

Doctrine of Discovery

Earlier in this report, we recalled how European states relied on the Doctrine of Discovery and the concept of *terra nullius* (lands belonging to no one) to justify empire building and the colonization of Aboriginal peoples and their lands in North America and across the globe. Far from being ancient history with no relevance for reconciliation today, the Doctrine of Discovery underlies the legal basis on which British Crown officials claimed sovereignty over Indigenous peoples and justified the extinguishment of their inherent rights to their territories, lands, and resources.

Speaking at the Manitoba National Event in 2010, former day school student, political leader, and educator Sol Sanderson explained the importance of making the connection between the policies and practices of imperialism and colonization and the need for transformative change in Canadian society.

What were the objectives of those empire policies? Assimilation, integration, civilization, Christianization and liquidation. Who did those policies target? They targeted the destruction of our Indigenous families worldwide. Why? Because that was the foundation of our governing systems. They were the foundations of our institutions, and of our societies of our nations. Now those policies still form the basis of Canadian law today, not just in the *Indian Act* [that] outlawed our traditions, our customs, our practices, our values, our language, our culture, our forms of government, our jurisdiction.... They say we have constitutionally protected rights in the form of inherent rights, Aboriginal rights and Treaty rights, but we find ourselves in courts daily defending those rights against the colonial laws of the provinces and the federal government. Now, we can't allow that to continue.¹⁸

From 2010 to 2014, the United Nations Permanent Forum on Indigenous Issues undertook a number of studies and reports on the Doctrine of Discovery. During this same time period, the Settlement Agreement churches also began to examine the Christian thinking that had justified taking Indigenous lands and removing children from their families and communities. Writing about the Roman Catholic foundations of Aboriginal land claims in Canada, historian Jennifer Reid explains why the Doctrine remains relevant today.

Most non-Aboriginal Canadians are aware of the fact that Indigenous peoples commonly regard land rights as culturally and religiously significant. Fewer non-natives, I suspect, would consider their own connection with property in the same light, and fewer still would regard the legal foundation of all land rights in Canada as conspicuously theological. In fact, however, it is. The relationship between law and land in Canada can be traced to a set of fifteenth-century theological assumptions that have found their way into Canadian law.... The Doctrine of Discovery was the legal means by which Europeans claimed rights of sovereignty, property, and trade in regions they allegedly discovered during the age of expansion. These claims were made without consultation or engagement of any sort with the resident populations in these territories—the people to whom, by any sensible account, the land actually