



Learning Circle

The Doctrine of Discovery

In order to understand the origin of some of the conflict in North America you need to know about the Doctrine of Discovery, which emerged during the [Age of Exploration](#). Here is a brief timeline taken from the Wikipedia website (https://en.wikipedia.org/wiki/Discovery_doctrine)

- June 18, 1452- Pope Nicholas V issued a papal bull *Dum Diversas*, authorizing King Alfonso of Portugal to conquer Muslim Saracens and non-Christian pagans and “reduce their persons to perpetual servitude” while also taking their land and goods “to convert them to you, and your use, and your successors the Kings of Portugal.” This authority was later extended to cover all territories Portugal claimed worldwide.
- May 4, 1493 - Pope Alexander VI issued the papal bull *Inter Caetera* that extended similar rights to Spain and Portugal in Africa and the Americas. Any indigenous nation that tried to defend itself was considered an enemy of God. This is the same document that included the ‘line of demarcation’ that divided the New World between Spain and Portugal.
- France and England use the Doctrine of Discovery to justify their claims while at the same time denying the part that split control of the New World between Spain and Portugal. This is where the symbolic acts of raising a flag or burying coins to claim ownership began. For example, James Cook buried a bottle of English coins on Vancouver Island in 1778 in an attempt to claim sovereignty over the area.
- This doctrine and the concept of *Terra Nullius* (that the land was empty and uninhabited) was the basis of the grant in 1670 to the Hudson Bay Company that gave the company rights to about 80% of the landmass of Canada

From the perspective of indigenous people, how can a person in another country simply declare their land is open for the taking when that land is already occupied? The fledgling nation of the United States justified it using the Doctrine of Discovery because they had taken over the land from the British so that gave them legal claim to the land. We face the same issue in Canada. A formal repudiation from the Pope for these bulls that supported imperialism and justified horrible actions against millions might be purely symbolic at this point, but it could empower courts to reexamine the legal relationships between indigenous peoples and modern governments. It would require the recognition that indigenous peoples are sovereign peoples.

The Assembly of First Nations published a document in 2018 *Dismantling the Doctrine of Discovery* that outlines what it is, why it needs to be rejected, and why it should not be used in the courts as land claims are being examined and settled. This type of ‘doctrine’ is also denounced by the United Nations, as seen in the UN *Declaration on the Rights of Indigenous Peoples*. This is why one of the first things you heard on the news after the death of Queen Elizabeth II was a call by indigenous leaders to King Charles III to repudiate the Doctrine of

Discovery. There was hope that the Pope would repudiate this doctrine on his visit to Canada but that did not happen either.

The Assembly of First Nations is asking the government of Canada to repudiate this doctrine.



**Truth and
Reconciliation**
Commission of Canada

This was one of the calls to action of the National Truth and Reconciliation Commission. Many faith-based groups including the World Council of Churches have done so. What the Assembly is asking for is a new model for relationship between nations – between those who were here first and those

who are here now. Below is an excerpt from the document:

King George III issued the Royal Proclamation of 1763 after the defeat of the French in Québec with the crucial support of First Nations allies. A year later, at Fort Niagara, a gathering of representatives from a couple of dozen First Nations from Nova Scotia to the prairies and north to Hudson Bay, met with Sir William Johnson, Superintendent of Indian Affairs, representing the Crown. At this gathering, the Covenant Chain of Friendship was affirmed—a multi-nation relationship in which no nation gave up its sovereignty, embodied in a two-row wampum belt communicating the promises made. The Proclamation confirms the land rights of Indigenous Peoples and is highlighted in section 25 of the Canadian Charter of Rights and Freedoms. Many leading Aboriginal law scholars assert the Royal Proclamation of 1763 and the Treaty of Niagara together form a treaty between First Nations and the Crown that guaranteed Indigenous self-government.

This is not a long document (6 pages) and can be found at <https://www.afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf> Reading it will clarify some of the concerns that first nations have with the historical and future treatment of first nations and hopes for future interactions:

The big question remains: how did the Crown obtain title and how does the Crown continue to assert sovereignty? As scholar John Borrows reminds us, “Canadian law will remain problematic for Indigenous peoples as long as it continues to assume away the underlying title and overarching governance powers that First Nations possess.”

As Canadians, we still have work to do to change our thinking and the thinking that governs the actions of the courts as we work towards reconciliation with our indigenous neighbours.