

Historiography

The Doctrine of Discovery

Native Americans, Colonists, Land and Race

Betsy McCall

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The Doctrine of Discovery was created in a papal bull in 1493, shortly after the return of Columbus from his first trip to the New World.¹ It has shaped European-Native American relations since that time. While sometimes in the background, sometimes in the foreground, it has nonetheless proved to be an influential philosophy whose consequences for native peoples are still salient today. Despite its influence, the Doctrine of Discovery is not well understood, and has not been reflected on deeply in the historical literature until the last several decades. Indeed, for much of the historical literature on early America, when the Doctrine is mentioned at all, it is often in passing, or in the context of the rivalry between the European powers vying for control of the New World, and in the Old.²

In order to put the discussion that follows into context, I want to quote some (somewhat extensive) passages from the original doctrine, addressed to the rulers of Spain, to underscore the plain language and purpose of the Doctrine. Because until recent decades, the Doctrine was little discussed in the historical literature, its very existence is not widely known. It's for this reason that it's worth using the space to lay out the central theme of this paper.

... We therefore are rightly led, and hold it as our duty, to grant you even of our own accord, and in your favor those things whereby with effort each day more hearty you may be enabled for the honor of God himself and the *spread of the Christian rule* to carry forward your holy and praiseworthy purpose had intended to seek out and discover certain islands and mainlands remote and unknown and not hitherto discovered by others, to the end *that you might bring to the worship of our Redeemer and the profession of the Catholic faith their residents and inhabitants...* with the wish to fulfill your desire, chose our beloved son,

Christopher Columbus,... to make diligent quest for these remote and unknown mainlands and islands through the sea... and they at length...discovered certain very remote islands and even mainlands that hitherto had not been discovered by others; *wherein dwell very many peoples living in peace, and, as reported, going unclothed, and not eating flesh.* Moreover, as your aforesaid envoys are of opinion, these very peoples living in the said islands and countries believe in one God, the Creator in heaven, and seem sufficiently disposed to *embrace the Catholic faith and be trained in good morals.* And it is hoped that, were they instructed, the name of the Savior, our Lord Jesus Christ, would easily be introduced into the said countries and islands.... Wherefore, as becomes Catholic kinds and princes,... you have purposed with the favor of divine clemency to bring under your sway the said mainlands and islands with their residents and inhabitants and to bring them to the Catholic faith,... you purpose also, as is *your duty, to lead the peoples dwelling in those islands and countries to embrace the Christian religion,*...do by tenor of these presents, should any of said islands have been found by your envoys and captains, give, grant, and assign to you and your heirs and successors,...forever, together with all their appurtenances, all islands and mainlands found and to be found, discovered and to be discovered towards the west and south, by drawing and establishing a line from the Arctic pole, namely to the north, to the Antarctic pole, names to the south, no matter whether the said mainlands and islands are found in the directions of India or towards any other quarter, the said line to be distant one hundred leagues toward the west and south from any of the islands commonly known as the Azores an

Cape Verde. With this proviso however that none of the islands and mainlands found and to be found, discovered or to be discovered beyond that said line towards the west and south, *be in the actual possession of any Christian king or prince* [prior to 1493]... and *we make, appoint, and depute you and your said heirs and successors lords of them with full and free power, authority, and jurisdiction of every kind*;... You should appoint to the aforesaid mainlands and islands worthy, God-fearing, learned, skilled and experienced men, in order to instruct the aforesaid inhabitants and residents in the Catholic faith and train them in good morals... *Let no one, therefore, infringe, or with rash boldness contravene this our recommendation, exhortation, requisition, gift, grant, assignment, constitution, deputation, decree, mandate, prohibition, and will.* Should anyone presume to attempt this, be known to him *that he will incur the wrath of Almighty God...*³ *[emphasis added]*

The importance of this declaration faded into the background almost immediately. In the immediate aftermath of the Doctrine of Discovery, Christopher Columbus was awarded a Spanish governorship based on the region described, and political intrigues began almost immediately to exploit the Doctrine for themselves. While the plain text of the Doctrine was directed at Spanish rulers, it nonetheless made it clear that if other Christian nations claimed other parts of the New World and converted the regions' native populations, that they could stake a claim to the land. This fact would shape the entire colonial period, but explicit references to the Doctrine in historical texts were oblique or absent through the middle of the twentieth century. Only in recent comparatively recent decades has the Doctrine of Discovery become an important historical flashpoint among historians. It thus has become especially important,

particularly in view of post-colonial critiques that challenged assumptions made by the descendants of those white Europeans who were in power in the New World, among legal scholars and historians descended from native peoples described in the Doctrine, who have begun to take exception to the continued consequences of such a policy, that the way in which the political, religious and cultural assumptions have gone unexamined for so long.

To fill in the early historiography of the Doctrine of Discovery, we will examine a selection of historical sources on the Age of Discovery, and colonial America. Many of the sources from this early period, mostly preceding 1950,⁴ either did not address the Doctrine of Discovery at all, or only mentioned aspects of it in passing and without naming the Doctrine. Indeed, even texts that referred to the Doctrine from this period, do not list it in its table of contents or its index; however, if one reads the text carefully, one can spot the occasional oblique reference: most notably to Columbus' governorship, paraphrased passages from the text, or the interest of the Church in conversion efforts.

By way of illustrating this period of the historiographical record, we look at Theodore Roosevelt's *Colonial Policies of the United States* written in 1937, and Samuel Eliot Morrison's *The Great Explorers* from 1978, an abridgement of a two-volume earlier work that was published posthumously. Morrison's historical writings go back to 1913, and so are fully representative of this type of historical writing, despite the comparatively late publication date of this particular volume.

Roosevelt's look at colonial policies tracks American colonial practices right up to the present day at the time of his writing. He begins by trying to put these colonial policies in a broader historical context. He describes the rapid rise of white control around the world, from 9% when Columbus began his voyage to 84.6% of the land under white control in 1935.⁵

Assumptions from the Doctrine itself are stated as givens when he says: “The native population in most of these territories was either sparse or unwarlike and easily dominated.”⁶ While Roosevelt does go on to question some of the myths that had arisen from territorial expansion in the West, he does not anywhere question the basic assumption that westward expansion was inevitable and appropriate.

We can compare another text with Roosevelt’s written the same year, *The History of the Ordinance of 1787*, which has similar views. The author states of the Ohio valley in the middle of the eighteenth century: “Ahead of them lay a wide continent, blessed with God’s bounties, and, as law and restraint caught up with them, all that was necessary was to move further westward to seemingly endless lands and natural resources—and freedom.”⁷ The endless, empty and uncultivated lands are an essential component of the myths about the New World that will be challenged in more recent histories. Indeed, the summary of the conflicts with the native populations focus almost entirely on the machinations of the European powers, and consider the natives as little more than sparsely populated pawns, worth little more consideration than wild bears might be given.

Morrison mentioned the doctrine only slightly more explicitly by referring directly to the papal bull of 1493, but not by that name or the Doctrine of Discovery. He mentions specific conditions from the Doctrine that demarcated the Spanish possessions from those of Portuguese.⁸ Later, he refers to the religious purpose of colonizing the New World:

Fashions in 1493 required women to be heavily clothed from head to foot, so that a community where the natives wore less than a bikini for full dress was new indeed, besides suggesting a state of innocence before Adam’s fall. And as Europe had an uneasy conscience at letting Christianity fall back before the

Turks, this opportunity to gain souls and redress the balance aroused agreeable anticipation.⁹

We see the combination of the political rivalries and religious mission in these passages, and moreover, the cultural imperialism that accompanies religious missionary efforts. The assumption that the native populations were not warlike inevitably contributed to a perception that conquest would be easy, which surely helped encourage both colonists and conquerors, and would help to salve the conscience of later generations. The east of conquest and conversion was hyped to encourage colonists and missionaries alike.¹⁰ Whether leaders understood the truth about the difficulty of what they were attempting, or believed their own spin, is unknown.

The direction of the literature began to change in the middle of the twentieth century coinciding with the rise of ethnohistory. The journal *Ethnohistory* was first published in 1953, and *Virgin Land* by Henry Nash Smith was published in 1950. Smith used his book to challenge some of the assumptions developed around the Doctrine of Discovery, such as that America was a largely empty and unspoiled continent free for the taking, though, like his contemporary historians, did not explicitly mention the Doctrine by name. While much of the text of *Virgin Land* addresses events much later than what we are considering here, the introduction to the text places the writing fully in the context of the Doctrine as it applied to colonial America, both before and after the Revolution.¹¹ Other more recent sources follow this path of directly contradicting assumptions made by the Doctrine or in its immediate wake, but without directly quoting the Doctrine. A more recent example is Robert Venables' 2004 *American Indian History*, a two-volume series that begins with the Discovery, as he puts it, of "Indians Discover Europeans". In his book, he presents the familiar tale of the European conquest of the New World from the perspective of the native people: pointing out the damage done in cultural,

religious, ecological and political term, and how long the natives were able to resist the Europeans despite their military and technological superiority.¹² Likewise, James Axtell's book from 1981, *The European and the Indian*, a collection of essays on the ethnohistory of North America, likewise challenges aspects of the Doctrine. In one essay, Axtell says:

“From its inception, the invasion of North America was launched on waves of pious intent. Nearly all the colonial charters granted by the French and the English monarchs in the sixteenth and seventeenth centuries assign the wish to extend the Christian Church and to save savage souls as a principal, if not the principal, motive for colonization.”¹³

He begins to get at the dangerous assumptions made that lent itself to the belief the missionaries would find a receptive audience, noting the odd turns of phrase used to rationalize their actions, such as “the goal of the English was to ‘reduce’ the Indians from savagery to ‘civility’” having turned Christianity into a weapon for forced labor and subjugation.¹⁴

This class of historical analysis would spawn other histories that delved more deeply into specific critiques of the Doctrine of Discovery, and which would name it explicitly in their analyses. These critiques, to date, tend to take on two particular lenses with few exceptions: the legal, and the religious; although, nearly all of these sources could be seen as part of a postcolonial lens. We can see some of the beginnings of these critiques in the previous discussion, but as the critiques develop, both the legal and religious critiques come to have a very specific purpose, not just for their historical perspective. The legal lens, in brief, arose from native people fighting for land rights in the courts against growing encroachments by state, local and federal governments. An early American court ruling in 1823, the famous *McIntosh* case,¹⁵ enshrined The Doctrine of Discovery into American legal precedent.¹⁶ This was a dispute

between two whites but was settled on the ability of natives to sell rights to their own land. As an extension of the legal arguments, some historical work has gone into analyzing the Doctrine of Discovery through religious lens—reasonable since this was a papal bull, and furthermore, given the separation of church and state in the United States, a very good strategy for getting the precedent set in *McIntosh* overturned if the Doctrine of Discovery is indeed based on religious factors.¹⁷ That these historical approaches, and the ethnohistorical approaches previously discussed, are largely undertaken by native scholars, is critical to provide a broader perspective to history than just the apologetic perspectives of white historians. We will examine each of these lenses in turn.

Because the examination of the Doctrine of Discovery is so relatively new, several sources now address the Doctrine directly as a historical artifact, explaining its context and role in the legal, political and religious contexts broadly. One such introduction is “The ‘Preliminary Study’ on the Doctrine of Discovery”, a law review article from 2010, by Tonya Gonnella Frichner. Here, she attempts to outline the legal implications of the Doctrine and highlight the impact it has had in the United States and around the world. She wrote the review in the context of the U.N. Declaration on the Rights of Indigenous Peoples. In that context, her article is meant to draw attention to a principle that is undermining indigenous rights around the world, and through attention, draw more people into opposing it as an ongoing basis for international law and propose alternative standards.¹⁸ In a similar, though more historical vein, is an article by Peter Fitzpatrick in *A Companion to Racial and Ethnic Studies*, ed. By David Theo Goldberg and John Solomon from 2002. “Doctrine of Discovery” examines how the Doctrine was transformed historically from one that was initially “mythic and religious” to something, over time, which became “racism and legalism”.¹⁹ Fitzpatrick thus traces the document as one of mission, to one

by 1823, became a product of legal justification used to cement the racism into law that had developed in the time since the Doctrine was first promulgated. The article notes how the European identity was arguably based on property in a way that the native peoples' were not (perhaps, in part, due to the population density in Europe at the time, and the slow decline of the feudal system), and thus provided a justification not only for the seizure of land, but who could and could not sell that land.²⁰

The legal lens has been the most extensively examined aspect of the Doctrine of Discovery, in part because it has such a clear point of origin in American legal precedent. Beginning in 1990 but accelerating rapidly after the start of the twenty-first century, a raft of new books and articles came out examining the Doctrine of Discovery explicitly. The reasons for this rapid expansion of interest in the topic is not entirely clear, but it may be related to a series of Supreme Court cases from the late 1980s onward that began an era of retrenchment on American Indian sovereignty. During the Rehnquist and Roberts courts, the Supreme Court has been more skeptical of native American tribal rights on the reservations than was the Warren court that preceded them.²¹ In general, this trend appears to be connected to a changing perspective in conservative legal circles that dominated the Court toward international law and its application to American jurisprudence.

One of the first books to examine the legal implications of the Doctrine of Discovery was the 1990 *The American Indian in Western Legal Thought* by Robert A. Williams, Jr. Williams makes clear why separating the legal perspective from the religious perspective is so particularly difficult. Williams places the Doctrine of Discovery in context with rhetoric from the Crusades and more local encounters with those of non-Christian religions, and how the language of missionary activities was used to promote Christian empire, setting the stage for the same kind of

language used in the New World, and in particular, in the Doctrine of Discovery. Further, he traces how Protestant nations like England, used the same kind of language to justify actions closer to home, such as the invasion of Ireland, before using it in the American colonies.²²

Williams then tackles the American colonial and early American legal context, after setting this stage, and placing the American legal tradition firmly in the English and European traditions. Williams places Americans' peculiar affinity for property rights squarely in the philosophy of John Locke, and when combined with a view that lands controlled by native people were uncultivated, and thus, going to waste, justified not only seizing Indian lands, but rejecting any English government—and eventually American government—policy that resisted such seizures. Further, he explains how the McIntosh decision fundamentally rejected native peoples as worthy of consideration under the “public good”.²³

Lindsay Robertson's *Conquest by Law* focuses even more directly on Indian land rights, and the impact it would have after 1823. Moreover, she re-examines the McIntosh case from newly rediscovered court documents to show that the efforts to seize native lands led Chief Justice John Marshall to turn “what might have been a one-paragraph decision into one comprising more than thirty-three pages.”²⁴ However, she goes on to describe Marshall as later regretting incorporating the Doctrine of Discovery into legal precedent after seeing how it was applied in Georgia, and then in the Jackson administration with the Indian Removal Acts, but he died—and was out-voted by Jackson appointees—and so the repudiation of the Doctrine did not stick.²⁵ This particularly lamentable in the wake of the Trail of Tears and paved the way for Indian removal doctrines and the creation of reservations.

Like Robertson, Blake Watson's book *Buying American from the Indians* also examines the seminal McIntosh case and argues forcefully that the Doctrine of Discovery needs to be

repudiated, along with the entire ruling in McIntosh. Watson's argument benefits directly from Robertson, as the author himself admits, as well as being originally inspired by a series of native land cases from the late 1980s and early 1990s.²⁶

Historians and legal scholars continue to publish articles examining particular aspects of the Doctrine of Discovery, particularly with respect to the McIntosh ruling, as well as similar considerations in non-American jurisdictions. Steven Newcomb uses the McIntosh ruling as the rise of Christian Nationalism in Federal Indian law (1992)²⁷, and Ali Freidberg looks at the role of the Doctrine in Spanish land acquisition in Mexico (1999).²⁸ This continues to be a fruitful area of research.

The perspective of the Newcomb article noted above is the perfect jumping off point for the religious lens addressed in a number of recent books and articles. Indeed, the most important of these books is written by Newcomb himself in 2008, *Pagans in the Promised Land*. In this book, he extends his argument that the Doctrine of Discovery is a fundamentally religious doctrine, and by employing it to take indigenous lands, the McIntosh ruling created an impermissible violation of the separation of church and state.²⁹ As reviewed by Joy Greenburg in "The Doctrine of Discovery as a Doctrine of Domination", in which she reviews Newcomb's book along with a concurrent documentary on the same theme, she is writing for not necessarily legal or historical scholars, but for scholars of religion and culture. While her writing initially seemed skeptical of a frame that might be perceived as merely revisionist, nonetheless, it's clear that once this history is placed in the context of modern historical rulings as late as 2014, she seems persuaded of the injustice of the Doctrine.³⁰ Understanding that there were injustices in the past is one thing, but understanding that they continue to the present day had the impact that Newcomb was hoping for.

Two more books examine the impact of Christian missions in the New World without specifically addressing the Doctrine of Discovery, but clearly, in thematic terms, connect to Newcomb's work. Both books address areas under Spanish rule. The first of these is *Indians, Missionaries, and Merchants* by Kent Lightfoot (2005), which examines the legacy of European-native encounters in California. The second is *Manufacturing Otherness*, edited by Sergio Botta (2013), which looks at the impact of missions in Latin America. While many of the previous sources were written by legal scholars, and those who were indigenous people themselves, writing at universities or law schools in the American West, these books are both a bit different. The Lightfoot book takes a historical anthropological perspective. The Lightfoot book is also particularly interesting because they look at the impact of Russian traders on the Alaska and North American coasts, which provide a striking comparison to how two European powers interacted with the native people.³¹ (For more information on the Russian colonies and their interactions with natives by Gwenn Miller, *Kodiak Kreol* is informative.³²)

The Botta book takes a different tact and in some ways is something of a throwback, echoing earlier historical perspectives. Edited by a European religious scholar living in Europe, the articles in this book are far more forgiving of European missionaries in the New World and provide a distinct counterpoint to nearly all the sources we've examined so far, since the late twentieth century. The general tact taken by the articles is to argue that missionaries did more good than harm, a perspective that directly challenges the arguments of indigenous people.³³ The Botta book reads like "Christian apologetics" at times, and it would be interesting to examine the text closely following the perspective of the article "Benign and Benevolent Conquest?" by Ken Macmillan (2011), who argues that many of the "benign usages" of the Elizabeth Age conquests were intentioned designed to disguise malevolent intent.³⁴ Despite the

theme of the Botta book clearly trying to defend the Doctrine of Discovery's plain language of conversion, the articles do not appear to mention the Doctrine by name, nor does it appear in the book's index. So, while he is trying to address critiques of native scholars, he is not willing to do so directly. That this deviation from the modern perspective is coming from a European, living in Europe, is notable.

The Doctrine of Discovery is so important for the development of the American West in the post-colonial period. Like *Virgin Lands*, which was the first book we mentioned that began to challenge many of the assumptions of historians about the conquest of the New World, Robert J. Miller examines the American implications of the Doctrine of Discovery, and its intellectual child, Manifest Destiny, on the American West. His book, *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny* from 2006, and his article "American Indians, the Doctrine of Discovery, and Manifest Destiny" from 2011 both examine the role of the Doctrine on interactions of Europeans with native populations both before and after the McIntosh decision. His writing makes clear that the McIntosh decision was not written in a vacuum: Thomas Jefferson used it to justify taking control of the Louisiana Territory after purchasing the land from Napoleon,³⁵ and he notes how, after the Doctrine became legal precedent, the appeal to the ideas accelerated, and where quoted in the popular press, including in the article that (allegedly) created the term "Manifest Destiny", where John O'Sullivan argued that America already had the legal title to the Oregon territory.^{36,37}

There is certainly still aspects of both of these areas where additional work could be done, such as perspectives on the Caribbean nations, and South America, in addition to the recent coverage of the United States and Mexico. Further applications of the Doctrine of Discovery outside North and South America, such as in Africa and Southeast Asia could help to put the

Doctrine in a global context; however, there are more significant gaps that I'd like to focus on this analysis.

The gap that is most interesting to me in the historical literature is the intellectual history lens. The Doctrine of Discovery itself has a history that remains largely unexamined (at least in English). The so-called Age of Discovery began much earlier in the 15th century. Why was it that the Doctrine of Discovery was published the year after Columbus returned from his voyage across the Atlantic? Portuguese sailors and other explorers had been exploring the coast of Africa and encountering other non-European people, even non-Muslim people. The Indian Ocean was first sailed into in 1488.³⁸ Is there an earlier papal bull, as implied by the plain text of the Doctrine itself, that applied to Africa and Asia directed at the Portuguese? If so, how are they similar or different? If not, why was it the Columbus voyages that prompted the Doctrine? Was this a policy that had been in the works at the Vatican for some time, and was only published in 1493 because there was a need for formalizing it? What was the motivation for the Vatican? Was this a way to placate rival European powers, or rival powers internal to the Church? Any one of these questions could be the basis for historical research capable of illuminating important aspects of this time period. One possible reason these issues may not have been examined to date may be that the "discovery" of the New World shifted the focus to colonial conquests and away from Europe. The last half-century or more of scholarship has been focused on history from below and postcolonial foci, while the unanswered questions noted above would require a deep dive into the psyche and motives of Europeans. There is also a danger that such an examination, if done poorly, could be seen as justifying actions that many now see as grossly immoral.

Some deeper questions could be asked along these lines. Where did the idea for such a doctrine originate? Is it possible that it can be traced to the Crusades, when European kingdoms were set up in the Middle East? We have sources that have analyzed the religious aspects of the Doctrine in the New World, but the intellectual origins, like the intellectual origins of race, should be traced. A clear distinction can be made between Catholic Western European doctrines and Eastern European Orthodox doctrines. We can see some of the differences in American colonies set up by Russians.³⁹ While certainly there are some similarities, the assertion of the Doctrine of Discover, and various racial attitudes, appears to be absent (or just different) in the Russian context. From the religious viewpoint, what doctrines—or power dynamics—in the two major branches of Christianity lend one to the Doctrine of Discovery and one to reject such an overt policy?

Once the Doctrine of Discovery was in place, why did Protestant countries maintain it, and not reject it as an artifact of the Catholic Church? How did the Doctrine, if at all, impact the developing ideas of race? How was the Doctrine applied around the world, not just in the Americas? Is there a connection between military power (such as in China), and the ability to apply the doctrine? Were any of the European countries especially effective at implementing the Doctrine, more so than others, and why? What other colonial policies arose from the assumption of the Doctrine of Discovery? When was the first time it received pushback and on what grounds? Examining religious perspectives for such an unflattering doctrine can likewise be perilous. There is a real world difference between arguing about the fight over transubstantiation, as opposed to arguing about the missionary zeal itself.

Some of these questions are best examined after another lens is explored more thoroughly: comparative history. The comparative lens is especially important with respect to

the Doctrine of Discovery, because it arose in several different contexts in the series of questions I asked about the history of the Doctrine. The comparison between Western Catholic/Protestant colonial practices and Orthodox ones. Is there a real difference? Is scale the biggest determining factor of how these played out? Is the Russian case from Kodiak an anomaly or were Orthodox colonial efforts simply not large enough to make a comparison? In which case, how did Catholic and Protestant applications of the Doctrine differ, or is this, too, a matter of scale? Do Dutch and Portuguese colonial policies have more in common, with English and Spanish on the other extreme?

Another comparative framework would be the American vs. continental Asian vs. African vs. Pacific Island contexts. Some analysis appears to exist about how the Doctrine was applied in the Australian and New Zealand context, that aligns with the American situation.⁴⁰ It makes sense that the English would see their colonies in similar lights, particularly where the native population was not able to fight back militarily. How did the efforts to apply the Doctrine meet resistance, and how did they circumvent that resistance? How did the efforts to impose the Doctrine differ over time? Was the Doctrine a conscious practice, or did conquest take precedence, and the Doctrine used as a post-hoc justification after the fact? Or was it the reverse? In the case of the United States, there was quite a lot of purchasing of land from the native people in the early days, but the ruling in *McIntosh* on the Doctrine of Discovery came before the most violent clashes with natives on the borderlands as US control of territories extended westward. Did this produce different outcomes in different regions where it was applied in this way?

In truth, this is the one area in which some work has begun to be done. The book *Discovering Indigenous Lands* by Robert J. Miller, et al. first published in 2010, addresses this

exact area of inquiry. Miller's team has collected four scholars of indigenous people to examine the impact of the Doctrine of Discovery in four separate former English colonies: The United States, Canada, Australia and New Zealand. After analyzing each of the nations separately, they include an inciteful comparative analysis. This sort of book could be a model for future research in this area, for instance, examining former Spanish colonies in the New World, and around the world like the Philippines. All four of the nations examined in Miller, et al.'s book are dominated by a culturally white European population. What differences are there in colonies like India, or in Africa, under the same English government, that were able to resist or undo such a doctrine? Moreover, comparing the implementation of the Doctrine across national and colonial boundaries (such as comparing the United States and Mexico) directly would also be beneficial. This area of research remains wide open and is likely to remain that way given that comparative history is a generally neglected research lens outside of the Atlantic Revolutions.

Given that the analysis of the Doctrine of Discovery as a topic of historical discussion is relatively new and is being done primarily from the perspective of the native populations upon whom it was applied, analysis of the Doctrine from the perspective of Europeans is missing, which is certainly a unique turn of events. In the past, because the Doctrine was largely ignored or taken for granted, very little work was done on the Doctrine. What did Europeans think of the Doctrine, if they even knew about it, and how was it used in making policy? Or did it simply become a background assumption that largely went unacknowledged, and if so, when did that happen? Because the analysis of the Doctrine is so new, there is still much to be done in the way of historical analysis. I have deliberately phrased my gap analysis in the form of questions, to highlight the many unknowns about this area of research. Any of these questions would yield fruitful results.

There are a number of lenses I haven't touched on that could also yield fruitful results, even in areas where research has already been done. For instance, what were the economic consequences of the Doctrine of Discovery for both native and colonial populations? What are they today? What economic factors motivated the various colonial powers to impose the Doctrine or not? The Doctrine was religious, but as noted above, it was also political, and formed a basis of intra-European political rivalries. How did the political and religious aspects intersect in how the Doctrine was applied? Truly, this area of inquiry is wide-open, and there is still much more to learn about how it developed, was applied in practice, and its historical consequences around the globe, but also in particular, the specific consequences it has here in the United States. The native scholars working in this area of native rights are correct to place special focus on this Doctrine and its consequences.

To truly understand how essential the Doctrine of Discovery was to the behavior of Europeans in the New World, it may be helpful to imagine a counterfactual: What if there was no such document? What if the Church had chosen a different policy toward the native populations of the New World? Perhaps they could have recognized the sovereignty of the native peoples—even with the push to evangelize. Perhaps they could have taken a tact more similar to the approach to the Ottoman Turks. How would things have differed if conquest was explicit rather than implicit? Even if conquest was the goal, what if control of the land was not tied to conversion of “childlike” pagans?

Obviously, we can never know the answers to these questions. Certainly, it seems reasonable that some things would have been no different at all. Small pox did not respect boundaries and didn't care what justifications Europeans gave for their actions. In the aftermath of small pox epidemics, and the desire for gold, it seems reasonable that some form of conquest

would still have happened, but the specific contours might have been different. Could actions like the Trail of Tears been possible without something like the Doctrine of Discovery floating around in the ether? Would greater respect for the native populations created more of a buffer against the racism that rose up in the wake of the Atlantic slave trade and the Indian wars of extermination? Would America's "sea to shining sea" level of ambitions have existed if they'd seen the West as not empty, but sovereign? We may begin to see the contours of just how fundamental this Doctrine was to the events in the New World by thinking about the impact it had, and continues to have. Considering how central the Doctrine of Discovery was to the history of the New World, the fact that we've only just begun to recognize that importance, suggest we still have a long way to go.

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- ⁴ While most of the histories in this category are from the first half of the twentieth century or earlier, as we will see, scholars trained in this earlier period, can write material in that same vein late in life, resisting re-envisioning their previous work in light of new scholarship.
- ⁵ Roosevelt, Theodore. *Colonial Policies of the United States*. New York: Doubleday, Doran & Company, 1937, 7.
- ⁶ *Ibid.*, 11.
- ⁷ Lindley, Harlow, and Norris F. Schneider. *History of the Ordinance of 1787 and the Old Northwest Territory*. Marietta, OH: Northwest Territory Celebration Commission, 1937, 11.
- ⁸ Morrison, 433.
- ⁹ *Ibid.*, 434.
- ¹⁰ MacMillan, Ken. "Benign and Benevolent Conquest? The Ideology of Elizabethan Atlantic Expansion Revisited." *Early American Studies*, Winter 2011.
- ¹¹ Smith, Henry Nash. *Virgin Land: The American West as Symbol and Myth*. Cambridge, MA: Harvard University Press, 1950.
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- ¹³ Axtell, James. *The European and the Indian: Essays in the Ethnohistory of Colonial North America*. New York: Oxford University Press, 1981, 43.
- ¹⁴ *Ibid.*, 45-56.
- ¹⁵ A note about the spelling: Some sources use the spelling M'Intosh rather than McIntosh in the documents, reflecting a fairly common spelling practice at the time of court case. However, I have adopted the modern spelling convention, which is used in some of the sources.
- ¹⁶ Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005.
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- ¹⁸ Frichner, Tonya Gonnella. "The "Preliminary Study" on the Doctrine of Discovery." *Pace Environmental Law Review* 28, no. 1 (Fall 2010): 339.
- ¹⁹ Goldberg, David Theo, and John Solomos, . *A Companion to Racial and Ethnic Studies*. Malden, MA: Blackwell, 2002, 25.
- ²⁰ *Ibid.*, 29.
- ²¹ American Bar Association. "A Short History of Indian Law in the Supreme Court." *American Bar Association*. November 22, 2017.
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- ²² Williams, Robert A., Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.
- ²³ Williams.
- ²⁴ Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005, xi.
- ²⁵ *Ibid.*, xii.
- ²⁶ Watson, Blake A. *Buying America from the Indians: Johnson v. McIntoch and the History of Native Land Rights*. Norman, OK: University of Oklahoma Press, 2012.
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- ³³ Botta, Sergio, ed. *Manufacturing Otherness: Missions and Indigenous Cultures in Latin America*. Newcastle upon Tyne: Cambridge Scholars Publishing, 2013.
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- ³⁶ Miller, Robert J. "American Indians, the Doctrine of Discovery, and Manifest Destiny." *Wyoming Law Review* 11 (2011): 329.
- ³⁷ There is one source I am aware of that found a usage of the term Manifest Destiny that predates O'Sullivan's usage, however, O'Sullivan is widely considered the father of the phrase. While that attestation may be incorrect, the source mentioned here itself predates the article questioning that attestation.
- ³⁸ Morrison.
- ³⁹ Miller, Gwenn A. *Kodiak Kreol: Communities of Empire in Early Russian America*. Ithaca, NY: Cornell University Press, 2010.
- ⁴⁰ Miller, Robert J., Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg. *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*. New York: Oxford University Press, 2010.