a peninsula where the James and Rivanna Rivers meet. The project was announced in 2017 without consulting the Monacans, although it was to be developed on the site of the ancient Monacan Indian Nation Capital Rassawek. Using Smith's map, and in accordance with Cook's observations, the Monacan Indian Nation was able to prove the sacred site of their ancient capital. The water authority is now set to relocate the project a couple miles upstream, at a place the Monacan Nation mapped out as an appropriate alternative.¹³

¹² Cook, *Monacans and Miners*, 30.

¹³ The fight to save their ancestral land was the first instance in which a Virginian Indigenous tribe successfully leveraged its federal recognition status. See Sarah Vogel song, "Water authority abandons plans to site pump station at Rassawek," in *Virginia Mercury*, March 16, 2022, <https://www.virginiamercury.com/blog-va/water-authority-abandons-plans-to-site-pump-station-at-rassawek/> (accessed on April 19, 2022).

Cook's work does not explore the legal implications, or jurisdictional aspect of Amoroleck's role in his encounter with Smith. Cook's use of Smith's Map, particularly considering recent developments for the Monacan Nation, underscores the power of these primary sources as evidence in establishing Monacan territorial claims.

Rereading European Encounter Narratives for an Indigenous Perspective

Scholars of Native American history such as Richard White, Michael Witgen, Andrew Fitzmaurice, and Lisa Brooks have offered ways of extracting Indigenous voices, and more specifically, the way Indigenous peoples articulated their worldview within European sources, by rereading European encounter narratives from an Indigenous perspective. This method places Indigenous peoples at the center of the narrative to bring to light articulations of Indigenous social and political formations, even though the source material was written by and interpreted from a European account. I draw on the methodology of these historians to offer a rereading of Smith's writings to highlight Monacan claims making in the seventeenth century.

For instance, Andrew Fitzmaurice has examined how scholars can utilize European encounter narratives to demonstrate the legal claims made by Indigenous peoples in the early seventeenth century. Analyzing the ways that Powhatans engaged in legal arguments with the English between 1606 and 1614, Fitzmaurice shows how Algonquin legal arguments, particularly concerning title over contested land, were used by the Powhatan and countered by English colonists. Fitzmaurice offers this analysis using contemporary English sources, primarily William Strachey's *Historie of Travell into Virginia Britania* (1612) and Smith's map, *Virginia* (1612). Fitzmaurice examines the legal arguments of the Powhatan as interpreted by the English to show how such

claims were comparable to English understandings of jurisdictional authority, primarily through arguments of custom, precedent, use, and occupation.

The problem with this method, however, is whether this interpretation simply brings forth the projections of European ideas, or what Fitzmaurice calls “ethnological ventriloquism.”¹⁴ Fitzmaurice argues that despite the risk of imposing European perceptions on Algonquin legal claims, not taking these claims as serious Indigenous statements of control over territory would be a mistake, as there is ample evidence pointing to the legitimacy of Algonquin claims from the anthropological and archeological record. In this paper, I apply Fitzmaurice’s method for reading European encounter narratives to extract an Indigenous legal perspective by arguing that Amoroleck’s testimony to Smith renders evidence of an Indigenous person striving to articulate arguments of custom, president, use and occupancy. Monacan land use, especially concerning fishing, hunting, agriculture and the use of fire is prominently documented in the archeological record. I will show how Smith’s recollection of the account holds evidence of Indigenous motivations to defend territory through the contemporary process of generating title.

This approach to Indigenous history requires engaging with key historiographical debates around legal pluralism and territorial rights. Scholars such as Lauren Benton and Allen Greer have examined the intersections of Native and European law in imperial frontiers, offering a framework for understanding how Indigenous claims evolved in

¹⁴ Andrew Fitzmaurice, “Powhatan Legal Claims,” in Saliha Belmessous, ed., *Native Claims: Indigenous Law against Empire, 1500–1920* (New York: Oxford University Press, 2011), 86.

response to European legal concepts. Their work demonstrates the complexities of legal pluralism, where different legal systems coexist and often clash within colonial settings.¹⁵ I apply this framework to my analysis of the Amoroleck encounter, demonstrating how Monacan claims to territory can be understood not only within their own legal and cultural contexts but also in relation to European legal systems that were beginning to encroach on Indigenous spaces. Additionally, Stuart Elden's work on the rise of territoriality in Europe helps illuminate how European colonists interpreted Indigenous spaces, not as lawless or unclaimed, but as territories that could be subsumed under colonial rule.¹⁶ By engaging with these scholars, I situate the Amoroleck encounter within broader legal and territorial frameworks, showing how this early interaction exemplifies the negotiation of Indigenous and European legal understandings. This approach allows me to argue that Indigenous responses to European incursion, such as those of the Monacans, were legal in nature and reflect the complex ways in which territoriality and jurisdiction were asserted by Indigenous peoples in the seventeenth century.

By placing Indigenous peoples at the center of his study, Richard White restructures the encounter narrative to tell a story of settler and Indigenous interaction operating within a space of cooperation first and conflict second. As White states, first there were aliens, then accommodation, and finally a breakdown of that accommodation

¹⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (New York: Cambridge University Press, 2010), Allan Greer, *Property and Dispossession: Natives, Empires and Land in Early Modern North America* (New York: Cambridge University Press, 2018) Allan Greer, *Property and Dispossession: Natives, Empires and Land in Early Modern North America* (New York: Cambridge University Press, 2018).

¹⁶ Stuart Elden, *The Birth of Territory* (Chicago: University of Chicago Press, 2013).

and common meaning.¹⁷ This middle ground created a new world based on shared needs and interests. The middle ground ceased to exist only when cooperation gave way to conflict, giving rise to the reinvention of Indigenous peoples as the other and the replacement of two separate worlds. Within this shared space of meaning, however, is an insistence on the recognition of the political and social context of Indigenous authority. As White argues, the middle ground insists on a relation in which Europeans “could neither dictate to Indians nor ignore them.”¹⁸ The common ground created by the interactions between both groups facilitated socially and politically driven exchanges, such as the fur trade. Europeans had to recognize Indigenous social, political, economical and even legal dominance within the trade to be subsumed into the process of the exchange network, and thus contribute to the facilitation of the trade, creating a new social space between the two cultures.¹⁹

The space within which Amoroleck and Smith conversed can be conceptualized as some type of middle ground, where in this case, one party strived to articulate to the other a particular sense of meaning, that being territorial power, while the other tried to make sense of it. Eventually, both parties strived to come to a place of common meaning and understanding. The English intruded into a political and social world in which power and control over land and resources was an ongoing battle between tribes. Native political power was an everyday fact of life as the Monacans, Powhatans, and other neighboring tribes sought control over territory through traditional use of land. Amoroleck’s claim, as

¹⁷ Richard White, *The Middle Ground: Indians, Empires, and Republics In the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 2011), xxv-xxvi.

¹⁸ White, *Middle Ground*, x.

¹⁹ White, *Middle Ground*, x.

recorded by Smith, demonstrates an effort on both sides to enter a space of shared understanding. Amoroleck's worldview as documented by Smith represents the self-representation of Indigenous peoples as political and diplomatic actors in the seventeenth century period, moving the contemporary portrayal of the Monacan people from an unknown, marginal group of hostile Indians, and showing them as playing a legal role in the early seventeenth century period.

Drawing on the work of White, Michael Witgen has offered a means through which to articulate an Indigenous perspective from the early American period by placing Indigenous peoples at the center of European encounter narratives. In *An Infinity of Nations: How the Native New World Shaped Early North America* (2011) Witgen shows how the people of the Western Great Lakes and Upper Mississippi Valley regions strived to create a new space for themselves in the second half of the seventeenth century. Witgen argues that as Indigenous peoples encountered Europeans, they constructed a "New Native World" distinct from European influence.²⁰ Witgen uses Indigenous place names and terms of identity to examine the political complexity of their societies, urging scholars to center Indigenous voices to read "European texts against the grain... without privileging the fantasies of discovery."²¹ By doing so, Witgen shows how the space created by Indigenous peoples through their contact with Europeans was an extension of a pre-existing political world that thrived long before contact. As Witgen explains, throughout the colonial era, self-reliant, autonomous Indigenous communities controlled most North American land and resources. Europeans did not discover this part of the

²⁰ Michael Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America*, (University of Pennsylvania Press, 2012), 17.

²¹ Witgen, *Infinity of Nations*, 15.

world but were rather strangers to a social and political world created and controlled by autonomous communities. Therefore, stories of encounter cannot be told from one perspective. Both sides worked to create a new world for themselves as they competed for power and dominance within the exchange networks of the inland trade.

Smith's anthropological writings demonstrate important insights into Indigenous ways of being and understanding. As indicated by the works discussed above, reading this encounter narrative from an Indigenous perspective reveals that from the first point of contact with Europeans, the Monacans actively sought to defend their territory — their world — against the looming threat of colonial encroachment. When interpreted from an Indigenous perspective, this account shows how the English were subsumed into a political and social world in which power and control over land and its resources was an ongoing battle among tribes. Amoroleck's worldview as documented by Smith reveals the self-representation of Indigenous people as political and diplomatic actors in the age of exploration.

To interpret this source from an Indigenous perspective, Amoroleck's actions and words to Smith must be interpreted as a medium through which he and his people strived to declare their place in the world. To recapture the voices of early American Indigenous peoples, Lisa Brooks brilliantly exposes Indigenous perspectives by utilizing their modes of communication, both to Europeans and among one another. By recovering various forms of Abenaki *awikhigan*, a form of Indigenous writing, Brooks shows how these Algonquian-speaking peoples of the Native northeast expressed and defined their space among Europeans. Indigenous peoples initially used the word *awikhigan* to describe “birch bark messages, maps and scrolls,” but the word later came to “encompass books

and letters.”²² Brooks showcases Indigenous worldmaking and moves our understanding of legitimate ways of communication as established through the written word beyond a perspective that upholds European voices. By restructuring the history of encounter towards a framework that places Indigenous peoples at the center of the narrative, Brooks legitimizes traditional forms of Indigenous source material for her audience, recovering Indigenous perspectives and articulations of their historical identity. As Brooks explains, painting, maps, scrolls, and even art were *awikhigan*.²³

According to Brooks, like many Indigenous languages, Abenaki revolves around activities until *awikhigan* has formed as a tool through which to interpret and map those actions and motivations. Brooks shows how the act of writing can then be used to map historical space and show how Indigenous peoples used writing to “reclaim lands and reconstruct communities.”²⁴ Therefore, the written word, although primarily a European medium of communication, is not distinct from *awikhigan*, but rather an adoption and adaptation of communicating consistent with Indigenous oral traditions.

I apply this method of interpretation to Smith’s account of Amoroleck. Smith and his crew were subsumed into an Indigenous controlled political and social world. When interpreting this ethnography, I treat Smith’s writings of the actions and words spoken to him by Indigenous people as a medium to reconstruct the Native space through which Smith was confronted. Even though this source was not written by an Indigenous person, the activity of writing down Amoroleck’s actions and words are not separate from the

²² Lisa Brooks, *The Common Pot: The Recovery of Native Space In the Northeast*, (Minneapolis: University of Minnesota Press, 2008), xxi.

²³ Brooks, *The Common Pot*, xxi.

²⁴ Brooks, *The Common Pot*, xxii.

actual actions and words performed and spoken by him. In other words, this account functions as a means through which we can understand how Indigenous peoples understood the world around them, and how they strived to articulate such understanding to outsiders. Through this, the historical actor of Amoroleck takes center stage, showing Smith's writings are as tool to contextualize Monacan space and Indigenous jurisdiction.

Source Material: Limits and Boundaries

Very little written source material concerning the Monacan people exists from the seventeenth century. Much of the evidence that does exist today is in the form of archaeological and bio-archaeological evidence, which has been used to show their town-based lifestyle, as well as to proclaim their larger social and political organization, and relationship to neighbouring tribes. No English colonist lived alongside the Monacan people, and thus no documentary evidence explicitly details their tributary system from the early seventeenth century period. Although I argue that much can be extracted from Smith's encounter with Amoroleck, I must acknowledge the issues and limitations of working with such minimal source material, and exactly what can be interpreted from such a source.

Although Smith recorded his conversation with Amoroleck, I must emphasize that Mosco, a native Algonquian speaker, translated this conversation from Siouan to English. Therefore, Smith's recollection of the encounter is but a translated account from a person whom the Monacan would have considered belonging to a group of rival Indigenous people. In fact, this account demonstrates the relationship between the Monacans and the Algonquian-speaking peoples of the coast showing Monacan reactions to English incursion. The Powhatans' reluctance to escort the English into Monacan territory,

coupled with the English hesitation to venture there without a Powhatan guide and interpreter, speaks volumes about the control and territorial boundaries between the Monacan and Powhatan tributaries. Amorolect and his people were defending their territory during the skirmish with Smith and his crew, which reflects their control over land and resources—after all, to defend land, one must first claim it.

This encounter took place in an area known as the Falls, what has been called a buffer zone between the Powhatans and the Monacans.²⁵ Smith recorded no towns in that zone. A longstanding presumption is that Powhatan and Monacan polities somehow determined that territory surrounding the Fall line as accessible to both groups, however, as Amorolect's actions and words indicate, the Monacan people would not have agreed with this notion in 1608. It is unclear whether Amorolect, speaking through Mosco, perceived Smith and his crew as in association with those groups of rival tributaries, although his words do indicate that he at least knew that they had originated from a different part of the world. Although neither of these points necessarily restricts the validity of Amorolect's claims, I must recognize the nature of his assertions and the extent to which this document reflects his relationship with Mosco as much as it reflects Monacan perceptions of and actions towards Europeans. In this respect, this paper is about the method of working with such limited source material in Indigenous history as much as it is about seventeenth century Monacan land claims.

The concepts of land ownership in early seventeenth-century English and Native American worldviews were fundamentally different. This document does not reflect the

²⁵ Hantman, *Monacan Millennium*, 40.

extent to which Smith understood Monacan notions with, and relationship to the land as a resource to be protected rather than a commodity to be exploited. However, what remains apparent is Smith's acknowledgement that the territory above the Fall line did indeed belong to the greater Monacan Nation, as depicted in his 1612 map of Virginia.

Therefore, a closer analysis of this encounter alongside Smith's Map will show how this source demonstrates not only a declaration of Monacan claims to territory, but also that such claims were recognized and understood as such by English colonists.

Indigenous Land Claims: A Definition

Historians focusing on the history of legal relations between Indigenous peoples and Europeans in the early seventeenth century consider such history in the context of dispossession and its connection to legal consequences under present-day law.²⁶ In Commonwealth countries such as Canada, Australia and New Zealand, one common claim of Indigenous peoples is the claim for the recognition of their rights to ownership and control over land.

Within common law systems a body of jurisprudence has developed regarding the recognition of Indigenous peoples' land rights, which is based upon evidence of historical patterns of use and occupancy. This movement developed through the legal systems of the Supreme Court of Canada and the High Court of Australia in the 1990s, and together, these jurisdictions have established a legal doctrine defined as Native or Aboriginal title. This doctrine supports the idea that the colonization of Indigenous peoples has not

²⁶ Shaunnagh Dorsett, 'Traditions: Tracing Legal History, Aboriginal/Indigenous Law (Australia/New Zealand)', in Markus D. Dubber, and Christopher Tomlins (eds), *The Oxford Handbook of Legal History*, (Oxford University Press, 2018).

destroyed Indigenous people's land rights, "as such have survived the colonial period."²⁷

Indigenous people's rights to their land derive from evidence of traditional occupation and Indigenous laws and customs relating to land ownership. In this right, Indigenous customs, which include Indigenous systems of land tenure, are title generating.

Therefore, the doctrine recognizes contemporary Indigenous land rights based on evidence of Indigenous historical land use and occupancy predating European invasion, protecting what remains of the "unique relationship to land of Indigenous peoples."²⁸

Such evidence includes traditional practices such as hunting, fishing, trapping, and ceremonial activities, including gathering and traveling locations.

Additionally, to prove the geographic extent of their land use, Indigenous communities around the world practice land use and occupancy mapping to assert their Indigenous rights and document the effects of potential resource extraction to their lands. The practice of mapping Indigenous land use to represent Indigenous knowledge and rights has been taking place throughout Canada since the early 1970s. This practice involves interviewing Indigenous community members and documenting their historical land use traditions on digital or paper maps. Researchers then compare their oral histories with potential or actual extractive projects. This process equips Indigenous communities to resist efforts by the state to force large-scale industrial development projects on the

²⁷ J r mie Gilbert, "Historical Indigenous Peoples' Land Claims: A Comparative and International Approach to the Common Law Doctrine On Indigenous Title," (*The International and Comparative Law Quarterly*, vol. 56, no. 3, 1 Jul. 2007), 585.

²⁸ Hope M. Babcock, "[This] I Know From My Grandfather: The Battle for Admissibility of Indigenous Oral History As Proof of Tribal Land Claims," (*American Indian Law Review*, vol. 37, no. 1, 2012), 27.

land of their traditional territories.²⁹ The practice of mapping Indigenous knowledge of land-use activities thus serves as a powerful resource to mobilize Indigenous sovereignty as they “demonstrate a community’s long-standing and enduring use of traditional territories and resources.”³⁰ Therefore, the maps are essential to re-imagine the landscape in accordance with Indigenous historical narratives. Examples of traditional land use include “travelling trails and waterways, camping, visiting trap-line cabins, hunting, trapping, fishing, plan gathering for medicine or food and other ceremonial activities.”³¹ However, while this mode of resistance and reconciliation acknowledges the rights of Indigenous peoples as existing prior to encounters with Europeans, the displacement of Indigenous peoples from their land and interruption of Indigenous ways of being connected to the land should not be understood as occurring in a distant and irrecoverable past.³²

The modes through which Indigenous peoples claim land rights today under the doctrine of Native or Aboriginal title, that is, by offering evidence of the central significance of their connection to the land through mapping traditional use and occupancy, were operating from their very first moments of encounter with Europeans. I

²⁹ Rachel Olsen, Jeffrey Hackett and Steven DeRoy, "Mapping the Digital Terrain: Towards Indigenous Geographic Information and Spatial Data Quality Indicators for Indigenous Knowledge and Traditional Land-Use Data Collection," (*Cartographic Journal*, vol. 53, no. 4, 1 Nov. 2016), 349.

³⁰ Olsen, et al., "Mapping the Digital Terrain," 349.

³¹ Tara L. Joly, Hereward Longley, Carmen Wells, Jenny Gerbrandt, "Ethnographic Refusal in Traditional Land Use Mapping: Consultation, Impact Assessment, and Sovereignty in the Athabasca Oil Sands Region," (*The Extractive Industries and Society*, Volume 5, Issue 2, 2018).

³² Esme G. Murdock, "Storied with Land: 'Transitional Justice' on Indigenous Lands," (*Journal of Global Ethics* 14, no. 2 2018), 233.

apply Aboriginal or Native title as a body of jurisprudence through which we might interpret Monacan claims to land to show how from the first point of contact Indigenous peoples were declaring their rights through defense of territory and a declaration of use and occupancy. Through this interpretation, I will show how the Monacans constructed legal claims that were understood by English colonists despite the differences regarding how each party related to the land. This interpretive method shows that the development of common law jurisprudence on Indigenous land rights can be traced back to the earliest moments of encounter, positioning seventeenth-century Indigenous responses to European incursion as foundational to contemporary legal doctrines of Indigenous land rights. By centering Indigenous voices within an analysis of this European encounter narrative, the way Monacans defended their land shows this moment of encounter as not an act of pure hostility, but rather a legal claim to territory.

Amoroleck's World: A Glimpse of Indigenous Law

In many Commonwealth countries, for a contemporary land claim to succeed, Indigenous plaintiffs must provide evidence of their maintenance of a “substantial connection to the land [that] is of ‘central significance’ to their distinct culture.” They must also establish that they have “engaged in traditional uses of the land.”³³ Amoroleck's claim to Smith demonstrates both elements. I will first discuss the way in which Amoroleck communicated through his actions and words his relationship to the land, and the central significance of that relationship, and how Smith acknowledged this in his 1612 map, *Virginia*. I will then break down how Amoroleck established this connection to the

³³ Babcock, “[This] I Know From My Grandfather”, 37.

culture of his people by declaring the ways in which they utilized the land. This will show how Amorolect's encounter with Smith, when interpreted from an Indigenous legal perspective, reveals evidence of Monacan legal claims and a declaration of Indigenous jurisdiction.

A connection to land is fundamental to Indigenous peoples; however, it is based on more than just land uses. Land is a means of cultural identity and security for the Indigenous and forms the basis for their entire worldview.³⁴ When Amorolect confessed the reason he and his compatriots attacked Smith and company, he established the significance of his defense of territory by referring to the land he was protecting as his "world."³⁵ Although the appearance of this word in Smith's writings is based on Mosco's translation of Amorolect's Siouan into English, the use of the term "world" is paramount to the centrality of Amorolect's connection to the land he was defending. One can only assume that the way Amorolect strived to explain his actions to Smith was more than simply a denotation of defense of land. Here, the use of the term 'world' indicates that Amorolect's connection to the land and his actions to defend it were centrally significant to his way of being. Furthermore, Smith's response to Amorolect by asking him "how many worlds he did know" demonstrates that Smith acknowledged the use of the word and strived to understand Amorolect through his own use of the term. Smith did not note the point at which he recollected these events in his journals, so it is unclear how many hours after the encounter he documented this conversation. However, even if he recounted this episode after a long time, his use of the term shows that he took careful

³⁴ Babcock, "[This] I Know From My Grandfather", 24.

³⁵ Smith, *The Complete Works of Captain John Smith*, 175.

note of the way Amoroleck explained his actions and the entire Indigenous jurisdiction he proceeded to communicate.

We asked him how many worlds he did know, he replied, he knew no more but that which was under the sky that covered him, which were the Powhatans, with the Monacans, and the Massawomeck, that were higher up in the mountains. This we asked him what was beyond the mountains, he answered the Sun: but of any thing else he knew nothing; because the woods were not burnt.³⁶

In this instance, Amoroleck was not only describing to Smith the different Indigenous tribes in the area, and their physical relation to one another, but he was also painting an entire Indigenous jurisdictional landscape of the Virginian interior in the minds of the colonists. This landscape formed the bases on his entire world, and crucially, he saw all three Indigenous groups as constituting one “world”, as everything beyond on the woods, he confessed, was unknown to him.

Amoroleck strived to communicate to Smith the different jurisdictional borderlines between different tribes in the region in relation to physical markers in the landscape. According to Amoroleck, the Monacan and Massawomeck resided higher in the mountain regions, however, both were a water borne people, with the Massawomeck closer to “[dwelling] upon a great water,” and the Monacans “in the hilly countries by small rivers.”³⁷ This is significant, as it demonstrates how Amoroleck differentiated

³⁶ Smith, *The Complete Works of Captain John Smith*, 176. The Massawomeck are a group of Iroquois Indigenous people who resided in what is today Maryland, West Virginia, and parts of Pennsylvania. For more on the Massawomeck see James F. Pendergast, *The Massawomeck: Raiders and Traders Into the Chesapeake Bay In the Seventeenth Century*, (Philadelphia: American Philosophical Society), 1991.

³⁷ Smith, *The Complete Works of Captain John Smith*, 176.

between tribes in relation to the changes in the landscape, and the types of water bodies they resided upon.

Europeans and Indigenous peoples thought of territory differently. Although Indigenous peoples did not think of land in terms of property ownership, Amorolect's description of the different regional zones associated with different tribes demonstrates an understanding of the political centers that existed between tribes. The Monacans centered upon the river, whereas the Massawomeck resided upon "a great water." The way land was used to identify different Indigenous groups in the region shows that there was, at least in the mind of Amorolect, an acceptance of the different regional zones and Indigenous polities. Smith's *Virginia* offers evidence that he recognized Amorolect's claim and took it at face value. Smith charted the Indigenous groups relayed to him by Amorolect, marking Monacan territory in the region around the Rappahannock River. Additionally, his map also shows the Massawomeck as residing alongside a large body of water, which might indicate modern-day Lake Erie, confirming Amorolect's testimony of the neighboring tribes.³⁸

We must keep in mind that this conversation was filtered through Mosco, as he translated Amorolect's proclamation. Mosco's translation stands as confirmation for Amorolect's understanding of the political relationships between interior Indigenous polities, as at no point in the record does Smith note Mosco's denial of Amorolect's statement. Additionally, Mosco's initial hostility towards Amorolect also provides evidence of the political relationships between Indigenous tributaries, as the two

³⁸ Smith, *The Complete Works of Captain John Smith*, 134, 135.

belonged to opposing tribes. The actions of each of these Indigenous men must also be considered alongside Amoroleck's conversation with Smith, as the events leading up to this encounter reveal additional details into the jurisdictional realities of the Virginian interior.

The Fall line on the Rappahannock River represented the boundary between Algonquian (Powhatan) and Siouan (Monacan) speaking peoples. This is shown in the Powhatans warning to the English not to travel up the Rappahannock, knowing they would eventually encounter the Monacan people. Mosco, who after encountering Smith and his crew traveling up the river reiterated chief Powhatan's injunction, further supported this apprehension. Amoroleck's presence in the region, and his initial actions towards Mosco and the English, shows that the Monacans also considered that part of the region to be under their own jurisdictional bounds.

While the formal legal concept of Aboriginal or Native title emerged much later, Amoroleck's defense of the Virginian interior can be seen as an early articulation of Indigenous territorial sovereignty. His depiction of the land reflects not only jurisdictional boundaries between tribes but also the centrality of this territory to Indigenous life and identity. In this way, Amoroleck's actions align with the principles that would later underpin Aboriginal title, as he defended not just Monacan land, but an entire Indigenous jurisdictional world from European encroachment.

Traditional Land Use: An Assertion of Monacan Sovereignty

Amoroleck further established his claim to territory by explaining to Smith how his people engaged with the land. As mentioned, under the laws of many nations, one of the

primary modes through which Indigenous peoples lay claim to ancestral territory is by demonstrating a community's long-standing use of traditional territories and resources. What constitutes traditional land-use activities includes hunting, fishing, and trapping, gathering and traveling locations.³⁹ Furthermore, traditional land use activities include not only the physical and material act of harvesting, but also "the social, cultural, and economic wellbeing that accompanies those activities."⁴⁰

According to Smith's journals, Amoroleck revealed that the Monacans occupied the territory in the hills, "living upon roots and fruit, but chiefly by hunting." Additionally, Smith noted that Amoroleck confessed that prior to encountering the English on the Rappahannock, he and his people were fishing in the river, having separated from three of their "Kings, Stegora, Tauxuntania and Shakahonea" who were travelling to "Mohaskahod", which Smith noted was "only a hunting town," situated between "the Kingdom of the Monahoacs and the Nandtaughtacunds." Amoroleck explained that "their Kings were gone everyone a several ways with their men on hunting" but that he, their kings, and all who "came thither a fishing" would be "altogether at night at Mahaskahod."⁴¹

This explanation is significant for two reasons. First, although Smith's records do not indicate the exact question that prompted Amoroleck to explain the whereabouts of his leaders, or "kings," and what they were doing prior to running into Smith and his crew, Amoroleck was explicit in explaining that just before his people spotted the English

³⁹ Olsen, "Mapping the Digital Terrain", 349.

⁴⁰ Joly, "Ethnographic Refusal", 335.

⁴¹ Smith, *The Complete Works of Captain John Smith*, 174-176.

on the Rappahonnock, they were fishing in the river. Therefore, just before the Monacan ambushed Smith and his company by launching an attack from the trees along the banks of the river, they were utilizing the land in a traditional way. This explanation, when interpreted from the perspective of Native or Aboriginal title, redefines Amoroleck's actions towards Smith as a defense of territory, as they were engaging with the land in a way that established their claim to it. By fishing in the river, and subsequently engaging in warfare upon spotting outsiders intruding up the river, the Monacan were mobilizing Indigenous sovereignty within a region they considered to be a part of their jurisdiction. Hantman notes that Amoroleck and his men were fishing and hunting in a region they regarded as the eastern boundary of their territory, and their engagement in traditional hunting and fishing practices reinforces this territorial claim.⁴²

The second important point in this portion of the narrative is the acknowledgment of the Monacan hunting camp, Mohaskahod. Smith described the territory as “only a hunting town” in the document, which reads as though he figured the town to be unimportant, perhaps since no people lived there, as it was to him, merely a part of the land used for hunting.⁴³ However, Amoroleck explained that after finishing their fishing for the day, he and his companions intended to meet the three kings at Mohaskahod. This suggests that the town held central importance to the Monacans, as both Amoroleck and

⁴² Hantman, *Monacan Millennium*, 41. Hantman states that the Powhatan may have disagreed with this sentiment, as the area near The Falls was considered a “buffer zone” between tribes. However, its clear from Monacan engagement with the land in that region, and Powhatan warning to the English not to travel up the river, the area was either contested territory, or both parties recognized the area as belonging to the Monacans, even if the Powhatan reluctantly recognized it as such.

⁴³ Smith does not indicate this point, this is merely my own speculation based on the term “only”.

his fishing party, as well as the three kings and their hunting group, had arranged to meet there at night. Again, it is unclear what prompted Amoroleck to relay this particular piece of information regarding the hunting party and their plans to gather at Mohaskahod to Smith. However, what remains significant is Amoroleck's declaration of traditional land use in the region—specifically hunting practices—in direct response to European incursion. Although Smith downplayed the significance of the hunting camp by referring to it as 'only' a hunting town in his account, he acknowledged its importance by including it on his 1612 map of Virginia, marking it within Monacan jurisdictional boundaries.⁴⁴

For many Indigenous communities across North America, hunting camps are considered homes. They are places where ancestral histories are told, and gender roles are taught and fortified, in addition to places where hunting activities are conducted.⁴⁵ In the early nineteenth century, Smithsonian anthropologists David Ives Bushnell (1875-1941) conducted fieldwork on the archaeology of the Monacans and published several scholarly articles on his original work. In his article, “The Native Tribes of Virginia” (1922), Bushnell described the ways Virginian Indigenous peoples, that is those of the three linguistic families, Algonquian, Iroquoian, and Siouan, lived in accordance with the seasons, which influenced what they ate throughout the year. According to Bushnell, Virginian Indians “did not remain in their more permanent villages the entire year, but only during certain seasons... as was the custom throughout the land.”⁴⁶ Quoting an

⁴⁴ Smith, *The Complete Works of Captain John Smith*, 134, 135.

⁴⁵ Thomas McIlwraith, “A Camp is a Home and Other Reasons Why Indigenous Hunting Camps Can't Be Moved Out of the Way of Resource Developments,” *The Northern Review*, vol.36, 2, (2012), 97.

⁴⁶ David I. Bushnell, “The Native Tribes of Virginia,” *The Virginia Magazine of History and Biography*, Vol. 30, No. 2 (Apr., 1922), 125.

account, he described as “quaintly” by an author unknown, Bushnell explains the hunting practices of the people of the Virginian interior as they occurred every summer into the fall season. The account goes on to explain that

In times of their huntings, they leave their habitations and gather themselves into companies and go to the desert places with their families, where they pass the time with hunting and fowling up towards the mountains, the heads of their rivers, where in deed there is plenty of game. Their hunting houses are not so labored, substantial, nor artificial as the other.⁴⁷

When considered alongside Amoroleck’s reference to what Smith called a “hunting town,” the significance of the hunting camp for the Monacan people becomes more apparent. For Amoroleck and his people, the town of Mohaskahod was not only a place where hunting was practiced, but functioned as an important meeting point after the hunt was commenced. Considering this ethnographical passage, the hunting camp also functioned as an extension of their larger village, a second home to retreat to during the hunting season. The fact that both the hunt, and the space for which the men gathered post hunt are present in Amoroleck’s claim reveals important ways of being for the Monacan people and shows Amoroleck as communicating Monacan jurisdiction through the practice of hunting in relation to the physical space for which traditional land use was associated. In this instance we see Amoroleck reconstituting his dominance and authority in the minds of his captors through a declaration of traditional land use by extending the representation of space to incorporate symbolic, emotive, and economic values attributed to traditional lands.⁴⁸

⁴⁷ Bushnell, “The Native Tribes of Virginia,” 125.

⁴⁸ Rachel Olson, Jeffrey Hackett and Steven DeRoy, "Mapping the Digital Terrain: Towards Indigenous Geographic Information and Spatial Data Quality Indicators for

When Amoroleck confessed to Smith his lack of knowledge regarding the territory beyond the mountains, as the “woods were not burnt,” he was not only establishing a boundary line between Indigenous territory and everything beyond, but he was also fortifying his claim to the land through the recognition of another form of traditional land use.⁴⁹ There is ample evidence in the historical record as well as through archaeological reports that Indigenous peoples throughout Virginia practiced land management through burning. Indigenous peoples across North America used fire extensively for a variety of reasons, and its presence or absence had a strong influence on the landscape. In Virginia, archaeological evidence suggests that vigorous re-sprouting after Indigenous burning enhanced the dominance of chestnut and oak trees in the Appalachian forests.⁵⁰ Indigenous peoples of the Virginian interior used fire on the land to fulfill four purposes: agriculture, hunting, range management, and long-distance signaling for travel.⁵¹

All of Virginia’s Indigenous peoples engaged in agricultural production, primarily of corn, beans and squash. Land was cleared for farming through felling, girdling, and firing the base of trees, and then using fire to minimize and slash the stumps. Slash-and-burn agriculture was also practiced in response to soil productivity depletion over time, as

Indigenous Knowledge and Traditional Land-Use Data Collection," *Cartographic Journal*, vol. 53, no. 4, (Nov. 2016), 349.

⁴⁹ Smith, *The Complete Works of Captain John Smith*, 176.

⁵⁰ R.W. Kimmerer, F.K. Lake, “The Role of Indigenous Burning in Land Management”, *Journal of Forestry*, Volume 99, Issue 11, November 2001, 37. Also see M. Abrams, “Fire and the development of oak forests”, *BioScience* 42:346–53 1992, and H.R. Delcourt, and P.A. Delcourt, “PreColumbian Native American use of fire on southern Appalachian landscapes. Conservation Biology” *Conservation Biology*, 11: 1010–14, 1997.

⁵¹ Olson, "Mapping the Digital Terrain", 37.

Indigenous communities did not use fertilizers. Therefore, new land had to be cleared for agricultural use.⁵² Indigenous peoples also used fire extensively for organized hunts. Coming together in “commonly two or three hundreds” villagers would ignite the forest leaf litter in the form of a circle, driving game into the center where they would be trapped, and could easily be killed. Another way of doing this was by lighting a line of forest across a section of land at the base of a river or lake. Deer were inevitably forced into the water, cornered off by the fire, upon which hunters would attack in canoes.⁵³

Fire surrounds were often organized in autumn because at that time leaf litter was abundant, and there were limited ladder fuels to turn a surface burn into a blazing canopy fire. Hunters set ablaze areas of the land where the presence of game was known to be plentiful. Additionally, fire surrounds had a “self-reinforcing effect” for increasing the presence of future game, as the under-burning in turn multiplied the quantity of deer browse, thereby attracting new deer herds to scorched areas.⁵⁴ Therefore, Indigenous peoples could use fire to hunt, attract, and keep new populations of deer concentrated on certain parts of their territories. Consequently, in addition to agriculture and hunting, fire was an important element for Indigenous peoples in maintaining areas as rangeland.

In 1613, Henry Spelman reported seeing areas along the Virginian coast of fire-maintained rangeland, in comparison to other parts of the land where “the country is full of wood.”⁵⁵ Describing a Powhatan village, he noted “marsh ground, and small fields for

⁵² Hutch Brown, “Wildland Burning by American Indians in Virginia,” *Fire Management Today* 60, no. 3 (Summer 2000), 30.

⁵³ Brown, “Wildland Burning,” 32, William Strachey, *The history of travel into Virginia Britannia*, 1612.

⁵⁴ Brown, “Wildland Burning,” 32.

⁵⁵ Edward Wright Haile, *Jamestown Narratives: Eyewitness Accounts of the Virginia Colony: The First Decade, 1607-1617* (Champlain, Va: RoundHouse, 1998), 481.

corn, and other grounds where their deer, goats, and stags feed.”⁵⁶ Smith’s writings also reflect the use of fire for land range management, as he described one such area where “all the woods for many an hundred mile for the most part grow slight.”⁵⁷ Consistent burning would have been required to maintain such fire-stunted woodland.⁵⁸

Since woodland maintenance was so closely connected to future hunting success, Indigenous groups often claimed and defended the areas they burned.⁵⁹ When Amoroleck stated that he did not know what resided beyond the mountains because the trees were not scorched, he was essentially implying that no one lived there. Therefore, according to Amoroleck, the jurisdictional bounds of the Monacan, in addition to other tribes in the area, corresponded to the act of setting the land on fire. Since the “trees were not burned,” this indicated a lack of Indigenous activity, as all the tribes in the Virginian interior incorporated the use of fire within their traditional land use. Subsequently, if the absence of fire to the earth indicated the absence of Indigenous inhabitants, and thus, a boundary marking the limits of Indigenous territory, then the presence of fire marked the beginning, or rather, established the bounds of Indigenous jurisdiction. Here, Amoroleck not only proclaimed to Smith the boundaries of Monacan territory, but he also laid claim to the land, all of which demonstrated the evidence of traditional land use through fire. In other words, by indicating the portions of land that showed no sign of having been

⁵⁶ Haile, *Jamestown Narratives*, 481.

⁵⁷ Smith, John, et al., *Travels and Works of Captain John Smith*. A new ed., with a biographical and critical introduction by A. G. Bradley ... ed. J. Grant, (1910), 984

⁵⁸ Brown, “Wildland Burning”, 34.

⁵⁹ Brown, “Wildland Burning”, 34.

ignited, Amoroleck's testimony brings Indigenous fire use to the forefront as a traditional land use asserting Indigenous jurisdiction.

Conclusion: Mapping the Indigenous Terrain

The image painted by Amoroleck through his conversation with Smith serves as the most enduring image of the Monacan landscape. As stated, Smith relied on the information Amoroleck gave him to fill in the western portion of his 1612 map of Virginia, a part of which he acknowledged was given to him "by relation only."⁶⁰ On his map, Smith chose to include all of the Indigenous place names in transliterated Algonquian, in accordance with the manner in which he saw them, and how Amoroleck recounted the landscape to him. In and of itself, Smith's 1612 map serves as evidence that he recognized the Virginian interior to be under Indigenous jurisdiction. His accurate portrayal of the landscape in accordance with historical and archeological evidence proves his acceptance and acknowledgment of not only Indigenous presence in the area, but that he recognized the land to be under their governance and authority.

Later archeological evidence showed that indeed, only three Indigenous groups inhabited the area of the Virginian coastal plain and piedmont, that being the Powhatan, Monacan, and Massawomeck.⁶¹ Additionally, archeologists have proven the remnants of Monacan towns in areas marked on Smith's *Virginia*, which he designated as Monacan territory, including their capital of Rassawek.⁶² Smith also accurately marked the hunting

⁶⁰ Hantman, *Monacan Millennium*, 41.

⁶¹ Bushnell, "The Native Tribes of Virginia," 125.

⁶² Smith, *The Complete Works of Captain John Smith*, 134, 135. Hantman, *Monacan Millennium*, 84.

camp of Mohaskahod on his map, as described to him by Amoroleck, demonstrating his acknowledgment of its existence, despite the town being occupied only seasonally.

Ultimately, this shows Smith as understanding Amoroleck's testimony and description of the Virginian interior to the point at which he was able to apply this Indigenous knowledge and map out the jurisdictional landscape. In essence, Smith can be understood as having performed Indigenous land use mapping comparable to contemporary land use mapping practices used to assert Indigenous land claims.

Amoroleck's testimony, considering contemporary Indigenous jurisprudence, shows his actions and words as establishing a claim to land. Amoroleck was not only defending territory when he encountered Smith and Co. on the Rappahannock, but he was protecting his "world" from being taken by outsiders, those he considered to be foreigners to the territory he understood to be his own. Not only does his use of the term "world" indicate a sense of central significance to the land, but his actions to protect the land by attacking the English on the Rappahannock river also shows Amoroleck as proclaiming the land to be of central significance to him. The centrality of the land to Indigenous peoples is based on more than simply potential land uses. Land provides tribes a cultural identity and security that is needed to survive. Amoroleck's recognition of each tribe in accordance with the changing landscape shows evidence of this, in addition to his testimony of their traditional land usage. This central relationship dictates accepted practices on the land and renders a strong duty to protect that land.⁶³

⁶³ Babcock, "[This] I Know From My Grandfather", 25.

The methods that Indigenous peoples establish land claims today are made in accordance with their relationship to the land. Amoroleck's claim shows that he recognized the territory near the Fall line to be under his people's jurisdiction, demonstrating how these early interactions laid the foundation for contemporary legal battles. Just as Indigenous communities continue to assert their rights to ancestral territories, Amoroleck's defense of his world in 1608 reminds us of the enduring nature of these claims.

Commonwealth courts in countries such as Canada and Australia have ruled that Indigenous land rights are "grounded in their pre-existing customary laws, which have survived colonialism."⁶⁴ The encounter between Amoroleck and Smith demonstrates how Indigenous peoples have historically asserted the central significance of their land and declared traditional land-use activities as a way of laying claim to their territories from the first moment of contact with Europeans. Amoroleck's claim illustrates the process through which Native or Aboriginal title is generated, reflecting the innate nature of seventeenth-century Indigenous responses to European incursion. The Monacans' actions toward the English were legally driven, as they sought to defend their territory, highlighting the Monacan people's self-representation as political and diplomatic actors in the age of exploration, a role they have always fulfilled and continue to uphold today.

⁶⁴ Babcock, "[This] I Know From My Grandfather", 27.

Bibliography

Primary Sources:

Smith, John, Philip L. Barbour and Institute of Early American History and Culture. *The Complete Works of Captain John Smith (1580-1631)*. Chapel Hill: University of North Carolina Press, 1986.

Smith, John, et al., *Travels and Works of Captain John Smith. A new ed., with a biographical and critical introduction by A. G. Bradley ... ed. J. Grant, (1910)*.

Strachey, William, Richard Henry Major. *The Historie of Travaile Into Virginia Britannia: Expressing the Cosmographie and Comditti of the Country, Together With the Manners and Customes of the People*. Edited by Major, Richard Henry. Cambridge: Cambridge University Press, 2011.

Secondary Sources:

Abrams, M. "Fire and the development of oak forests", *BioScience* 42:346–53 1992.

Babcock, Hope M. "[This] I Know From My Grandfather: The Battle for Admissibility of Indigenous Oral History As Proof of Tribal Land Claims." *American Indian Law Review*, vol. 37, no. 1, 2012.

Benton, Lauren. *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900*. New York: Cambridge University Press, 2010.

Brooks, Lisa. *The Common Pot: The Recovery of Native Space in the Northeast*. Minneapolis: University of Minnesota Press, 2008.

Brown, Brown. "Wildland Burning by American Indians in Virginia." *Fire Management Today* 60, no. 3, 2000.

Bushnell, David I. "The Native Tribes of Virginia," *The Virginia Magazine of History and Biography*. Vol. 30, No. 2, Apr., 1922.

Cook, Samuel R. *Monacans and Miners: Native American and Coal Mining Communities in Appalachia*. Lincoln: University of Nebraska Press, 2000.

Delcourt, H.R. and P.A. Delcourt. "PreColumbian Native American use of fire on southern Appalachian landscapes." *Conservation Biology*, 11: 1010–14, 1997.

Dorsett, Shannagh. 'Traditions: Tracing Legal History, Aboriginal/Indigenous Law (Australia/New Zealand)', in Markus D. Dubber, and Christopher Tomlins (eds). *The Oxford Handbook of Legal History*, Oxford University Press, 2018.

Elden, Stuart. *The Birth of Territory*. Chicago: University of Chicago Press, 2013.

Fitzmaurice, Andrew. "Powhatan Legal Claims," in Saliha Belmessous, ed., *Native Claims: Indigenous Law against Empire, 1500–1920*. Oxford University Press, 2011.

- Gilbert, Jérémie. "Historical Indigenous Peoples' Land Claims: A Comparative and International Approach to the Common Law Doctrine on Indigenous Title." *The International and Comparative Law Quarterly*, vol. 56, no. 3, 1 Jul. 2007.
- Greer, Allan. *Property and Dispossession: Natives, Empires and Land in Early Modern North America*. New York: Cambridge University Press, 2018.
- Haile, Edward Wright. *Jamestown Narratives: Eyewitness Accounts of the Virginia Colony: The First Decade, 1607-1617*. Champlain, Va: RoundHouse, 1998.
- Hantman, Jeffrey. *Monacan Millennium: A Collaborative Archaeology and History of a Virginia Indian People*. Charlottesville: University of Virginia Press, 2018.
- Kimmerer, R.W., F.K. Lake. "The Role of Indigenous Burning in Land Management." *Journal of Forestry*, Volume 99, Issue 11, November 2001.
- McIlwraith, Thomas. "A Camp is a Home and Other Reasons Why Indigenous Hunting Camps Can't Be Moved Out of the Way of Resource Developments." *The Northern Review*, vol.36, 2, 2012.
- Olsen, Rachel, Jeffrey Hackett and Steven DeRoy, "Mapping the Digital Terrain: Towards Indigenous Geographic Information and Spatial Data Quality Indicators for Indigenous Knowledge and Traditional Land-Use Data Collection." *Cartographic Journal*, vol. 53, no. 4, 1 Nov. 2016.
- Virginia Mercury, March 16, 2022, (accessed on April 19, 2022).
- White, Richard. *The Middle Ground: Indians, Empires, and Republics In the Great Lakes Region, 1650-1815*. Second ed., Cambridge University Press, 2011.
- Witgen, Michael. *An Infinity of Nations: How the Native New World Shaped Early North America*. University of Pennsylvania Press, 2012.