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Activist Chase Iron Eyes to Pope Francis: Revoke the Doctrine of Discovery

Indian Country Today Media Network recently sat down with Chase Iron Eyes, community activist and attorney from the Standing Rock Sioux Reservation in North Dakota, to talk about an initiative from the Romero Institute focused on revoking the Doctrine of Discovery. Iron Eyes is widely known for his work on the Lakota People's Law Project and Last Real Indians.

Sheena Roetman: The Romero Institute is currently circulating a petition to press Pope Francis to revoke the doctrine of discovery, specifically the Inter Caetera Papal Bull of 1493. Can you briefly explain what the Doctrine of Discovery is and what that particular bull proclaims?

Chase Iron Eyes: The Doctrine of Discovery refers to a series of edicts issued by the Catholic Church in the 15th century, which essentially allowed Catholic countries such as France, Portugal, Italy and Spain to conquer foreign or non-Christian lands and either forcibly convert the inhabitants of those lands to Christianity or kill or enslave them. The first papal bull, Dum Diversas, was issued by Pope Nicholas V and was concerned with providing Alfonso V, the then-King of Portugal, with the moral footing to invade and conquer the Ottoman Empire in the east. This was essentially part of the Crusades of the Middle Ages. However, when Pope Alexander VI issued Inter Caetera in 1493, about one year after Christopher Columbus landed in the Bahamas, the focus of the papal bull was to provide legal rationale for colonial nations to lay claim to “discovered” lands in the New World. The papal bull reads in part: “Among other works well pleasing to the Divine Majesty and cherished of our heart, this assuredly ranks highest: that in our times the Catholic faith and the Christian religion be especially 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.”

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Roetman: As Natives, we so often hear that we need to “get over it” because “it” happened so long ago. The Inter Caetera Bull was proclaimed in 1493 — how does something created more than 500 years ago still affect Indigenous populations?

Iron Eyes: First of all, oppression of Native peoples did not happen “so long ago,” but continues in various degrees of sophistication to the present. But the roots of this ongoing oppression can be traced to these papal bulls, which have since been incorporated into the U.S. court system, Indian property law and official U.S. policy. These papal bulls express the kind of moral superiority that not only existed during the Middle Ages but also continues to this day and informs the type of commentary of people like George Will and Rand Paul who argue that Natives need to assimilate into the dominant culture. What is ironic in all this, of course, is that the doctrine of discovery created this zealous and greedy approach to stealing Native land so they could get at the natural resources and create personal wealth. For the last 500 years, colonizers have prided themselves on trying unsuccessfully to teach the Indian about capitalism as if we were “primitive” for not following the individualized pursuit of the abstract capital dream. Now, as the world is slowly recognizing that the unfettered capitalism of the colonizers is driving the whole globe to the brink of destruction, more and more people are realizing that the Native approach to nature, a more integrative and holistic approach to nature, is the superior one. In the coming century, it will be the Natives who teach the colonizers how to recover from the ravages of capitalism.

Roetman: According to [an article in Indian Country Today from last week](#), in 2007 Archbishop Celestino Migliore was confronted with the idea of refuting the bulls but said that subsequent bulls had effectively negated the Inter Caetera. The article then quotes Migliore as saying that the “refutation [...] is now under the competence of American politicians, legislators, lawyers and legal historians.” How are American lawmakers

perpetuating the ideas set forth in the Inter Caetera? Are there any that are helping to dismantle it?

Iron Eyes: The short answer is no. There are no American politicians currently working to dismantle the legacy of Native oppression in this continent. Up north, the Truth and Reconciliation Committee of Canada recently released a report that acknowledged that nation had knowingly carried out a “cultural genocide” against the Indigenous inhabitants of that country, but nothing even remotely close to a similar acknowledgement has been issued from the United States. Part of the reason the Romero Institute has taken up the doctrine of discovery is we believe it will begin the conversation and serve as a prompt for lawmakers to explore the way that paternalistic approach has been incorporated into U.S. law and policy. In terms of Migliore’s assertion that the doctrine of discovery has since been refuted by subsequent papal bulls reflects legal acrobatics that are sadly out of step with reality. The 1537 papal bull that Migliore cites, *Sublimus Dei*, only deals with slavery, not the conquest of land or forced conversions or other relevant aspects of colonialism. Moreover, Pope Paul III, who issued the edict, issued subsequent edicts that justified enslavement of Native peoples, the balance of which were used to justify the Global Slave Trade that raged with the express permission of the Catholic Church well into the 17th, 18th and even 19th centuries.

[Editor's Note: ICTMN columnist and scholar Steven Newcomb has written extensively on the Doctrine of Discovery. Newcomb's columns can be read at length on [ictmn](#). The new documentary based on his work, "The Doctrine of Discovery: Unmasking the Domination Code," directed by Sheldon Wolfchild, is available at [38 Plus 2 Productions](#).]

Roetman: How has the Doctrine of Discovery been interlaced with U.S. law and policy throughout history? What are some current examples of the lasting effects of this idea?

Iron Eyes: The Doctrine of Discovery was incorporated into the United States property law via the 1823 U.S. Supreme Court Case *Johnson v. McIntosh*. Chief Justice John Marshall, in writing the majority opinion, cited the papal bulls when he asserted that colonial nations held the title to all land they “discovered,” affirming in this one decision that American Indians had lost the right to their ancestral lands. This decision not only flies in the face of fairness, but worked contrary to hundreds of years of precedent, when the colonial powers and the United States, in signing treaties with the various Indian tribes, acknowledged that the Indians had control of their land. Marshall also wrote the majority decision in *Cherokee Nation v. Georgia*, which further eroded the rights of Indigenous tribes by insisting “the relationship of the tribes to the United States resembles that of a ‘ward to its guardian’.” These two cases, plus *Worcester v. Georgia*, form what is known in legal circles as the Marshall Trilogy. Essentially, these three cases represent how the United States government managed to conveniently insert the 15th century papal bulls into American Indian property law. These cases also serve as precedent and have factored in the myriad decisions the Supreme Court has made that relate to tribal property issues. In 1955, the *Tee-Hit-Ton Indians v. United States* court ruled the tribe was not entitled to compensation for government-authorized extraction of

lumber from their lands, using the rationale of the doctrine to assert the tribe only occupied the land at the government's will.

In the 1988 case *Lyng v. Northwest Indian Cemetery Protective Ass'n*, three Northern California tribes argued that the U.S. Forest Service violated their First Amendment rights by attempting to build a road through sacred lands in the High Country of the Six Rivers National Forest. Unsurprisingly, the court ruled against the tribes. Sandra Day O'Connor, in writing the majority opinion, said religious rights could not be used to "divest the Government of its right to use what is, after all, its land." The reverberations of the doctrine's influence in property law continue into the 21st century with the most recent taking place in the 2005 case, *City of Sherrill v. Oneida Indian Nation*. The court observed that "under the 'doctrine of discovery,' 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." In writing the majority opinion, Ruth Bader Ginsburg, again asserts the principle – a principle founded in the 15th century papal bulls – that the federal government is the arbiter of all lands and the Indians are relegated to enjoying occupancy rights – essentially the rights of tenants.

Roetman: Revoking the Doctrine of Discovery and the bulls that created it seems to be by-and-large a gesture rather than having any direct effect on current policy. Can you explain why gestures such as this are nonetheless important and effective?

Iron Eyes: It is a gesture, albeit a symbolic one of enormous importance. The Pope's decision to revoke this archaic doctrine would have no immediate effect on the law system, true, but as we noted before there are no movements afoot in any of the branches of the United States government to analyze how and why this country has preserved a shockingly racist and paternalistic attitude in the very institutions that are supposed to represent justice and equality. American Indian property law as it is historically and currently dispensed by the United States government is nothing less than an embarrassment to this nation. The treatment of Native peoples, not just the ignominy of the past, but right now is a stain of hypocrisy on a nation that likes to tell itself that it stands for justice, freedom and equality of people. The question then becomes how do we best provide the impetus for all the branches and institutions of this nation to confront and acknowledge the criminal elements of its policy. We believe that a revocation of the doctrine of discovery by Pope Francis would demonstrate to the United States government that the foundation of its Indigenous policy is morally corrupt. We also believe this would serve as a prompt for a popular and political movement that would call for the United States government to dramatically reassess its policy towards tribes and their land.

Roetman: Last month, Pope Francis canonized Junipero Serra, who many argue was complicit in the genocide of Californian tribes. This seems to be the exact opposite of what the Romero Institute is trying to accomplish with the petition. There was quite a bit of vocal opposition, and yet Serra was canonized regardless. Do you think Pope

Francis, who is the first pope from the Americas, is aware of these issues? Is there any indication that he is listening to the Indigenous people who oppose these actions?

Iron Eyes: The Romero Institute deplores the canonization of Junipero Serra. We are one of the organizations that argue the mission system Serra helped create was complicit in horrific acts of abuse and murder that led to the decimation of California tribes. Nevertheless, it is important to point out Serra was beatified in 1988 by Pope John Paul II, thereby setting into motion the canonization process. The Romero Institute takes its name from Oscar Romero, a Catholic priest who was murdered by oppressive government forces in El Salvador for speaking out against the culture of poverty, assassinations and torture. Those social injustices were particularly virulent to the Indigenous population. Our organization believes that Pope Francis aligns more closely to the values espoused by Romero rather than Serra and note that Francis was likely presiding over an inevitable administrative process that was begun before he ascended to the Papacy. That said, we do not wish to fully exonerate anyone in the Catholic Church for such a wrongheaded decision to canonize Serra. However, we believe Pope Francis' apology to the Indigenous people during a speech in Bolivia shows a degree of readiness to address the issue. Moreover, in his encyclical Laudato Si, he argues Natives "should be the principal dialogue partners, especially when large projects affecting their land are proposed. For them, land is not a commodity but rather a gift from God and from their ancestors who rest there, a sacred space with which they need to interact if they are to maintain their identity and values." This forcefully demonstrates that if Pope Francis can be convinced that revocation of the doctrine would directly lead to the U.S. crafting policy that would mandate Native participation in project planning, he is likely to do so.

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Roetman: Besides signing the petition, what are other some other actions people might take to further this cause? Assuming the petition is successful, what are some of the next steps?

Iron Eyes: Signing the petition is paramount. Also, following the Romero Institute on Facebook and other social media platforms will allow people to stay up to date. We also would recommend seeking out our allies in this fight — people like Steven Newcomb and the Loretto Community — and lending them encouragement and assistance. Do all of the normal activist action, write your Congressman, your Senator and bring it to the attention of friends and family. The petition is just one step. We are currently crafting a letter to send to the Vatican. We are forming allies; the more signatories we can get on the letter the more powerful it will be. If you are a member of a tribe, urge your tribal leaders to get in touch with the Romero Institute; we need unity. We also hope to convince U.S. Bishops to formally oppose the doctrine and to call for a revocation. It will require a lot of dedication and diligence but we believe it is important on many levels.

Roetman: Anything else you'd like to add that you didn't get to mention?

Iron Eyes: This issue is too often framed as one that only affects Indigenous peoples, which is a shame because it is about so much more than that. It is about a fundamental approach to the land and natural resources. The greedy individualists who have viewed land as a commodity to exploit and plunder have been at it for far too long and our entire globe and human family is endangered as a result. Those are the stakes and it affects all of us, regardless of race, gender, nationality or creed. Yes we want all Indigenous people to join in this fight. We believe the Black Hills should be returned to the Lakota Nation. We believe sacred lands, such as Oak Flat in Arizona, belong to the Apache and not some foreign multinational mining corporation. We believe the Animas River belongs to the Navajo and they should be compensated as such when the federal government irresponsibly compromises that water source. But the land and its resources belong to all of us and by revoking the doctrine of discovery we are not only rejecting the historical antecedents of colonialism and genocide, but we are also asserting a more cooperative and integrative approach to land, natural resources and distributions systems. As Sitting Bull said: "The white man knows how to make everything, but he does not know how to distribute it." Together, we can teach him.

Read more at <http://indiancountrytodaymedianetwork.com/print/2015/10/05/activist-chase-iron-eyes-pope-francis-revoke-doctrine-discovery-161964>