

Toward a Paradigm Change for Mother Earth

Understanding the Empire Domination Model of Christianity: A Way of Liberation

Steven Newcomb Delivers Keynote on Original Free Nations and Peoples
Spotlight of Indigenous Peoples Plenary, 8,000 People Attending
2015 Parliament of the World's Religions, 19 Oct 2015



[MP3 Recording](#) (08:43, 7.4 MB)

The idea patterns of domination and so-called Christian Discovery have been incorporated into U.S. federal Indian law, where they remain to this day. Those ideas are traced to Vatican documents called papal bulls of the fifteenth century and to royal charters of England which declared the right of Christian people to discover the lands of heathens and infidels and to assume a right of domination or subjugation against the nations and peoples of those places, “which before this time have been unknown to all Christian people.” In 1823, Chief Justice John Marshall, on behalf of the United States Supreme Court, wrote that doctrine of Christian discovery and domination into U.S. case law, where it remains to this day.

Kishelēmienk,
mili onkùntēwakàn,
milaok onkùntēwakàn,
wēli nipali,
wēli nipalaok.
Wanìshi, Kishelēmienk.

Translation:
Oh, the one who created us by your thoughts,
give me blessings,
give them blessings,
stand me up tall and true,
stand them up tall and true.
Thank you, One who created us by your thoughts.[1]

Water is Life. Good Morning.

I want to begin by paying my respects to the Original Nations on whose territory this building now stands. I want to acknowledge the ancestors who have loved the land through ceremonial conduct and prayers, based on their insight about the need for sacred relations with Mother Earth, with pristine Waters, and with Life in all its forms and manifestations. I want to acknowledge the original free and independent existence of our Nations and Peoples extending back to the beginning of time through our oral histories and our oral traditions.

Yesterday I listened with interest to the plenary session on climate change. It occurred to me that working on climate change without working on Paradigm Change would be a grave mistake. We need a mental and behavioral shift away from the prevailing paradigm of domination, dehumanization, and greed, the symptoms of which are everywhere on planet Earth, our Mother.

More than five centuries ago, various popes in Rome, on behalf of Christendom, unleashed the paradigm I'm talking about. It may surprise you to learn that the Empire Domination Model of Christianity was woven by jurists into the laws and policies of the United States, and into the laws and policies of many other countries, such as Canada, Australia, and New Zealand. That hidden code of Christian Empire has worked for more than five centuries toward the dissolution of our Original Nations and Peoples here on Great Turtle Island and Abya Yala to the south.

The idea patterns of domination and so-called Christian Discovery have been incorporated into U.S. federal Indian law, where they remain to this day. Those ideas are traced to Vatican documents called papal bulls of the fifteenth century[2] and to royal charters of England which declared the right of Christian people to discover the lands of heathens and infidels and to assume a right of domination or subjugation against the nations and peoples of those places, "which before this time have been unknown to all Christian people." In 1823, Chief Justice John Marshall, on behalf of the United States Supreme Court, wrote that doctrine of Christian discovery and domination into U.S. case law, where it remains to this day.[3]

We can trace the pattern back to 1452 and the papal bull *Dum Diversas*, issued by Pope Nicolas V to King Alphonse of Portugal. It instructed the King to go to the Western coast of Africa, and to non-Christian lands everywhere, and "to invade, capture, vanquish, subdue," "all Saracens, pagans, and other enemies of Christ," "to reduce their persons to perpetual slavery," and "to take away all their possessions and property." [4]

That was repeated in 1493 shortly after Cristóbal Colón sailed across the ocean to what is now called the Caribbean and claimed possession of our Original Lands on behalf of the Spanish Crown. Several Papal bulls or decrees of 1493, were issued by Pope Alexander VI, which called for the propagation of the Christian empire, *imperii Christiani* in Latin, and called for "barbarous nations"

to be reduced and subjected to the Catholic faith and Christian religion.[5]

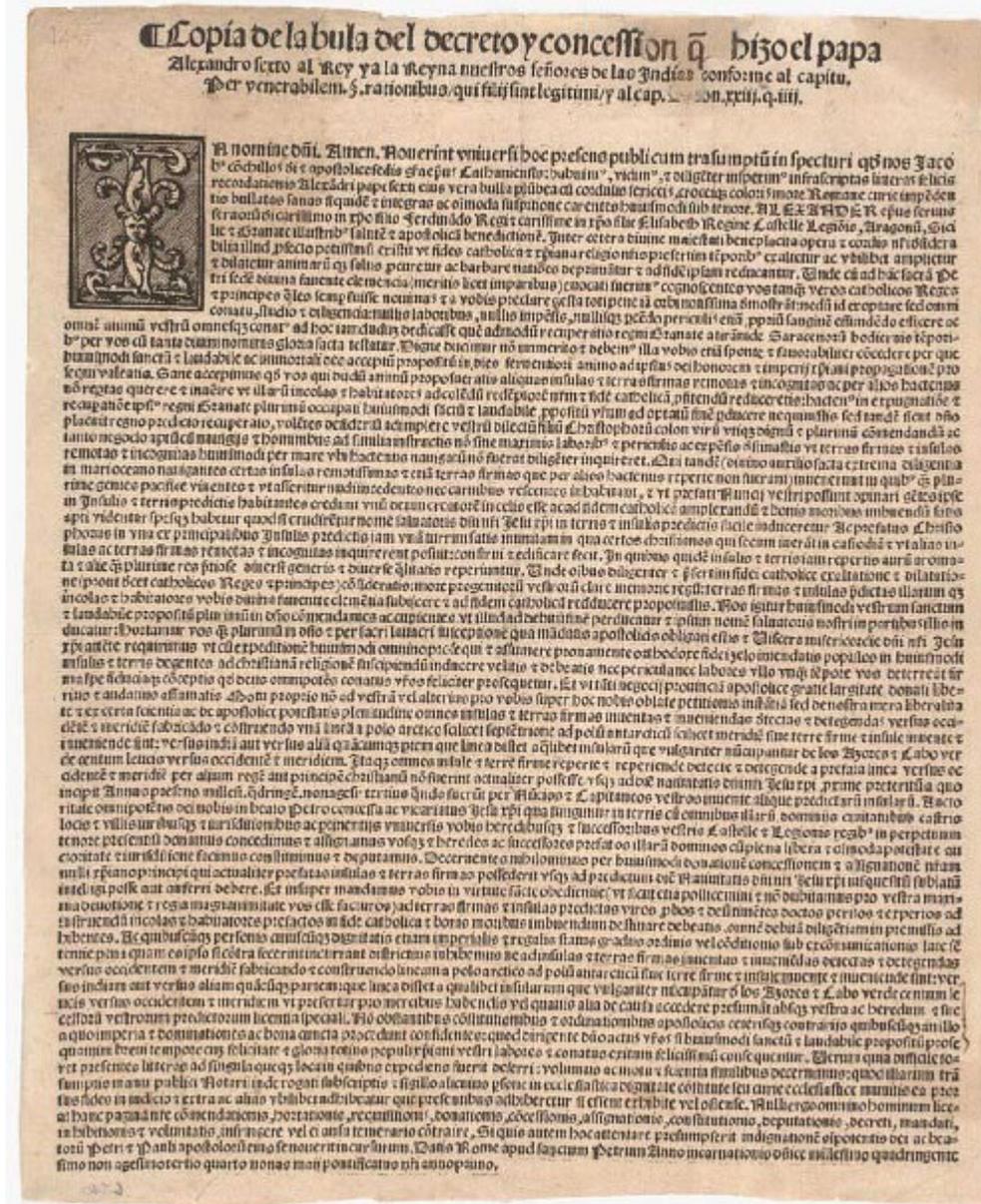


PHOTO: GILDER LEHRMAN COLLECTION

Copy of Pope Alexander VI's Demarcation Bull, May 4, 1493. Cristóbal Colón returned to Palos, Spain on March 15, 1493. Less than two months later Alexander VI issued the Bull *Inter Caetera*. The Bull stated that any land not inhabited by Christians could be “discovered,” claimed, and controlled by Christian rulers. This doctrine of Christian discovery laid the basis of all European claims to lands in the Western Hemisphere and authority to dominate and subjugate all Nations, Peoples, and Communities therein. In time this doctrine became the foundation of U.S. expansion and federal Indian law.

As an aside, on May 4, 2013, five hundred and twenty years to the day from the issuance of the papal bulls of May 1493, I and two friends of mine ([Dr. Debra Harry](#), of the Paiute Nation, and attorney [Sharon Venne](#), Cree nation) were given permission to see two of the original velum parchment papal documents at the General Archives of the Indies, in Seville, Spain. The Royal Secretary had made a notation on the back of one of them stating that the document was a

concession from Pope Alexander VI, “ganaran y conquistaron de las Indias.” In English, “To win and to conquer the Indies.” In other words, it was a concession to dominate.

Our documentary [The Doctrine of Discovery: Unmasking the Domination Code](#), based on my book [Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery](#), brings into focus the dehumanizing patterns premised on a claimed right of Christian discovery and domination over the lands of so-called infidels, heathens, pagans, and unbaptized peoples. It is a focus that we began more than twenty years ago, with the [Indigenous Law Institute](#).

My friend and mentor [Birgil Kills Straight](#) is a traditional headman and spiritual leader of the Oglala Lakota Nation. In 1992, he and I founded the Indigenous Law Institute and began our campaign against this pattern. [applause] In 1993, we attended the Parliament of the World’s Religions in Chicago. Birgil spoke about the Seven Spiritual Laws of the Oceti Sakowin, the Sacred Laws: compassion and respect, to share and to care and to give, bravery and courage, patience and fortitude, humility and humbleness, seeking wisdom and seeking understanding. And we also began to reveal to the world the pattern of which I’m speaking about today. That was during the time of Pope John Paul II. We spoke about the papal bulls and told the world community about our campaign to call upon Pope John Paul II to formally revoke the [Inter Caetera papal bull of May 4, 1493](#). Our campaign against the paradigm of domination and dehumanization, and its institutionalization in laws and policies, continues today with the papacy of Pope Francis.



May 4, 2016: six and a half months after giving this Keynote Address, Steven Newcomb called on Pope Francis in St. Peter’s Square to formally revoke the May 4, 1493 [Inter Caetera](#) papal bull. He is seen here giving the Pope a copy of his book, [Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery](#). The beginning of the book, from the Cover through page 15 [is accessible here](#).

Ladies and Gentlemen, I wish I had more time to go into detail. Given my time constraint, I will leave you with this: In 1954 the U.S. Justice Department delivered a legal brief to the U.S. Supreme Court in the case *Tee-Hit-Ton Indians v. United States*.^[6] The main argument of the Justice Department was that the Tee Hit Ton People in Alaska did not deserve monetary compensation for a taking of their timber because “the Christian nations of Europe had discovered the lands of heathens and infidels.” In 1955, the year I was born, the U.S. Supreme Court upheld that, citing Henry Wheaton’s *Elements of International Law*,^[7] which reference all the things I am talking about. Among the things Wheaton said was: “the heathen nations of the other quarters of the globe, were the lawful spoil and prey of their civilized conquerors”^[8] That pattern of Christian domination was upheld by the U.S. Supreme Court as recently as 2005, in the case *City of Sherrill v Oneida Indian Nation of New York*.^[9]

I want to conclude by saying that it is time for the Christians and the Churches that are doing so to stop lying about our ceremonies. They need to stop telling our young people and others that our ceremonies are satanic or the work of the devil. [growing applause] This is killing many our young people who, deprived of their cultural and spiritual identity, in the traumatic wake of the boarding schools and residential schools of domination,^[10] are ending their lives prematurely. [ongoing applause]

Additionally, the governments and the churches need to begin putting as much time, effort, energy, and money into assisting with the revitalization of our languages, cultures, and spiritual traditions as they put into attempting to destroy them and our Sacred Places to begin with. [rising applause] Our Original Nations don’t need reconciliation, we need decolonization! [rising applause] We and the planet need healing from the trauma brought on by ongoing and chronic patterns of domination and greed.

Thank you to all the Christian churches and Christians who have expressed support for our efforts. ^[11] We deeply appreciate it. We invite you to walk with us on the Sacred Path, in honor of the first principle of our Original Nations: “Respect the Earth as our Mother and have a Sacred Regard for All Living Things.” End the domination. All Our Relations. Wanishi. [spirited applause]

Notes

1. [↔] Invocation Prayer transcribed by Lenape language expert Jim Rementer.
2. [↔] A majority of these papal bull documents are included in a book called *European Treaties Bearing on the History of the United States and its Dependencies to 1648*, edited by Frances Gardiner Davenport, published in 1917 by the Carnegie Institution of Washington. Each papul bull is presented in both the original Latin followed by an English translation. The following list of relevant documents are included:

1. The Bull *Romanus Pontifex* (Nicholas V.), January 8, 1455
[Introduction](#), [Latin Text](#), [Translation](#)
2. The Bull *Inter Caetera* (Calixtus III), March 13, 1456
[Introduction](#), [Latin Text](#), [Translation](#)
4. The Bull *Artemi Regis* (Sixtus IV.), June 21, 1481
[Introduction](#), [Latin Text](#), [Translation](#)
5. The Bull *Inter Caetera* (Alexander VI.), May 3, 1493
[Introduction](#), [Latin Text](#), [Translation](#)
6. The Bull *Eximiae Devotionis* (Alexander VI.), May 3, 1493
[Introduction](#), [Latin Text](#), [Translation](#)
7. The Bull *Inter Caetera* (Alexander VI.), May 4, 1493
[Introduction](#), [Latin Text](#), [Translation](#)
8. The Bull *Dudum Siquidem* (Alexander VI.), September 26, 1493
[Introduction](#), [Latin Text](#), [Translation](#)
9. Treaty between Spain and Portugal, concluded at Tordesillas, June 7, 1494
[Introduction](#), [Latin Text](#), [Translation](#)
11. The Bull *Ea Quae* (Julius II.), January 24, 1506
[Introduction](#), [Latin Text](#), [Translation](#)
12. The Bull *Praecelsae Devotionis* (Leo X.), November 3, 1514
[Introduction](#), [Latin Text](#), [Translation](#)

The book in its entirety is [available online at the Internet Archive](#) in multiple formats. An additional searchable PDF text copy of the beginning of the book (through page 117 plus the Index in the back) containing all the above is [available on ratical.org](#) (21.6 MB).

3. [[↔](#)] What 15th century European church and state termed the right of “discovery” was formally codified into U.S. federal law in the 1823 Supreme Court ruling, *Johnson & Graham’s Lessee v M’Intosh*. Regarding this “land mark” decision, the following summary excerpts of the case [**emphasis added**] highlight seminal foundations of U.S. federal Indian law. Original Library of Congress case representation is [here \(click PDF thumbnail at top\)](#). (Note: there are two spellings of this case: *Johnson v McIntosh* and *Johnson v M’Intosh*.)

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In the establishment of these relations, the rights of the original inhabitants were in no instance entirely disregarded, but were necessarily to a considerable extent impaired. [The Indians] were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but **their rights to complete sovereignty, as independent nations, were necessarily diminished**, and their power to dispose of the soil at their own will to whomsoever they pleased was denied by the original fundamental principle that **discovery gave exclusive title to those who made it**.

While the different nations of Europe respected the right of the natives as occupants, they asserted the ultimate dominion to be in themselves, and claimed and exercised, as a consequence of this ultimate dominion, a power to grant the soil while yet in possession of the natives. These grants have been understood by all to convey a title to the grantees, subject only to the Indian right of occupancy.

The history of America from its discovery to the present day proves, we think, the universal recognition of these principles....

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... The claim of the Dutch was always contested by the English—not because they questioned the title given by discovery, but because they insisted on being themselves the rightful claimants under that title. Their pretensions were finally decided by the sword.

No one of the powers of Europe gave its full assent to this principle more unequivocally than England. The documents upon this subject are ample and complete. **So early as the year 1496, her monarch granted a commission to the Cabots to discover countries then unknown to Christian people and to take possession of them in the name of the King of England. Two years afterwards, Cabot proceeded on this voyage and discovered the continent of North America, along which he sailed as far south as Virginia. To this discovery the English trace their title.**

In this first effort made by the English government to acquire territory on this continent we perceive a complete recognition of the principle which has been mentioned. *The right of discovery given by this commission is confined to countries “then unknown to all Christian people,” and of these countries Cabot was empowered to take possession in the name of the King of England. Thus asserting a right to take possession*

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notwithstanding the occupancy of the natives, who were heathens, and at the same time admitting the prior title of any Christian people who may have made a previous discovery.

The same principle continued to be recognized. **The charter granted to Sir Humphrey Gilbert in 1578 authorizes him to discover and take possession of such remote, heathen, and barbarous lands as were not actually possessed by any Christian prince or people.** This charter was afterwards renewed to Sir Walter Raleigh in nearly the same terms....

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... However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land and cannot be questioned.

With revealing effect, included [near the top](#) of the Justia Opinion Summary text is the following circular reasoning of present day western legal scholars reflecting the ongoing Christian Dominator worldview held by acolytes of and apologists for the pseudo sanctity of U.S. empire. All pretense of justification for the Empire Domination Model of Christianity rests in the fraudulent “right” of “discovery”, upon which European and then U.S. claims to and absolute control of the land of Original Nations and Peoples resides.

In an unanimous opinion, Marshall used historical analysis to find that only the government, rather than the Native American tribes, held title to the the land. He argued that the patterns

of discovery during the European colonization of the New World meant that each European nation gained sovereignty (and also title) over the land that it discovered. This trumped the right of occupancy of the Native American tribes, at least with regard to the specific colonizing power. In the situation of the U.S., this right belonged to the British when they first acquired colonies. The federal government then inherited the right from Great Britain after the American Revolution. Native Americans cannot sell their land except to the federal government.

See also: [“A Conversation with a Justice of the U.S. Supreme Court”](#) in which Steven Newcomb recounts a conversation he had with Supreme Court Associate Justice Antonin Scalia in 2011 at a reception following a talk Scalia gave at the University of San Diego School of Law on “Constitutional Originalism.” The conversation was bizarre on a number of counts, as expressed in the following excerpt:

After saying hello and telling him my name, I asked: “I wonder if you might have ever read my law review article [‘The Evidence of Christian Nationalism in Federal Indian Law.’](#)”

“No, what’s it about?” he responded.

I told him my article is about the U.S. Supreme Court ruling *Johnson v. M’Intosh* from 1823, a decision in which the Court said that the first “Christian people” to “discover” lands inhabited by “natives, who were heathens” have the right to assume the “ultimate dominion” over and title to the lands of the so-called “heathens.”

Given that *Johnson v. M’Intosh* was decided on the basis of the doctrine of discovery rather than the U.S. Constitution, I asked him how his guiding legal philosophy of “Constitutional Originalism” would relate to the *Johnson* decision. I asked him if the Court might ever consider overturning the decision.

Scalia said it was impossible to imagine an issuing ever coming up that would require the Court to address such a ruling; he also claimed in the same breath, however, that he had never heard of *Johnson v. McIntosh*. “I’ve never heard of it. I’ve never read it,” he said. He also said he’d never heard of the doctrine of discovery.

“Really?” I asked. “How could that be? The Court cited the doctrine of discovery just last Spring [2005] in *City of Sherrill v. Oneida Indian Nation of New York*, and [the Court cited the doctrine of discovery in footnote number 1.](#)”

Rather than respond to my question and comment, he shifted the focus of the conversation by saying that the United States has dealt with the issue of “natives” in a quite different way than, for example, Australia or New Zealand. He summed up by saying that U.S. courts have come up with a principle for dealing with American Indians, which he expressed as, “quote unquote, a right of conquest.”

“Oh, that’s quite interesting,” I said, “can you point me to any court rulings that have actually said that? His only response was, “No, I can’t.”

“Well,” I asked, “suppose that it is true that the *Johnson v. M’Intosh* ruling declared that the discovery by ‘Christian people,’ of lands inhabited by what Chief Justice Marshall referred to as ‘natives, who were heathens’—and that’s a direct quote—how can such a decision be justified as the supreme law of the land in the United States, given the presumption of a

separation of church and state, and given that the Christian religion is not to be preferred in U.S. law over other religions.”

To this, Justice Scalia replied without hesitation: “Then I’d say it’s no longer the law of the land if it ever was.” At this, I figured that I had taken enough of the justice’s time, told him “thank you,” shook his hand, and walked away.

I was struck by the gravity of what I had just heard and experienced. It was absolutely impossible for me to believe that, after twenty years of being seated on the U.S. Supreme Court, and dealing with a great many federal Indian law cases, Justice Scalia could have never heard of, and never read the *Johnson* ruling, a foundational Supreme Court decision in federal Indian law. I wondered how it could be that he had never heard of the doctrine of discovery.

What made the conversation all the more bizarre was that Justice Scalia, with a majority of the Supreme Court, cited the doctrine of discovery just sixteen months earlier, in the first footnote of *City of Sherrill v. Oneida Indian Nation of New York*. I wish now that I had asked him if he had ever read the other two rulings of the Marshall Trilogy, *Cherokee Nation* (1831) and *Worcester v. Georgia* (1832).

Sadly, Justice Scalia never responded to my letter apprising him of [doctrine of discovery](#) in [the first Chapter](#) of Justice Joseph Story’s *Commentaries* that Scalia cited during his talk, and telling him about the connection that Story made in his book between the doctrine of discovery, *Johnson v. M’Intosh*, and the [Vatican papal bull of 1493](#).

4. [↔] The Papal Bull *Dum Diversas* is dated 18 June 1452. From doctrineofdiscovery.org/dum-diversas/:

Pope Nicholas V issued the papal bull *Dum Diversas* on 18 June, 1452. It authorized Alfonso V of Portugal to reduce any “Saracens (Muslims) and pagans and any other unbelievers” to perpetual slavery. This facilitated the Portuguese slave trade from West Africa.

The same pope wrote the bull *Romanus Pontifex* on January 5, 1455 to the same Alfonso. As a follow-up to the *Dum Diversas*, it extended to the Catholic nations of Europe dominion over “discovered lands” during the Age of Discovery. Along with sanctifying the seizure of non-Christian lands, it encouraged the enslavement of native, non-Christian peoples in Africa and the New World:

“We [therefore] weighing all and singular the premises with due meditation, and noting that since we had formerly by other letters of ours granted among other things free and ample faculty to the aforesaid King Alfonso—to invade, search out, capture, vanquish, and subdue all Saracens and pagans whatsoever, and other enemies of Christ wheresoever placed, and the kingdoms, dukedoms, principalities, dominions, possessions, and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his and their use and profit—by having secured the said faculty, the said King Alfonso, or, by his authority, the aforesaid infante, justly and lawfully has acquired and possessed, and doth possess, these islands, lands, harbors, and seas, and they do of right belong and pertain to the said King Alfonso and his successors”.

5. [↔] The complete second sentence translation of the May 4, 1493 *Inter Caetera* Papal Bull reads: “Among other works well pleasing to the Divine Majesty and cherished of our heart, this assuredly ranks highest, that in our times especially the Catholic faith and the Christian religion be exalted and be everywhere increased and spread, that the health of souls be cared for and that barbarous nations be overthrown and brought to the faith itself.”
6. [↔] Steven Newcomb gave a presentation during the Indigenous Peoples Forum on the Doctrine of Discovery held at the Arizona State Capital House of Representatives on March 23, 2012 ([youtube](#), 27:07). Beginning at 15:17 he described some of the significance of *Tee-Hit-Ton Indians v United States*:

In 1954 there was a case that went before the US Supreme Court called *Tee-Hit-Ton Indians v United States*. The United States government created a legal brief for that case and I’m going to quote a couple of lines from that because I think it’s critical and it links to what Julie Fishel and [Professor Miller](#) have presented on the doctrine of discovery. Under the heading of Argument, the United States government wrote this:

Prior to the great era of discovery beginning in the latter part of the 15th century the Christian nations of Europe acquired jurisdiction over newly discovered lands by virtue of grants from the Popes, who claimed the power to grant to Christian monarchs the right to acquire territory in the possession of heathens and infidels. [Lindley, *The Acquisition and Government of Backward Territory in International Law* (1926), pp. 124-125.]

Now that’s direct language from the United States government to the U.S. Supreme Court in 1954. And it continues:

For example, in 1344, Clement VI had granted the Canary Islands to Louis of Spain [upon his promise to lead the islanders to the worship of Christ,] and, following the discovery of the new world by Columbus, Alexander VI in 1493 [and 1494] issued Bulls granting to Spain all lands not under Christian rule ... [The latter papal grant, because of the breaking down of the papal authority and the vastness of the territory covered, was not accepted by the other nations or even greatly relied upon by Spain, and] it was necessary for the civilized, Christian nations of Europe to develop a new principle which all could acknowledge as the law by which they should regulate, as between themselves, the right of [*14] acquisition of territory in the New World, which they had found to be inhabited by Indians who were heathens and uncivilized according to European standards. [Lawrence, *Principles of International Law* (7th ed., 1923), pp. 146-147; Lindley, *ibid.*, pp. 126-129.]

So they’re using the exact framework that we’re talking about here today in their method of argumentation and the Supreme Court actually ruled in favor of the United States position in that case.

The USG legal brief referred to above is:

Supreme Court of the United States.
THE TEE-HIT-TON INDIANS, An Identifiable Group of Alaska Indians, Petitioner,
 v.
THE UNITED STATES.

No. 43.

October Term, 1954.

September 21, 1954.

Additional text from the brief not expressly quoted is included in square braces. In the [PDF copy](#), the quotation itself begins on page 7, concluding on page 8.

The original Library of Congress case representation of *Tee-Hit-Ton Indians v. United States*, 348 U.S. 272 (1955) is [here \(click PDF thumbnail at top\)](#).

7. [↔] [Henry Wheaton](#) (1785-1848) was a U.S. Supreme Court reporter from 1816 to 1827 during the tenure of Chief Justice John Marshall (whose term spanned 1801 to 1835). The first edition of the book titled, *Elements of International Law: With a Sketch of the History of the Science*, was published in 1836. Three editions in full are available online at the Internet Archive:
- [Fifth English Edition](#) (1916)
 - [Sixth Edition](#) (1855)
 - [Eighth Edition](#) (1866)

Regarding the pretense for taking the land of Original Free Nations' Peoples as codified in *Johnson v M'Intosh* (*supra* note 3), the following is quoted from the [Sixth Edition](#) beginning on [page 219](#) into [page 220](#) (**emphasis added**):

The Spaniards and Portuguese took the lead among the nations of Europe, in the splendid maritime discoveries in the East and the West, during the fifteenth and sixteenth centuries. According to the European ideas of that age, the heathen nations of the other quarters of the globe were the lawful spoil and prey of their civilized conquerors, and as between the Christian powers themselves, the Sovereign Pontiff was the supreme arbiter of conflicting claims. Hence [the famous bull](#), issued by Pope Alexander VI., in 1493, by which he granted to the united crowns of Castile and Arragon all lands discovered, and to be discovered, beyond a line drawn from pole to pole, one hundred leagues west from the Azores, or Western Islands, under which Spain has since claimed to exclude all other European nations from the possession and use, not only of the lands but of the seas in the New World west of that line. Independent of this papal grant, the right of prior discovery was the foundation upon which the different European nations, by whom conquests and settlements were successively made on the American continent, rested their respective claims to appropriate its territory to the exclusive use of each nation. Even Spain did not found her pretension solely on the papal grant. Portugal asserted a title derived from discovery and conquest to a portion of South America ; taking' care to keep to the eastward of the line traced by the Pope, by which the globe seemed to be divided between these two great monarchies. On the other hand, Great Britain, France, and Holland, disregarded the pretended authority of the papal see, and pushed their discoveries, conquests, and settlements, both in the East and West Indies; until conflicting with the paramount claims of Spain and Portugal, they produced bloody and destructive wars between the different maritime powers of Europe. But there was one thing in which they all agreed, that of almost entirely disregarding the right of the native inhabitants of these regions. Thus the bull of Pope Alexander VI. reserved from the grant to Spain all lands, which had been previously occupied by any other *Christian* nation; and the [patent granted by Henry VII. of England to John Cabot and his sons](#), authorized them **“to seek out and discover all islands, regions, and provinces whatsoever, that may belong to heathens and infidels;”** and **“to subdue, occupy, and possess these territories, as his vassals and lieutenants.”** In the same manner, the grant from Queen Elizabeth to Sir Humphrey Gilbert empowers him to **“discover such remote heathen and barbarous lands,**

countries, and territories, not actually possessed by any Christian prince or people, and to hold, occupy, and enjoy the same, with all their commodities, jurisdictions, and royalties.” It thus became a maxim of policy and of law, that the right of the native Indians was subordinate to that of the first Christian discoverer, whose paramount claim excluded that of every other civilized nation, and gradually extinguished that of the natives. In the various wars, treaties, and negotiations, to which the conflicting pretensions of the different States of Christendom to territory on the American continents have given rise, the primitive title of the Indians has been entirely overlooked, or left to be disposed of by the States within whose limits they happened to fall, by the stipulations of the treaties between the different European powers. Their title has thus been almost entirely extinguished by force of arms, or by voluntary compact, as the progress of cultivation gradually compelled the savage tenant of the forest to yield to the superior power and skill of his civilized invader.

8. [↔] On 8 October 2015, writing in *Indianz.Com*, Steven Newcomb explained how “[Religious doctrine guides Indian law and policy](#)”:

On September 24, *The New York Times* reported that Pope Francis praised the United States for “devotion to freedom of liberty and religion.” Clearly, the pontiff does not know that it took until 1978 for Congress to pass the American Indian Religious Freedom Act. Such legislation was needed because of the legacy of the ancient Vatican papal bulls in U.S. law. That little known connection was made clear by Supreme Court Justice Joseph Story in his *Commentaries on the Constitution of the United States* (1833). Chapter One is titled, “[Origin and Title to the Territories of the Colonies](#).” There, Story drew a direct connection between the Latin version of a 1493 papal bull and the 1823 U.S. Supreme Court ruling *Johnson & Graham’s Lessee v. M’Intosh*.

Paraphrasing *Johnson v. M’Intosh*, Story wrote [[on page 7](#)]:

The Indians were a savage race, sunk in the depths of ignorance and heathenism. If they might not be extirpated for their want of religion and just morals, they might be reclaimed from their errors. They were bound to yield to the superior genius of Europe, and in exchanging their wild and debasing habits for civilization and Christianity they were deemed to gain more than an equivalent for every sacrifice and suffering. The Papal authority, too, was brought in aid of these great designs [for Christian colonization]; and for the purpose of overthrowing heathenism, and propagating the Catholic religion, Alexander the Sixth, by a Bull issued in 1493, granted to the crown of Castile the whole of the immense territory then discovered, or to be discovered, between the poles, so far as it was not possessed by any Christian prince.

Story then connected that papal language to “the right of discovery” expressed by his friend Chief Justice John Marshall in the Johnson ruling. To this day, the Johnson decision defines the original Indian land title of our nations as mere “occupancy” in U.S. law, subject to a claim of what Story called “absolute dominion” as “a right acquired by discovery.” In other words, the U.S. Supreme Court claimed that a “pretension” of Christian discovery of non-Christian lands resulted in the colonizers giving themselves a right of domination to and over the soil. The U.S. Justice Department made this very argument to the U.S. Supreme Court in 1954, in the case *Tee-Hit-Ton Indians v. United States*. In its 1955 decision in *Tee-Hit-Ton*

[[supra note 6](#)], the Supreme Court cited Henry Wheaton's *Elements of International Law* [[supra note 7](#)], "the heathen nations of the other quarters of the globe were the lawful spoil and prey of their civilized conquerors" (p. 219).

9. [[↔](#)] In the US Supreme Court case, *City of Sherrill v. Oneida Indian Nation* (2005), Justice Ruth Bader Ginsburg delivering the opinion, the notation "doctrine of discovery" is contained in [Footnote #1](#):

Under the "doctrine of discovery," *County of Oneida v. Oneida Indian Nation of N.Y.*, 470 U.S. 226, 234 (1985) (*Oneida II*), "fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign—first the discovering European nation and later the original States and the United States," *Oneida Indian Nation of N.Y. v. County of Oneida*, 414 U.S. 661, 667 (1974) (*Oneida I*). In the original 13 States, "fee title to Indian lands," or "the pre-emptive right to purchase from the Indians, was in the State." *Id.*, at 670; see *Oneida Indian Nation of N.Y. v. New York*, 860 F. 2d 1145, 1159-1167 (CA2 1988).

10. [[↔](#)] See Susan Devan Harness, "[The goal is to take away our kids, dismantle our cultures and traditions](#), Reflections on a life given, a life removed," *Indian Country Today*, 9 October 2018. In the conclusion she writes:

They are still trying to dismantle American Indian culture and traditions through the removal of our children. They have cunning arguments which, with their large and boisterous words and white privilege, carefully shadow the fact that they just aren't seeking our children, but ethnic annihilation. Through court cases, such as *Baby Veronica, A.D. vs Washburn*, and *Texas v. Zinke* powerful groups are working at a frantic pace to undo the Indian Child Welfare Act of 1978, which was put into place to stop the wholesale removal of children who were flying off the reservation by the early 1970s.

Recently, I spoke to a friend who follows these legal battles. 'Why do they want to undo ICWA,' I asked, perplexed because I don't believe any of those litigators care one whit about what happens to American Indian children or American Indian families. My friend replied, 'If they can get rid of ICWA, they can begin to work to disassemble all the laws and protections that have been put into place by American Indian treaty rights.'

The bottom line, economic interests want the land, and the resources beneath that land. They always have. They are hiring legal experts to take away our kids to achieve that goal, like they always have. I'm fighting to keep that from happening. And that fight starts with keeping our children.

See also [United States Settler Colonialism: Erasing Indigenous Identity – A Policy of Cultural Genocide](#).

11. [[↔](#)] See [Religious Communities who have Repudiated the Doctrine of Discovery at doctrineofdiscovery.org](#):
- o [Anglican Church of Canada](#)
 - o [Roman Catholic Organizations](#)
 - o [The Christian Church \(Disciples of Christ, US and Canada\)](#)
 - o [Episcopal Church \(US\)](#)
 - o [Friends General Conference](#)
 - o [Presbyterian Church \(US\)](#)
 - o [United Church of Christ](#)
 - o [United Church of Canada](#)

- [United Methodist Church](#)
- [Unitarian Universalist Associations of Congregations](#)
- [World Council of Churches](#)

Steven Newcomb (Shawnee-Lenape) is a legal scholar and advocate for Indigenous nations who has carried on a global campaign since 1992. That is when he and Birgil Kills Straight, a Traditional Headman and Elder of the Oglala Lakota Nation founded the [Indigenous Law Institute](#) and began challenging imperial Vatican documents from the fifteenth century. Those documents resulted in the decimation and domination of the Original Nations and Peoples of Mother Earth and thereby deprived the planet of life-ways, sustainable ecosystems, and Sacred Teachings. Newcomb's book *[Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery](#)* (Golden, CO: [Fulcrum Publishing, 2008](#)), provides a powerful context (read [the beginning of the book](#)) for the documentary film "[The Doctrine of Discovery: Unmasking the Domination Code](#)," Directed by Sheldon Wolfchild (Dakota), and Co-Produced by Newcomb. The movie also features Mr. Birgil Kills Straight discussing the Seven Sacred Laws of the Oceti Sakowin.