CONFRONTING FIVE HUNDRED YEARS OF OPPRESSION AT THE WORLD CONSERVATION CONGRESS: MOTION 048'S HISTORIC RENUNCIATION OF THE DOCTRINE OF DISCOVERY

O confronto de quinhentos anos de opressão no Congresso Mundial de Conservação: a renúncia histórica da moção 048 à Doutrina da Descoberta

Revista de Direito Ambiental | vol. 106/2022 | p. 47 - 81 | Abr - Jun / 2022
DTR\2022\9815

Joe Udell
J.D. candidate, William S. Richardson School of Law at the University of Hawai#i at M#noa.
judell@hawai.edu

Área do Direito: Ambiental
Resumo: O princípio jurídico internacional conhecido como Doutrina da Descoberta resultou em danos imensuráveis aos Povos Indígenas ao longo da história até os dias de hoje, incluindo a colonização brutal de suas terras nativas, a persistente violação de seus direitos e sua dignidade, e os impactos intergeracionais sobre sua saúde e comunidades. Há, no entanto, sinais de que uma mudança está no horizonte, pois o novo milênio viu Povos Indígenas, juristas, organizações não-governamentais e instituições religiosas pressionarem para o repúdio oficial à Doutrina da Descoberta. Neste contexto, a União Internacional para a Conservação da Natureza – a maior e mais diversificada rede ambiental do mundo – aprovou uma moção decisiva de renúncia à Doutrina da Descoberta no Congresso Mundial de Conservação de 2021, em Marselha, França. Este artigo situa a moção dentro do atual clima sociopolítico e examina seu potencial para afetar aceleradas reformas legais, educacionais e religiosas. Embora tenha certas limitações como um instrumento não vinculativo de "soft law", este artigo argumenta que a Moção 048 representa, no entanto, um passo importante para corrigir os séculos de sofrimento infligido pelo Doutrina da Descoberta.

Palavras-chave: colonização; doutrina da descoberta; povos indígenas; direitos dos povos indígenas; direito internacional
Abstract: The international legal principle known as the Doctrine of Discovery (DoD) has resulted in immeasurable harm to Indigenous Peoples throughout history and into the present day, including the brutal colonization of their native lands, the persistent violation of their rights and dignity, and the intergenerational impacts on their health and communities. There are, however, signs that a sea change is on the horizon, as the new millennium has seen Indigenous Peoples, legal scholars, nongovernmental organizations, and religious institutions push for the official repudiation of the DoD. Against this backdrop, the International Union for Conservation of Nature—the world's largest and most diverse environmental network—passed a decisive motion renunciating the DoD at the 2021 World Conservation Congress in Marseille, France. This paper situates the motion within the current sociopolitical climate and examines its potential for affecting accelerated legal, educational, and religious reforms. Although it has certain limitations as a non-binding "soft-law" instrument, this paper argues that Motion 048 nevertheless represents an important step towards correcting the centuries of suffering inflicted by the DoD.

Keywords: colonization; doctrine of discovery; indigenous peoples; indigenous peoples' rights; international law

Para citar este artigo: Udell, Joe. Confronting five hundred years of oppression at the World ConservationCongress: motion 048's historic renunciation of the Doctrine of Discovery. *Revista de Direito Ambiental.* vol. 106. ano 27. p. 47-81. São Paulo: Ed. RT, abr./jun. 2022. Disponivel em: inserir link consultado. Acesso em: DD.MM.AAAA.

I would like to express my gratitude to Professor Denise Antolini for her incredible warmth, selflessness, and wisdom. I would also like to thank Justice Antonio Benjamin for his support, as well as Kevin Chang from Kua##ina Ulu #Auamo; Makayla Loeb and Christopher Sudol from the Elisabeth Haub School of Law at Pace University; and Kealapono Richardson from the William S. Richardson School of Law at the University of Hawai#i at M#noa for the background information they provided.

Sumário:

Introduction - I. Background on the Doctrine of Discovery - II. Motion 048 and the Emergence of a New Movement - III. An Analysis of Motion 048's Potential to Address the Harm Caused by the Doctrine of Discovery - IV. Conclusion

Introduction

In early September 2021, the International Union for Conservation of Nature (IUCN) adopted twenty-eight motions related to conservation and sustainable development at the World Conservation Congress (WCC) in Marseille, France.[1] Over the course of the nine-day event, facilitators announced the voting results during Members' Assemblies with little fanfare from the audience. The methodical nature of these proceedings, however, was noticeably interrupted during the third Sitting of the Assembly on September 8, 2021. As the large television monitors throughout the hall revealed that Motion 048—Renunciation of the Doctrine of Discovery to Rediscover care for Mother Earth[2]—was adopted by a wide margin,[3] the Assembly let out a roar of collective applause.

The Members' Assembly facilitator on that day was Antonio Benjamin, a Justice of the National High Court of Brazil and outgoing Chair of the IUCN World Commission on Environmental Law. After announcing the voting results, Justice Benjamin made a surprising decision: he stopped the Assembly to declare that Motion 048 "is one of the most important motions approved by IUCN, ever."[4] By adopting the motion, he continued, the members of IUCN thereby "said 'no'… to 500 years of oppression under the name of faith."[5]

As the dramatic passage of Motion 048 indicated, the oppression caused by the international legal principle known as the Doctrine of Discovery (DoD) has significantly affected Indigenous Peoples across time and space. The DoD emerged during the fifteenth century from a series of royal charters and paper bulls, issued by the English crown and Catholic Church, respectively.[6] These documents established the "legal means by which Europeans claimed rights of sovereignty, property, and trade in regions they allegedly discovered during the age of expansion."[7] European colonizers subsequently made a flurry of land claims in the New World "without consultation with the resident populations in these territories—the people to whom, by any sensible account, the land actually belonged."[8] As such, the DoD has empowered "centuries of virtually unlimited resource extraction from the traditional territories of indigenous peoples,"[9] resulting in "dispossession and impoverishment"[10] as well as a "host of problems that they face today on a daily basis."[11]

There are signs, however, that a sea change is on the horizon. Although it is difficult to locate the precise tipping point, the new millennium has seen Indigenous Peoples, legal scholars, nongovernmental organizations (NGOs), and even religious institutions push for the official repudiation of the DoD.[12] This stakeholder group would have been unimaginable a generation ago, and yet, they have each had a hand in confronting the DoD and its longstanding impacts.[13]

This paper situates Motion 048 within the growing multisectoral push for repudiation of the DoD and examines the motion's potential for affecting accelerated legal, educational, and religious reforms. Part I traces the ideological development of the DoD and its impact on Indigenous Peoples throughout history, from the age of modern colonialism to Manifest Destiny and beyond. Part II explores the role of the United Nations (UN) in bringing attention to the DoD before looking at the evolution and content of Motion 048. Part III considers the motion's ability to mobilize the international community, national governments, and religious leaders as a non-binding "soft law" instrument. Part IV concludes that, despite its limitations, Motion 048 ultimately represents an important step towards correcting the centuries of harm inflicted by the DoD.

I. Background on the Doctrine of Discovery

This section will provide an overview of the development of the DoD and the expansive impact it has had on Indigenous Peoples over centuries. Section A will look at the racist ideology and thirst for new territory that forged the doctrine in Europe. Section B will explore the remarkable role the DoD played in shaping the American colonies under English rule and then the United States. Section C will discuss the doctrine's open-ended legacy and how it continues to negatively affect Indigenous Peoples today.

A. Historical Foundations of the Doctrine of Discovery

The philosophical underpinnings of the DoD arguably date back to the Crusades of the eleventh century, when "the [Catholic] Church established the idea of papal jurisdiction to create a 'universal Christian commonwealth'"[14] over the Holy Lands and the Muslims who inhabited them. In the midst of these religious conflicts, Pope Innocent IV, who legal historian F.W. Maitland once described as "the greatest lawyer that ever sat upon the chair of St. Peter,"[15] considered whether it was "licit to invade a land that infidels possess[?]"[16] Innocent IV concluded that such "just wars"[17] over land that once belonged to Christians were legal because "title reverted to the Church and to the pope who represented all men."[18]

With universal papal jurisdiction established, the Church issued the papal bulls that empowered Spain and Portugal's colonization efforts across the globe. In 1436, Pope Eugenius IV published *Rex regum* , a papal bull that authorized Portugal's exclusive control of the Canary Islands and conversation "of the souls of the pagans"[19] to the "one true religion."[20] Similarly, in 1455, Pope Nicholas V issued *RomanusPontifex* for "perpetual remembrance."[21] This document "projected into the world a Framework of Dominance, conversion, and violence"[22] that authorized Portugal to "invade, search out, capture, vanquish, and subdue all Saracens and pagans;"[23] to seize their property; and "to reduce their persons to perpetual slavery."[24] Likewise, in 1493, Pope Alexander VI released *Inter caetera*, which declared that Spain had "full and free power, authority, and jurisdiction of every kind"[25] over the countries and islands "found and to be found, discovered and to be discovered"[26] west of the Azores and Cape Verde Islands.

England was still a Catholic nation in the fifteenth century when the Church issued the papal bulls that opened the New World to Spanish and Portuguese colonizers.[27] To adhere to those decrees, King Henry VII and his successors "repeatedly instructed their explorers to discover and colonize lands 'not actually possessed of any Christian prince or people'"[28] via royal charters, such as the 1496 letter that asked John Cabot to claim the territory occupied by "heathens and infidels"[29] for England. This legal circumvention of the Church's papal bulls expanded the reach of the DoD[30] and later allowed the Crown to justify their claims to Indigenous lands in Canada, New Zealand, Australia, and the United States.[31]

There emerged from these papal bulls and royal charters a "general European understanding"[32] that "Christian, white nations could exert authority over non-Christian, non-white nations,"[33] as these "nations did not rule or govern in a manner that Europeans saw fit."[34] Thus, the DoD crystalized into an international legal principle that prompted nations across Europe raced to settle the New World and convert its inhabitants to Christianity over the next two hundred years.[35] As legal scholars Robert J. Miller and Jacinta Ruru noted, when colonizers planted their flags in foreign soil, "they were not just thanking God for a safe voyage."[36] Rather, they were "undertaking the well-recognized procedures"[37] of the DoD that allowed them to "automatically [acquire] property rights in native lands"[38] and gain "sovereign, political, and commercial rights over the inhabitants without their knowledge or consent."[39]

B. The Doctrine of Discovery's Evolution in the American Continent

The DoD has been a constant in America's history as a settler-colonial nation, spanning the rule of England and the United States, and acting as a unifying force in its oppression of Indigenous Peoples. This section will examine the transcendent role the DoD played in that history before turning to the "world's leading case"[40] on the subject, *Johnson v. M'Intosh*.[41]

1. From colonization to Manifest Destiny

As England looked to establish its footing in colonial America, it made a concerted effort to entrench the "superior right to colonize and settle land not occupied by Christians."[42] For example, the First Charter of Virginia, which led to the establishment of the Jamestown settlement in the early seventeenth century, expressed a desire to spread "Christian religion to such people, as yet live in darkness... and may in time bring the infidels and savages, living in those parts, to human civility, and to a settled and quiet government."[43]According to Miller and Ruru, England subsequently enacted "an amazing number of statutes concerning Indian and Discovery issues"[44] that authorized the states to purchase Native American lands through the "exclusive right of preemption and sovereign powers over tribes."[45]

After the colonies declared independence from English rule, the new state governments "immediately began applying Discovery."[46] For instance, New York's 1777 constitution mandated that no land

transactions involving Native Americans after 1775 would be valid "unless made under the authority and with the consent of the legislature."[47] Virginia and North Carolina, likewise, passed laws that gave the state preemptive control over Native American territories, just "as the earlier colonies had done during colonial times."[48] Despite the numerous political, social, and economic differences across the fledgling country, the DoD symbolized common ground in the Northeast, along the Mid-Atlantic, and through the South.[49]

The leaders of the United States also embraced the DoD in the late-eighteenth century as they crafted the nation's foundational documents. Most notably, Article I, Section 8 of the Constitution allows Congress "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes,"[50] thus revealing how the new nation strategically incorporated "Discovery power into the federal system and placed that power solely in the hands of the national government."[51] The very first Congress "immediately exercised"[52] this authority by enacting a law that Miller and Ruru have described as "a perfect example of preemption:"[53]

[N]o sale of lands made by an Indian, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state, whether having the right of pre-emption no such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States.[54]

As the United States expanded its territory to the Pacific Ocean in the early nineteenth century, the country asserted its new claims of land ownership under the DoD. Historians have long referred to this westward push as "Manifest Destiny," but "the idea that it was the United States's destiny to control and dominate North America was obvious long before 1845,"[55] when New York journalist John L. O'Sullivan first coined the term.[56] The "messianic"[57] concept of Manifest Destiny "arose directly"[58] from the DoD and the "ethnocentric view that one's own government, culture, race, religion, and country are superior to all others."[59] This perspective soon permeated the common law through *Johnson v. M'Intosh*, the infamous 1823 United States Supreme Court case that "would give profound and enduring meaning to the bulls of Nicholas V and Alexander V."[60]

2. Johnson v. M'Intosh

The DoD is more than a simple "relic of colonial history"—rather, the doctrine is "*the* legal force that defines the limits of all land claims issues to this day"[61] in the United States. This broad influence is rooted in the 1823 *Johnson* case, which "was unabashed in theorizing and inscribing in law the fundamental rule that absolute title was available only to white Christians."[62]

Johnson focused on whether the Illinois Confederacy and Piankeshaw Tribe could sell over 11,000 acres of land in Indiana and Illinois to European speculators without the blessing of colonial authorities.[63] The plaintiffs' claims relied on deeds from 1773 and 1775 between their predecessors in title and several chiefs.[64] The defendant M'Intosh, on the other hand, argued that the United States acquired the land tracts from the same Native American tribes through an 1805 treaty and sold them to him in 1818.[65] Accordingly, M'Intosh asserted that the plaintiffs' title was invalid because Native Americans were not legally able to sell land to individual citizens.[66]

Chief Justice John Marshall, who penned the unanimous decision, looked to the DoD as he considered "the power of Indians to give, and of private individuals to receive, a title which can be sustained in the Courts."[67] He held that even if Native Americans were the "rightful occupants of the soil, with a legal as well as just claim to retain possession of it,"[68] their ability "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*."[69] Thus, Native Americans had limited possessor rights in that they could occupy their native lands but the United States maintained the "exclusive right... to extinguish their title, and to grant the soil."[70]

In striking down the plaintiffs' claims,[71] the *Johnson* decision gave "the papal bulls of 1455 and 1493 the imprimatur of the nation's highest court a generation after the nation's founding."[72] This is particularly troubling given that the case did not involve Native Americans as parties to the lawsuit. Rather, Chief Justice Marshall expanded the scope of his analysis beyond the land dispute in question "to justify the reduction of Indian rights without allowing any room for the Indian voice."[73]

Courts in the United States have repeatedly relied on the *Johnson* decision over the last two hundred years. For example, Justice Stanley Reed admittedly drew from the "great case of *Johnson*

v. McIntosh" [74] to author his majority opinion in *Tee-Hit-Ton Indians v. United States*, a 1955 United States Supreme Court takings case that "reaffirmed and embraced the Doctrine of Discovery." [75] According to Justice Reed, Native Americans "were permitted to occupy portions of territory over which they had previously exercised 'sovereignty.'" [76] However, this permission was "not a property right," [77] but a "right of occupancy" [78] granted by the United States that "may be terminated... without any legally enforceable obligation to compensate the Indians." [79]

Johnson's impact on property law has entrenched the dispute in first-year law school curricula.[80] Stuart Banner, a law professor at the University of California at Los Angeles, observed that the opinion's prejudicial language and holding has placed it alongside "*Dred Scott v. Sanford* and a few others to form a small canon (or maybe an anti-canon) of famous cases law school students are taught to criticize."[81] The only difference is that *Johnson* "might be the only member of this anti-canon that remains the law, and that is still cited as authority by lower courts several times a year."[82]

In addition to the hundreds of times that lower federal and state courts have cited *Johnson*,[83] the United States Supreme Court, referenced the DoD as recently as 2005. In *City of Sherrill v. Oneida Indian Nation*, the Oneida Indian Nation of New York attempted to regain sovereignty of its lands by repurchasing them from titleholders.[84] Although the case did not hinge on the doctrine, Justice Ruth Bader Ginsberg, who penned the 8-1 decision, directly referenced it in a footnote, noting that "[u]nder 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."[85]

The impact of the *Johnson* decision has not been limited to the United States. According to Miller, the case has "heavily influenced how colonial-settler societies have defined Discovery and their 'rights,' and how they have diminished the rights of Indigenous Nations and Peoples."[86] A comparative study of its effects on individual nations is beyond the scope of this article, but it is worthwhile to point out that *Johnson* is still the "leading case that New Zealand, Canadian, and Australian courts have relied on to apply Discovery in their countries." [87] As the next section will illustrate, the application of the DoD in courts around the world continues to have a tangible and devasting impact on Indigenous communities.

C. Contemporary Impacts on Indigenous Communities

The extensive effects of the DoD on Indigenous Peoples are very much alive today. Tonya Gonnella Frichner, a citizen of the Onondaga Nation of the Haudenosaunee (Iroquois) Confederacy and Founder of the American Indian Law Alliance, wrote one of the earliest reports on the subject in 2010 as the Special Rapporteur to the UN Permanent Forum on Indigenous Issues (UNPFII). She argued in her preliminary study that the DoD "has been institutionalized in law and policy, on national and international levels, and lies at the root of the violations of indigenous peoples' human rights, both individual and collective."[88]

In the same vein, a 2014 study by Edward John, a grand chief of the Tl'azt'en Nation and former North American representative to the UNPFII, highlighted the DoD's "devastating, far-reaching and intergenerational" [89] effects on Indigenous communities. These ramifications include psychological and social health problems; denial of rights and titles to land, resources, and medicine; violence against women; suicide; and an overall sense of hopelessness, particularly in younger individuals.[90] As such, Indigenous Peoples have a life expectancy up to twenty years less than their non-Indigenous counterparts.[91]

The havoc that the DoD wreaks on Indigenous communities also has dire environmental consequences. Indigenous Peoples are "stewards of the world's biodiversity and cultural diversity"[92] in that they manage roughly twenty-five percent of the planet's surface land despite accounting for only five percent of the population. This statistic is even more impressive when one considers that the land Indigenous Peoples care for contains eighty percent of the Earth's biodiversity and roughly forty percent of all terrestrial protected areas and ecologically intact landscapes.[93] Thus, the failure to address the many laws and policies that incorporate the DoD will have a devasting impact on Indigenous Peoples as well as the ecosystems they safeguard.[94] It is this vital connection between Indigenous Peoples and the environment that ties Motion 048 to IUCN's conservation-driven mission. [95]

To date, neither the Vatican nor the government of England have addressed the papal bulls and royal

charters that helped usher the DoD into international law, respectively.[96] However, according to Blake Watson, a law professor at the University of Dayton, there are "indications that a movement has begun to reconceptualize indigenous land rights and that a new era is dawning."[97] This movement has coalesced around efforts to officially repudiate the DoD and has garnered support from Indigenous Peoples, legal scholars, NGOs, and even religious institutions.[98] It is against this backdrop that Motion 048 was conceptualized and ultimately adopted by IUCN's members in 2021.

II. Motion 048 and the Emergence of a New Movement

The seeds that eventually gave life to Motion 048 were planted well over a decade ago. Although it is difficult to identify a particular catalyst behind the international push to renounce the DoD, the UN's prominent role in this development deserves attention. Accordingly, Section A will provide an overview of the early calls to renounce the DoD that originated from the UN, while Section B will delve into the motion's powerful language.

A. A Movement Takes Shape

The UN has played a central role in spotlighting the DoD's negative impacts on Indigenous Peoples for the international community. In September 2007, after more than thirty years of negotiations, the UN General Assembly adopted the landmark UN Declaration on the Rights of Indigenous Peoples (UNDRIP).[99] The non-binding resolution, which still represents the most comprehensive instrument of its kind,[100] promotes "a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world."[101]

As the Assembly of First Nations noted, UNDRIP is a "symbol of triumph and hope"[102] that was created with the active participation of the rights holders themselves. Although it does not explicitly mention the DoD, there is an implicit recognition of the doctrine in the fourth preambular paragraph, which affirms that "all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust."[103] UNDRIP enjoys widespread support from the international community. One hundred and forty-four states voted in favor of the instrument, while the four that voted against it—Australia, Canada, New Zealand, and the United States—later reversed their position.[104] Moreover, numerous religious bodies, human rights advocates, and organizations have officially endorsed or supported the declaration,[105] from the American Civil Liberties Union[106] to the United Church of Canada.[107]

The UN continued to explore the DoD more thoroughly after the passage of UNDRIP. In 2010, Gonnella Frichner produced her aforementioned study on the DoD, which the Haudenosaunee, the American Indian Law Alliance (AILA), and the Indigenous Law Institute (ILI) recognized as the first time the UN "adequately addressed"[108] the topic in several decades of Indigenous Peoples work. Similarly, John's 2014 study built on the preliminary work of Gonnella Frichner by attempting to "shift the paradigm"[109] through fostering "a better understanding of the doctrine and its continuing impacts."[110]

In May 2012, the UNPFII dedicated its eleventh session to an examination of the DoD, its enduring impact on indigenous peoples, and their right to redress.[111] The twelve-day session took place at the UN headquarters in New York City.[112] It featured over fifty side events[113] as well as participation from roughly two thousand Indigenous Peoples[114] and organizations from around the world, including the International Fund for Agricultural Development, the New Future Foundation,[115] the Global Indigenous Women's Caucus,[116] the International Indian Treaty Council,[117] and the Koani Foundation.[118] At the conclusion of the session, the UNPFII called on states to, *inter alia*, "review and revise their constitutions and legal frameworks to comprehensively recognize the human rights of indigenous peoples,"[119] and to include a "discussion of the doctrine of discovery/dispossession and its contemporary manifestations"[120] in "all education curricula."[121] These recommendations would go on to occupy a critical position in Motion 048 less than a decade later.

B. Motion 048 and its Adoption at the WCC

The IUCN has incrementally made progress with respect to renouncing the DoD and uplifting the voices of Indigenous Peoples. The 2008 Congress in Barcelona, Spain, was especially significant in this respect, as ten motions focused on local and Indigenous Peoples.[122] IUCN endorsed UNDRIP at

that WCC through Resolution 4.052 (*Implementing the United Nations Declaration on the Rights of Indigenous Peoples*),[123] which acknowledges the DoD as well as its theological roots in a preambular paragraph:

NOTING that these culturally and ecologically destructive effects are conceptually rooted in several Vatican papal bulls and other similar documents on indigenous peoples— *Dum diversas* (1452), *Romanus Pontifex* (1455), *Inter Caetera* (1493), Letters Patent to John Cabot (1496), (official authorizations to "invade, capture, vanquish, and subdue," as well as "subjugate," indigenous peoples, to "reduce their persons to perpetual slavery," and "take away all their possessions and property")—which led to such present-day judicial doctrines as "discovery," "terra nullius," and "terra nullus," as revealed by indigenous scholars during the United Nations Decades of the World's Indigenous Peoples...[124]

Following the Barcelona Congress, IUCN submitted a report at the eleventh session of the UNPFII described above. The report acknowledged that Indigenous Peoples' Organizations (IPOs) "offer valuable expertise and useful networks for effective partnerships that lead to increased impact on the ground and provide guidance on appropriate local, national and international policy influencing."[125] IUCN also pledged to discuss measures and processes that would "allow more flexibility for organizations, including indigenous peoples' organizations, to join the Union"[126] at the 2012 WCC in Jeju, South Korea.

IUCN fulfilled that promise in part through Resolution 5.007 (*Establishing an Indigenous Peoples' Organization (IPO) membership and voting category in IUCN*),[127] which laid the framework for a historic new IPO membership category. The instrument notably requests the creation of an intersessional council working group to look at options for better Indigenous Peoples representation within the Union.[128] At the same Congress, IUCN members adopted Resolution 5.097 (*Implementation of the United Nations Declaration on the Rights of Indigenous Peoples*),[129] which references the eleventh session of the UNPFII and its focus on the "so-called"[130] DoD in the preamble:

AWARE also of the ongoing deliberations of the UNPFII, which in May of 2012 again examined the so-called "doctrine of discovery" as a discredited rationale for denying both the human rights of indigenous peoples and their rights as now enshrined in the United Nations Declaration on the Rights of Indigenous Peoples...[131]

The willingness of IUCN to improve the position of Indigenous Peoples within the Union reached another high point at the 2016 WCC in Honolulu, Hawai#i. IUCN's members voted to create a new category of membership for IPOs, thereby paving a pathway for the better "recognition of their rights, participation, voice and role in IUCN."[132] The decision marked the first time the Union revised its membership structure since its inception in 1948.[133] IUCN admittedly described the change as part of an effort "to recognise the specific situation and role of IPOs"[134] so they could "play an important role in convening and facilitating indigenous participation in environmental decision-making."[135] Motion 048's recent adoption thereby takes on additional significance, as the Marseille WCC was the first Congress where IPOs were able to sponsor motions and vote under the new membership category.[136]

1. Motion 048's preamble

The preamble of Motion 048 centralizes Indigenous Peoples and their experiences throughout the text. This position is immediately established in the first paragraph, which expresses gratitude for the "full participation"[137] of IPO representatives. Similarly, the third paragraph acknowledges "the many contributions Indigenous Peoples make to restoring and sustaining Mother Earth."[138] The reference to "Mother Earth"[139] is noteworthy as it upholds a worldview that Western societies have repeatedly dismissed as "primitive, folkloric, unscientific, amethodological, insignificant, and lacking scientific rigor and objectivity."[140]

Equally pertinent is the express awareness that the motion gives to the DoD and the harm it has inflicted upon Indigenous communities. The fourth paragraph, for example, notes that the denials of Indigenous Peoples' human rights are "fundamentally unjust."[141] The following paragraph traces this oppression to the "beginnings of the colonial era in the 15th century, when Papal Bulls and royal edicts legitimised their enslavement and seizures of their assets."[142] The seventh paragraph then recognizes that the suffering caused by the DoD exists today in the "many post-colonial legal

regimes"[143] that "still formally recognise the 'Doctrine of Discovery' in all its manifestations."[144] As mentioned earlier, this is problematic because "neither the Holy See nor the Church of England have annulled their Papal Bulls and Edicts that gave moral and religious support for the 'Doctrine of Discovery.'"[145]

Motion 048's preamble is also focused inward on the IUCN itself. The second paragraph seeks "to advance further IUCN's 2008 endorsement of the United Nations Declaration on the Rights of Indigenous Peoples"[146] and supports "IUCN's continuous participation in the UN Permanent Forum on Indigenous Issues."[147] In so doing, the motion underscores the established connection between the Union and the groundbreaking efforts of the UN described above. The fourth paragraph then links the DoD to the Union's mission by highlighting how the denial of Indigenous Peoples' fundamental rights "impede[s] IUCN policies and programmes to restore ecologically and socially just relations among all living beings."[148] Lastly, the final paragraph foreshadows a change to IUCN's program by arguing that "acknowledgements of truth and testimonies for reconciliation are essential predicates for building social justice and peaceful relations among peoples."[149]

2. Motion 048's operative paragraphs

Motion 048 has four operative paragraphs that carry great significance. As such, it is worth quoting the entire section in full:

The IUCN World Conservation Congress, at its session in Marseille, France:

1. RENOUNCES the 'Doctrine of Discovery' in all its manifestations;

2. REQUESTS Council, in alignment with the IUCN Programme 2021–2024, to establish an IUCN Truth and Reconciliation Working Group, to explore and explain best practices for involving Indigenous Peoples in co-stewardship of protected natural areas, conservation of nature, and sustainable use of species, and other appropriate activities for the care of Mother Earth;

3. URGES all states to repeal all legal vestiges of the 'Doctrine of Discovery', and to consider establishing truth and reconciliation commissions though which the story of the 'Doctrine of Discovery' in all its manifestations can be made known and pathways toward justice discovered; and

4. INVITES the leaders of all religions to repeal and renounce their past proclamations that legitimised the 'Doctrine of Discovery' in all its manifestations, and FURTHER URGES the leaders of all nations to promote new paradigms in conservation, where the ancestral knowledge of Indigenous Peoples is incorporated, in the struggle to conserve the nature of the planet.[150]

Now that that IUCN members have adopted Motion 048, the international community will interpret it as a form of non-binding "soft law."[151] These types of instruments typically take shape as guidelines, programs of action, or declarations of principles that states accept as "guides for future actions,"[152] albeit with the understanding that they "may be included at a later stage in binding instruments, and thus become 'hard law.'"[153] IUCN resolutions have historically had a major impact setting the international conservation agenda and have contributed to significant environmental treaties, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Ramsar Convention on Wetlands of International Importance, the World Heritage Convention, and the Convention on Biological Diversity.[154]

Motion 048's operative section represents the many forms that soft law can take. The first paragraph that renunciates the DoD "in all its manifestations"[155] can be viewed as a *declaration* of the organization's evolving *principles*—that it is "time for IUCN to renounce the Doctrine of Discovery and explore new ways to respect the rights of indigenous peoples as we serve IUCN's mission to care for Mother Earth."[156] Similarly, the request to establish an IUCN Truth and Reconciliation Working Group promotes a revised *program* of action that would better involve Indigenous Peoples in co-stewardship conservation agreements.[157] Finally, Motion 048's third and fourth operative paragraphs are forward-looking *guidelines* that states and religious institutions can follow to "repeal all legal vestiges of the 'Doctrine of Discovery'"[158] and "renounce their past proclamations that legitimized"[159] the doctrine, respectively.

III. An Analysis of Motion 048's Potential to Address the Harm Caused by the Doctrine of Discovery

The harm caused by the DoD is entrenched across a range of nations and institutions. As such, Robert J. Miller recently presented the following list of "suggestions"[160] put forward by Indigenous Nations, academics, and activists "to oppose the existence of the Doctrine of Discovery and to repeal its pernicious effects:"[161] (1) repudiation of the DoD by the international community; (2) the repeal of laws based on the DoD; (3) the incorporation of the impacts of the DoD into formal educational curricula; and (4) repudiation of the DoD by religious institutions.[162] Although these suggestions do not address every conceivable harm that Indigenous Peoples have experienced, they represent arguably the most complete list from stakeholders in the movement to renounce the doctrine. This part will explore Motion 048's alignment with and potential to enact change in these areas.

A. Repudiation of the Doctrine of Discovery by the International Community

The DoD has increasingly gained visibility on the world stage in recent years. According to Miller, "[M]any people have called on the international community, and the United Nations in particular, to study and truly understand the Doctrine and to begin a process of repudiating and reversing this six hundred-year-old ethnocentric, racist, and feudal legal doctrine."[163] Motion 048's first operative paragraph, which renounces "the 'Doctrine of Discovery' in all its manifestations;"[164] is a striking reflection of this suggestion.

To recognize the magnitude of Motion 048's first operative paragraph, it is necessary to understand the uncommon role IUCN occupies in the international legal community. Professor Nicholas A. Robinson, Chair Emeritus of the IUCN WCEL and Gilbert & Sarah Kerlin Distinguished Professor of Environmental Law at Pace University's Elizabeth Haub School of Law, maintains that IUCN is "unique among international organizations"[165] because it was "[f]ounded as an intergovernmental organization with nongovernmental organizations and states as members."[166] The Union's governance structure and mission "to conserve the integrity and diversity of nature"[167] allows it to occupy a significant position on the international plane. IUCN has accordingly entered into cooperative agreements with multiple UN bodies, such as the establishment of a Joint Environmental Law Information Service with the UN Environment Programme[168] and a 2014 capacity-building partnership with the UN Development Programme focused on climate change adaptation.[169] As the only environmental organization with observer status at the UN General Assembly, IUCN has the ability "to deliver the policy perspectives of its Members at the highest international level of diplomacy."[170]

IUCN, additionally, has certain express obligations to states that are outlined in international instruments. For instance, Article 8 of the Ramsar Convention requires the Union to perform numerous secretariat functions, most notably the maintenance of a List of Wetlands of International Importance.[171] On the other hand, states rely on IUCN for its singular perspective on environmental issues. For instance, Article 14 of the Convention Concerning the Protection of the World Cultural and Natural Heritage requires the Director-General of the UN Educational, Scientific and Cultural Organization to utilize "to the fullest extent possible the services"[172] of IUCN in the implementation of the World Heritage Committee's decisions. Thus, IUCN is "a subject of international law"[173] beholden to its various treaty obligations as well as an organization with an international personality that initiates studies, proposes new conventions, provides expert advice, and enters formal pacts with states and other organizations.[174]

Given IUCN's visibility, influence, and international personality, the renunciation of the DoD as enshrined in Motion 048 is more than a symbolic gesture. This notion is even more apparent when one considers the bicameral voting process at the WCC, which Robinson describes as "a promising model for others to combine civil society with governments in common undertakings."[175] Prior to each WCC, every motion is virtually "discussed in a public forum where governments, NGOs and environmental agencies are sitting side-by-side."[176] Motions that achieve consensus are put to a vote and adopted if they receive a simple majority of votes cast from members in Category A (states and government agencies, and political and/or economic integration organizations) as well as Members in Categories B (national and international NGOs) and C (IPOs) combined.[177]

Motion 048's renunciation of the DoD is thereby impressive on multiple levels. As Robinson points out, "One of the clear attributes of international legal personality is an entity's autonomy in its decision-making process."[178] IUCN wields this autonomy because "[n]o state or other international organization can direct"[179] it—"only its members have this right."[180] Accordingly, the Union is "in a unique position to *reflect and promotethe priorities of the global conservation community*."[181] In

adopting Motion 048, IUCN's 1,400 members voted overwhelmingly in favor of consensus language that had been reviewed, commented on, and discussed extensively over a two-year period.[182] This action can thus be interpreted as the global conservation community directing the Union to renounce the DoD and the centuries of oppression it has caused. Motion 048 will soon occupy a position within IUCN's general policy as a resolution,[183] where it will help guide the Union as it seeks "to conserve the integrity and diversity of nature"[184] around the world.

B. Repeal of Laws Based on the Doctrine of Discovery

Miller's second suggestion focuses on the laws and policies that date back to the age of colonization and have institutionalized the oppression of Indigenous Peoples. As discussed earlier in Part I, such laws and policies were part of a deliberate effort to entrench the DoD in settler-colonial societies and legally justify the dominion over Indigenous Peoples' land, culture, and traditions.[185] Accordingly, "Indigenous scholars and advocates have suggested that all governments review their laws, regulations, and policies that impact Indigenous Peoples and repeal those that are based on the prejudices and fallacies of the Doctrine." [186] These reviews, additionally, should occur "in full consultation with Indigenous Nations and Peoples."[187]

Motion 048, which "urges all states to repeal all legal vestiges of the 'Doctrine of Discovery,'"[188] is in harmony with Miller's suggestion. However, compelling state action in this arena will not be easy. As the Haudenosaunee, AILA, and ILI observed, European monarchs promoted an insidious brand of "religious thinking"[189] that asserted "Christian *dominium* (right of domination) over distant heathen and infidel (non#Christian) lands as laudable and praiseworthy, undertaken for the honor and enrichment of their own kingdoms and for all of Christendom."[190] This logic remains in place today across the globe:

No matter where in the world one decides to look, this thinking prevailed in the colonizing actions of Christendom. This thinking continues in veiled form right up to the present. The United States is no exception; to this day it traces its organic laws to this Christian oriented thinking during the 'Age of Discovery,' as do Canada, Australia, and New Zealand.[191]

Further complicating matters is the fact that "the IUCN cannot force governments to take action"[192] through resolutions and recommendations. Rather, the Union "can only 'urge' and 'encourage,'"[193] as the "real test of the international community's resolve will come... through the individual and collective actions of governments, supported by the wider conservation community."[194] Nations that have relied heavily on the *Johnson* decision and its progeny in their respective courts have the added difficult of overturning centuries of judicial precedent. The urgent language of Motion 048's third operative paragraph thereby represents the limited extent to which it can initiate change in the courts and legislature.

In total, fifteen state members voted against Motion 048. Those members hail from all corners of the globe, including the United Kingdom, Seychelles, Spain, Guatemala, the Czech Republic, Benin, Mexico, and Honduras.[195] Although it is not possible to ascertain why each country voted against Motion 048, the geographic diversity of this list suggests that nations—and perhaps regions—around the world may resist repudiating the DoD in the future. Regardless of how state members viewed Motion 048 in Marseille, there is still reason for optimism. This is because governments and Indigenous Peoples in settler-colonial countries have made notable progress in terms of power sharing and land management. For example, in 2017, the New Zealand Parliament passed the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, thus granting the Whanganui River "all the rights, powers, duties, and liabilities of a legal person."[196] The act settled the longest running litigation in New Zealand's history[197] while also recognizing "the deep spiritual connection between the Whanganui Iwi and its ancestral river,"[198] which had suffered from degradation since the colonial era.[199] As such, it "is a clear example of what a move toward renouncing the Doctrine of Discovery looks like today."[200]

Australia has also made some progress in the way it incorporates Indigenous perspectives on land governance.[201] South Australia's national parks are co-managed by the Department of the Environment and Water and numerous Aboriginal groups.[202] This unique partnership "contributes to improved cultural site protection, maintenance of traditional practices that may have otherwise been excluded, and improved management of parks through the combination of traditional knowledge and contemporary science." [203] There are currently twelve co-management agreements in place over thirty-five parks and reserves, which covers 13.5 million hectares of South Australian land.[204] Each

agreement "represents a willingness by both parties—the Aboriginal community and the government—to work together for mutually beneficial outcomes" [205] as well as a step towards "advancing the reconciliation process and resolving issues relating to traditional land ownership."[206]

Therefore, even if Motion 048 lacks the authority to compel state action and remove the legal vestiges of the DoD from national laws, it has the potential to be used by stakeholders to build on the momentum established in settler-colonial countries such as New Zealand and Australia. Instituting initiatives like the IUCN Truth and Reconciliation Working Group proposed in the motion's second operative paragraph could help increase Indigenous Peoples' involvement in co-stewardship partnerships "for the care of Mother Earth." [207] Such efforts thus represent a promising way to circumvent the unwillingness of states to make legislative change. Of course, many nations around the world will undoubtedly resist changing the status quo with respect to the DoD. Those countries will most likely include the state members that opposed Motion 048 and potentially the fifty-six state members that abstained from the vote.[208] Change will come much slower in those nations, if at all. As such, supporters of Motion 048 should attempt to make inroads by identifying and focusing their efforts on states most amendable to repudiating the legal vestiges of the DoD.[209]

C. Incorporation of the Doctrine of Discovery's Impacts into Educational Curricula

Miller's third suggestion highlights the power of education to heal. According to him, "Indigenous Nations and Peoples have called on all governments to educate their citizens, incorporate at all levels of formal education the true and complete history of their countries, and include the impact and application of colonization and the Doctrine of Discovery on their Indigenous citizens." [210] This suggestion echoes the findings of Edward John's 2014 UN study on the DoD's impacts, which notes that "[g]enuine reconciliation is not possible without a clear understanding of, and sensitivity to, past and present injustices relating to indigenous peoples."[211] Thus, as John described, "there is an urgent need to ensure that curricula include the historical realities of the founding of modern nation States" [212] so that students of all ages can "learn about the impacts of such doctrines and the need for justice and redress."[213]

Unlike the first two suggestions described earlier, Motion 048 does not expressly address Indigenous Peoples' desires to incorporate the impacts of the DoD in educational curricula. However, the motion's emphasis on truth and reconciliation commissions in its second and third operative paragraphs may nevertheless provide a useful source of information that can inform revised curricula. These efforts, as envisioned by Motion 048, have the potential to illuminate "the story of the 'Doctrine of Discovery' in all its manifestations"[214] so that "pathways toward justice [can be] discovered."[215]

Such assertions are in line with John's research indicating that truth and reconciliation commissions are "essential tool[s] in identifying the causes of serious human rights violations, including economic, social and cultural rights; determining patterns of abuse; and preventing a repetition of similar acts." [216] If states establish DoD-focused commissions with "strong guarantees of independence and honest leadership,"[217] that could pave the way for increased recognition of Indigenous Peoples' sovereignty, identity, insights, cultural heritage, and land rights.[218] The Indigenous perspectives realized through those commissions could then serve as the foundation of revamped educational curricula and ensure that the atrocities perpetuated by the DoD are not forgotten.

The Truth and Reconciliation Commission of Canada (TRC) illustrates how truth commissions centered around Indigenous issues can carve a legitimate pathway toward education reform. The TRC was established through the 2006 Indian Residential Schools Settlement Agreement, a multibillion-dollar pact between the Canadian government, representatives from Indigenous communities, church groups, and the residential school survivors who were enrolled in the country's notorious Indian residential school system that existed from the late 1800s through the mid-1900s.[219] An express goal of the TRC was to "[p]romote awareness and public education of Canadians about the IRS system and its impacts" [220] that removed over 150,000 Indigenous youths from their homes and placed them in schools, where they were subjected "to strict discipline, religious indoctrination, and a regimented life more akin to life in a prison than a family."[221]

Beginning in 2008, the TRC spent six years traveling across Canada to speak with survivors of the IRS system.[222] Over six thousand individuals explained how they were "abused, physically and sexually," [223] and witnessed deaths "in numbers that would not have been tolerated in any school system anywhere in the country, or in the world." [224] The shocking revelations of the TRC were "difficult to accept" [225] in Canada, "which has long prided itself on being a bastion of democracy,

peace, and kindness throughout the world."[226]

The commission subsequently released ninety-four calls to action, including seven related to education[227] and four related to education for reconciliation.[228] Call to Action 62, for example, asks Canada's federal, provincial, and territorial governments, in consultation with survivors, Aboriginal peoples, and educators to "[m]ake age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students."[229] Similarly, Call to Action 63 requests that Canada's Council of Ministers of Education "maintain an annual commitment to Aboriginal education issues" [230] that encompasses the history and legacy of residential schools. The DoD truth and reconciliation commissions envisioned by Motion 048 will most likely not have the extensive financial resources of the TRC. Nevertheless, the calls to action described above are examples of education reform ideas that can originate from these bodies and draw much-needed public attention to the DoD.

In November 2015, the National Centre for Truth and Reconciliation (NCTR) opened in the University of Manitoba. The NCTR serves as the permanent archive for the TRC and includes hundreds of photos, thousands of hours of videos, millions of government documents and church records, and seven thousand survivor statements.[231] Educators from primary and secondary schools, post-secondary institutions, and the public and private sectors work closely with the facility to promote materials so students can "learn about and participate in reconciliation." [232] This includes downloadable teaching resources—such as computer apps, books, video games, films, graphic novels, lesson plans, and teaching guides—related to residential schools for preschool through college learners.[233] Of course, the success of DoD truth and reconciliation commissions is not contingent on a physical repository akin to the NCTR. Rather, the NCTR illustrates how simply documenting and providing access to powerful historic information can lead to innovation in the education sector, at least on a small scale or in individual classrooms.

However, it is important to highlight the mixed implementation record of the TRC's calls to action. According to Beyond 94, a website operated by the Canadian Broadcasting Corporation that tracks the status of the ninety-four recommendations in real-time, only thirteen are labeled "Complete."[234] Of the eleven calls to action specifically earmarked for education, three are labeled "Not started,"[235] five are labeled "In Progress — Projects proposed,"[236] and three are labeled "In Progress — Projects underway."[237] Although a sweeping reform of Canada's educational system cannot be completed overnight, the stalled momentum of the TRC's calls to action in the education arena reveals the hurdles that DoD truth and reconciliation commissions will need to overcome in the future. These hurdles will almost certainly be more imposing given the comparatively fewer resources that DoD commissions will likely enjoy. Thus, Motion 048's supporters may need to temper their expectations accordingly.

D. Repudiation of the Doctrine of Discovery by Religious Institutions

Miller notes that "Indigenous Nations and Peoples have been working with many churches to join them in repudiating the Doctrine of Discovery."[238] Given the history and origins of the DoD, it is unsurprising that religious institutions occupy a central role in the healing process. Motion 048 reflects this dynamic in its invitation to "the leaders of all religions to repeal and renounce their past proclamations that legitimised the 'Doctrine of Discovery' in all its manifestations."[239]

Many churches and church organizations have created momentum by officially rejecting the DoD in recent years. For example, the Episcopal Church adopted a 2009 resolution at its seventy-sixth General Convention that, *inter alia*, repudiated and renounced the DoD as "fundamentally opposed to the Gospel of Jesus Christ and our understanding of the inherent rights that individuals and peoples have received from God."[240] Likewise, the Anglican Church of Canada adopted a resolution in 2010 that repudiated the DoD and included a list of "broad steps that would make a robust preliminary response,"[241] such as an immediate recognition of "the primal and aboriginal authority of Indigenous of nations."[242] In 2019, the church released a downloadable documentary titled *Doctrine of Discovery: Stolen Lands, Strong Hearts* as well as an accompanying study guide designed to "educate people on the Doctrine and create an awareness of its legacy."[243]

The religious bodies that have denounced the DoD spans across numerous denominations. This list includes: the Christian Church (Disciples of Christ), the Christian Reformed Church, the Community of Christ, the Evangelical Covenant Church, the Evangelical Church in Canada, the Evangelical Church in Canada, the Evangelical Lutheran Church of America (ELCA), the Friends General Conference,

Mennonite Church USA, Presbyterian Church, Quakers, the Canadian Friends Service Committee, the Unitarian Universalist Association of Congregations, the United Church of Christ, the United Church of Canada, the United Methodist Church, the Uniting Church in Sweden/Equmeniakyrkan, and the World Council of Churches.[244] The collective reach of these institutions is not insignificant. The ELCA, for example, has nearly 3.3 million members in all fifty states and the Caribbean region.[245] Likewise, the World Council of Churches counts more than five hundred million Christians across its Orthodox, Anglican, Baptist, Lutheran, Methodist, United, Reformed, and independent church membership.[246]

Steven T. Newcomb, a Shawnee-Lenape scholar and author of *Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery*, is "encouraged that more and more Christian people seem on board to at least raise awareness."[247] According to him, "exploring"[248] the "healing activities that can take place,"[249] can lead to the "reset of an honor and a respect for the original nations and peoples."[250] However, as mentioned earlier, the Vatican and the government of England have yet to renounce the DoD or address the centuries of harms inflicted on Indigenous Peoples around the world.[251] Newcomb was part of a delegation that traveled to Rome in 2016 "to press the Vatican about the Doctrine of Discovery,"[252] which included a two-hour meeting with Silvano Maria Tomasi, an archbishop who has since been elevated to cardinal, on the topic. Although Newcomb personally gave Pope Francis a copy of his book during his visit, he has categorized the Church's responses as "sidesteps"[253] and argued that "[t]hey're not taking responsibility for anything."[254]

The Church's silence on the DoD has, however, started to raise concerns within its own ranks. In July 2021, Douglas J. Lucia became the first known Catholic bishop in the United States to publicly call for the Vatican to acknowledge the damage caused by the DoD.[255] Lucia, the bishop of the Roman Catholic Diocese of Syracuse, New York, referred to the DoD as "white supremacy"[256] that turned Indigenous Peoples into "second-class citizens"[257] in their own lands. He also announced that he is exploring a possible meeting with the Pope in the hopes of achieving "a public acknowledgment from the Holy Father of the harm these bulls have done to the Indigenous population."[258] These actions carry significant weight as Bishop Lucia was appointed by Pope Francis in 2019.[259] Although the Vatican has not commented on this topic, Bishop Lucia remains in his post[260] and has even received public praise from Newcomb: "Any effort on the part of Bishop Lucia of Syracuse to address this issue of the domination that was unleashed by the Vatican over many, many years... I welcome that... I think that's terrific."[261]

On one hand, Motion 048 has the timely potential to bring new attention to the DoD and eventually capture the attention of the Vatican. This potential is reflected in Pope Francis's willingness to meet with survivors of the IRS system in spring 2022[262] as well as his outspoken support for environmental causes, such as "radical"[263] climate action and the criminalization of ecocide under international law.[264] Papal recognition of the DoD would be a momentous event, but it is important to note that Motion 048 espouses a bottom-up approach focused on renouncing the doctrine in "*all* its manifestations."[265] This strategy benefits from more churches acknowledging the harm caused by the DoD, which, in theory, allows change to occur at the local level. Thus, even if the Vatican continues to remain silent on the issue, there is still reason to believe that Justice Antonio Benjamin's closing words on Motion 048 in Marseille will one day ring closer to truth—that "faith is to liberate not to oppress."[266]

IV. Conclusion

The language and intent of Motion 048 are squarely in line with the broad multisectoral push for repudiation of the DoD. Not only does the motion officially renounce the DoD, it implores states and religious institutions to take commensurate action, either by formally renouncing the doctrine, repealing laws associated with it, or establishing truth and reconciliation commissions. Thus, as Justice Benjamin observed in Marseille, the adoption of Motion 048 was perhaps the most significant moment in IUCN's history, as it represents the force of 1,400 members, which the Union will accordingly promote through its unique legal personality and various obligations to the international community. Although the motion is hindered by the limitations of soft law, its adoption nevertheless represents an important step towards healing the damage done to Indigenous Peoples over centuries and demanding action from those most responsible for that harm.

1 .*World Conservation Congress Mobilizes Attention ahead of Climate, Biodiversity COPs*, SDG Knowledge Hub (Sept. 16, 2021), https://sdg.iisd.org/news/world-conservation-congress-mobilizes-attention-ahead-of-climate-biodiversity-cops/.

2 .IUCN Seventh World Conservation Congress, Motion 048 (2020), Marseille [hereinafter Motion 048].

3 .Motion 048 received 77.94% of Category A votes (53 "yes" votes, 15 "no" votes, and 56 abstentions) and 90.77% of Category B and C votes (423 "yes" votes, 43 "no" votes, and 171 abstentions). *Motion / Mocion 048*, IUCN World Conservation Cong. Marseille, https://www.iucncongress2020.org/sites/www.iucncongress2020.org/files/motion_048.png (last visited Oct. 13, 2021).

4 .Justice Antonio Benjamin, Remarks at the World Conservation Congress, 3rd Sitting of the Members' Assembly (Sept. 8, 2021).

5 .*Id.*

6 .Tonya Gonnella Frichner, *Preliminary Study of the Impact on Indigenous Peoples of the International Legal Construct Known as the Doctrine of Discovery*, Econ. & Soc. Council, U.N. Doc. E/C.19/2010/13, ¶ 18. (Feb. 4, 2010).

7 .Jennifer Reid, *The Doctrine of Discovery and Canadian Law*, 2 Can. J Native Stud. 335, 336 (2010).

8 .*Id.*

9 .Gonnella Frichner, *supra* note 6, at 2.

10 .*Id.*

11 .*Id.*

12 .Blake A. Watson, *The Impact of the American Doctrine of Discovery on Native Land Rights in Australia, Canada, and New Zealand*, 34 Seattle U. L. REV. 507, 550 (2011).

13 .*See id.*

14 .Robert J. Miller & Olivia Stitz, *The International Law of Colonialism in East Africa: Germany, England, and the Doctrine of Discovery*, 32 Duke J. Comp. & Int'l L. 1, 7 (2021).

15 .Bridging the Medieval-Modern Divide: Medieval Themes in the World of the Reformation 186 (James Muldoon ed., 2016) (quoting Frederic W. Mailand, *Moral Personality and Legal Personality*, in The Collected Papers of Frederic W. Mailand 304, 310 (H.A.L. Fischer ed., 1911).

16 .*Id.*

17 .Presbyterian Church (USA), Doctrine of Discovery: A Review of Its Origins and Implications for Congregations in the PC (USA) and Support for Native American Sovereignty 4 (2018), https://facing-racism.pcusa.org/site_media/media/uploads/facing_racism/doctrine-of-discovery-report-to-the-223rd-ga-2

18 .*Id.* (quoting James Muldoon, Popes, Lawyers and Infidels 14 (1979)).

19 .Robert J. Miller, *The Doctrine of Discovery: The International Law of Colonialism*, 5 Indigenous Peoples' J. L., Culture & Resistance 35, 36 (2019).

20 .*Id.* at 38.

21 .Gonnella Frichner, *supra* note 6, at ¶ 10.

22 .*Id.* at ¶ 11.

23 .*Id.* at ¶ 15.

24 .*Id.* at ¶ 15.

25 .The Bull Inter Caetera (Alexander VI), May 3, 1493, *translated inThe Doctrine of Discovery, 1493*, Gilder Lehrman Inst. Am. Hist., https://www.gilderlehrman.org/sites/default/files/inline-pdfs/04093_FPS.pdf (last visited Sept. 19, 2021).

26 .*Id.*

27 .Robert J. Miller & Jacinta Ruru, *An Indigenous Lens into Comparative Law: The Doctrine of Discovery in the United States and New Zealand*, 111 W. Va. L. Rev. 849, 854 (2009).

28 .*Id.*

29 .Patent Granted by King Henry VII to John Cabot and his Sons (1496), https://www.heritage.nf.ca/articles/exploration/1496-cabot-patent.php.

30 .Miller & Ruru, *supra* note 27, at 854.

31 .Robert J. Miller, Jacinta Ruru, & Larissa Behrendt, Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies 2 (2012).

32 .Angus Love et al., *The Supreme Court, Tribal Land Claims, and the Doctrine of Discovery; Trampling on the Walking Purchase*, 65 Guild Pract. 104, 105 (2008).

33 .*Id.*

34 .*Id.*

35 .*Id.*

36 .Miller & Ruru, *supra* note 27, at 850.

37 .*Id.*

38 .*Id.*

39 .*Id.*

40 .Miller, *supra* note 19, at 37–38.

41 .Johnson v. M'Intosh, 21 U.S. 543 (1823).

42 .Ctr. for Env't Legal Stud., Renouncing the "Doctrine of Discovery" at the IUCN World Conservation Congress Marseille, 3-11 September 2021 (2021) https://law.pace.edu/sites/default/files/Doctrine_of_Discovery.pdf.

43 .First Charter of Virginia (1606), https://encyclopediavirginia.org/entries/first-charter-of-virginia-1606/.

44 .Miller & Ruru, *supra* note 27, at 858.

45 .*Seeid.*

46 .*Id.* at 861.

47 .*Id.* (quoting N.Y. Const. art. XXXVII (1777), http:/www.nhumanities.org/ccs/docs/ny1777.htm (last visited Sept. 27, 2021)).

48 .*Id.*

49 .*See id.* at 861–62.

50 .U.S. Const. art. I, § 8.

51 .Miller & Ruru, *supra* note 27, at 867.

52 .*Id.*

53 .*Id.*

54 .Act of July 22, 1790, ch. 23, 1 Stat. 137, 138, § 4.

55 .Miller & Ruru, *supra* note 27, at 872.

56 .*Id.*

57 .*Id.*

58 .*Id.*

59 .*Id.*

60 .David P. Waggoner, *The Jurisprudence of White Supremacy: Inter Caetara,* Johnson v. M'intosh *and* San Antonio Independent School District v. Rodriguez, 44 Southwestern L. Rev. 749, 758 (2015).

61 .Reid, *supra* note 7, at 342 (emphasis added).

62 .Waggoner, *supra* note 60, at 753.

63 .21 U.S. at 571–72.

64 .*Id.* at 550–52, 555.

65 .*Id.* at 560.

66 .*Id.* at 567.

67 .*Id.* at 572.

68 .*Id.* at 574.

69 .*Id.*

70 .*Id.* at 586.

71 .*Id.* at 604–05.

72 .Waggoner, *supra* note 60, at 759.

73 .David E. Wilkins, Johnson v. M'Intosh *Revisited: Through the Eyes of* Mitchel v. United States, 19 Am. Indian L. Rev. 159, 162 (1994).

74 .*Tee-Hit-Ton Indians v. United States*, 348 U.S. 272, 279 (1955).

75 .Gonnella Frichner, *supra* note 6, at ¶ 41.

76 .*Tee-Hit-Ton Indians*, 348 U.S. at 279.

77 .*Id.*

78 .*Id.*

79 .*Id.*

80 .Stuart Banner, How the Indians Lost Their Land: Law and Power on the Frontier 11 (2005).

81 .*Id.*

82 .*Id.*

83 .Miller, *supra* note 19, at 38 n.20.

84 .City of Sherrill v. Oneida Indian Nation, 544 U.S. 197 (2005).

85 .*Id.* at 197 n.1.

86 .Miller, *supra* note 19, at 38.

87 .Miller & Ruru, *supra* note 27, at 856.

88 .Gonnella Frichner, *supra* note 6, at pp. 1–2.

89 .Edward John, *Study on the Impacts of the Doctrine of Discovery on Indigenous Peoples, Including Mechanisms, Processes and Instruments of Redress*, Econ. & Soc. Council, U.N. Doc. E/C.19/2014/3, ¶ 29 (Feb. 20, 2014), https://digitallibrary.un.org/record/767270?ln=en.

90 .*Id.* at ¶ 11.

91 .*Health*, UN Dept. of Econ. & Soc. Affs., https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/health.html (last visited Sept. 22, 2021).

92 .*Challenges and Opportunities for Indigenous Peoples' Sustainability*, UN Dept. of Econ. & Soc. Affs (Apr. 23, 2021), https://www.un.org/development/desa/dspd/2021/04/indigenous-peoples-sustainability/.

93 .*Id.*

94 .*Renouncing the "Doctrine of Discovery*,"*supra* note 42, at 4.

95 .*About*, IUCN, https://www.iucn.org/theme/global-policy/about (last visited Oct. 5, 2021).

96 .*Id.* at 5; Jack Jenkins, *Bishop Denounces "Doctrine of Discovery," Used to Justify Abuse of Indigenous Peoples, and Suggests Pope Francis Do the Same*, America (July 6, 2021), https://www.americamagazine.org/faith/2021/07/06/bishop-syracuse-doctrine-discovery-indigenous-240986.

97 .Watson, *supra* note 12, at 550.

98 .*Id.*

99 .*The UN Declaration on the Rights of Indigenous Peoples, a Quick Reference*, Indian L. Res. Ctr., https://www.usetinc. org/wp-content/uploads/bvenuti/Annual%202016/Thumbdrive%20items/Monday/Importance%20o (last visited Sept. 26, 2021).

100 .*United Nations Declaration on the Rights of Indigenous Peoples*, UN Dept. of Econ. & Soc. Affs, https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html (last visited Sept. 26, 2021).

101 .*Id.*

102 .Assembly of First Nations, Introduction to the United Nations Declaration on the Rights of Indigenous Peoples (2017), https://www.afn.ca/wp-content/uploads/2018/02/17-11-27-Introduction-to-the-UN-Declaration-EN.pdf.

103 .G.A. Res. 61/295, United Nations Declaration on the Rights of Indigenous Peoples, at pmbl. (Sept. 13, 2007).

104 .*United Nations Declaration on the Rights of Indigenous Peoples*, *supra* note 100. Eleven nations abstained from voting (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine). *Id.*

105 .*See e.g.*, *Indigenous Nations, Organizations and Prominent Individuals Support Federal Implementation of UN Indigenous Rights Declaration*, Cision (Mar. 10, 2021), https://www.newswire.ca/news-releases/indigenous-nations-organizations-and-prominent-individuals-support-federal-ir *Canadian Council of Churches Urges Implementation of UNDRIP*, Church for Vancouver (Oct. 14, 2020), https://churchforvancouver.ca/canadian-council-of-churches-urges-implementation-of-undrip/; *Campaign on the United Nations Declaration on the Rights of Indigenous Peoples*, Kairos, https://www.kairoscanada.org/what-we-do/indigenous-rights/undrip-campaign (last visited Oct. 21, 2021).

106 .Am. Civ. Liberties Union/Human Rights at Home Campaign, Written Testimony to the U.S. Senate Committee on Indian Affairs, Oversight Hearing on "Setting the Standard: Domestic Policy Implications of the UN Declaration on the Rights of Indigenous Peoples," https://www.aclu.org/sites/default/files/field_document/undrip_committee_statement_hurah_aclu_final2.pdf (last visited Oct. 21, 2021).

107 .*UN Declaration on the Rights of Indigenous Peoples*, United Church of Can., https://united-church.ca/social-action/justice-initiatives/reconciliation-and-indigenous-justice/un-declaration-rights#doing (last visited Oct. 21, 2021).

108 .Haudenosaunee, Am. Indian L. All., & Indigenous L. Institute, *Conference Room Paper on the Doctrine of Discovery* ¶ 3 (Apr. 25, 2012), (paper presented at the 11th Session of the UNPFII), https://www.un.org/esa/socdev/unpfii/documents/2012/session-11-CRP2.pdf [hereinafter *Conference Room Paper on the DoD*].

109 .John, *supra* note 89, at ¶ 2.

110 .*Id.*

111 .*UNPFII Eleventh Session,* UN Dept. of Econ. & Soc. Affs, https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2/unpfii-eleventh-session.html (last visited Oct. 9, 2021).

112 .*Id.*

113 .*Indigenous Peoples' Forum, 7-18 May, Marks Anniversary of Declaration on Indigenous Rights, at High-Level Event 17 May*, UN (May 4, 2012), https://www.un.org/press/en/2012/hr5085.doc.htm.

114 .*Indigenous Peoples' Forum to Mark 5th Anniversary of Declaration on Indigenous Rights*, UN (May 2012), https://www.un.org/esa/socdev/unpfii/documents/2012/News%20and%20Media/Press%20release%20UNPFII%204%2

115 .*Permanent Forum Considers Draft Report, Including Agenda for Next Session*, UN (May 17, 2012), https://www.un.org/press/en/2012/hr5096.doc.htm.

116 .*As Permanent Forum Opens, Deputy Secretary-General Says Indigenous Peoples Must Be Involved "Every Step of the Way" in All Decisions on Development*, UN (May 7, 2012), https://www.un.org/press/en/2012/hr5086.doc.htm.

117 .*"Doctrine of Discovery", Used for Centuries to Justify Seizure of Indigenous Land, Subjugate Peoples, Must Be Repudiated by United Nations, Permanent Forum Told*, UN (May 8, 2012), https://www.un.org/press/en/2012/hr5088.doc.htm.

118 .*Forum Speakers Say "Doctrine of Discovery" Shameful Root of Today's Indigenous Oppression, Remnants Still Evident in Many Constitutions Must Be Removed*, UN (May 9, 2012), https://www.un.org/press/en/2012/hr5089.doc.htm.

119 .Econ. & Soc. Council, Permanent Forum on Indigenous Issues Report on the Eleventh Session ¶ 12 (2012), https://undocs.org/E/C.19/2012/13.

120 .*Id.* at ¶ 9.

121 .*Id.*

122 .IUCN, A Review of the Impact of IUCN Resolutions on International Conservation Efforts 5 (2012), https://www.iucn.org/downloads/resolutions_eng_web.pdf.

123 .Res. 4.052, Implementing the United Nations Declaration on the Rights of Indigenous Peoples

(Oct. 2008).

124 .*Id.* at pmbl.

125 .IUCN, International Union for Conservation of Nature Submission to the 11th Session of the United Nations Permanent Forum on Indigenous Issues 2 (2012).

126 .*Id.*

127 .Res. 5.007, Establishing an Indigenous Peoples' Organization (IPO) membership and voting category in IUCN (Sept. 2012).

128 .*See id.* at ¶ 4(a).

129 .Res. 5.097, Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (Sept. 2012).

130 .*Id.* at pmbl.

131 .*Id.*

132 .IUCN, Amplifying Indigenous Voices: IUCN Indigenous Members' Solutions and Challenges Related to the COVID-19 Crisis 2 (2020), https://www.iucn.org/sites/dev/files/ipo-c19-brief.pdf.

133 .*Id.*

134 .*Id.*

135 .*Id.*

136 .Note that there have been indigenous group members participating in the IUCN since the 1980s. David Coffey, *Indigenous Groups Join Marseille Conservation Conference Armed with Voting Rights*, RFI (Sept. 6, 2021), https://www.rfi.fr/en/france/20210906-indigenous-groups-join-marseille-conservation-conference-armed-with-voting-rigl

137 .Motion 048, *supra* note 2, at pmbl. The motion was sponsored by Global Center for Environmental Studies at Pace University's Elisabeth Haub School of Law (U.S.); Kua##ina Ulu #Auamo (KUA) (U.S.); the Environmental Law Program at the William S. Richardson School of Law (U.S.); Centre international de droit comparé de l`environnement (Fr.); Centro Mexicano de Derecho Ambiental (Mex.); Instituto O Direito por um Planeta Verde (Braz.); International Council of Environmental Law (Spain); and Lincoln University, Faculty of Environment, Society and Design (N.Z.). *Motion / Mocion 048*, *supra* note 3. KUA, a community-based organization from Hawai#i, was one of the first IPOs recognized by IUCN. *Kuaaina Ulu Auamo*, Open 990, https://www.open990.org/org/454509939/kuaaina-ulu-auamo/ (last visited Sept. 27, 2021).

138 .Motion 048, *supra* note 2, at pmbl.

139 .*Id.*

140 .Kerstin Knopf, *The Turn Toward the Indigenous: Knowledge Systems and Practices in the Academy*, 60 Amerikastudien / Am. Stud. 179, 179 (2015).

141 .Motion 048, *supra* note 2, at pmbl.

142 .*Id.*

143 .*Id.*

144 .*Id.*

145 .*Id.*

146 .*Id.*

147 .*Id.*

148 .*Id.*

149 .*Id.*

150 .Motion 048, *supra* note 2, at ¶¶ 1–4.

151 .Motion 048 has the follow resolution code: WCC-2020-Res-119-EN. *List of Motions*, IUCN World Conservation Cong. Marseille, https://www.iucncongress2020.org/assembly/motions (last visited Oct. 10, 2021).

152 .Ian Hannam, *International and National Legal and Institutional Frameworks for the Sustainable Use of Soil*, 13 S. Afr. J. Env't L. & Pol'y 223, 226 (2006). 168.

153 .*Id.* at 232 n.41.

154 .A Review of the Impact of IUCN Resolutions on International Conservation Efforts, *supra* note 122, at 3.

155 .Motion 048, *supra* note 2, at ¶ 1.

156 .*Id.* at explanatory memorandum.

157 .*Id.* at ¶ 2.

158 .*Id.* at ¶ 3.

159 .*Id.* at ¶ 4.

160 .Miller, *supra* note 19, at 41.

161 .*Id.*; *see e.g.*, *"Doctrine of Discovery," Used for Centuries to Justify Seizure of Indigenous Land, Subjugate Peoples, Must Be Repudiated by United Nations, Permanent Forum Told*, UNPFII (May 8, 2012), https://www.un.org/press/en/2012/hr5088.doc.htm.

162 .Miller, *supra* note 19, at 41–42.

163 .*Id.* at 41.

164 .Motion 048, *supra* note 2, at pmbl.

165 .Nicholas A. Robinson, *IUCN as Catalyst for a Law of the Biosphere: Acting Globally and Locally*, 35 Env't L. 249, 308 (2005).

166 .*Id.*

167 .*Id.* (quoting IUCN's mission).

168 .*Id.* at 302.

169 .*A Corporate Programme of the GEF Implemented by United Nations Development Programme (UNDP)*, Sustainable Dev. Goals P'ships Platform, https://sustainabledevelopment.un.org/partnership/?p=7705 (last visited Oct. 5, 2021).

170 .*About*, *supra* note 95.

171 .Robinson, *supra* note 165, at 303.

172 .Convention Concerning the Protection of the World Cultural and Natural Heritage art. 14, Nov. 16, 1972, 27 U.S.T. 37.

173 .Robinson, *supra* note 165, at 303.

174 .*Id.*

175 .Robinson, *supra* note 165, at 308.

176 .How the World Conservation Congress Motions Process Works 2 (2012), https://2012congress.iucn.org/cmsdata.iucn.org.iucn.vm.iway.ch/downloads/information_on_motions_process.pdf.

177 .IUCN Statutes of 5 October 1948, revised on 22 October 1996, and last amended on 27 September 2016 (including Rules of Procedure of the World Conservation Congress, last amended

on 27 March 2019), Voting Statute 31, https://www.iucn.org/sites/dev/files/iucn_statutes_and_regulations_january_2018_final-master_file.pdf.

178 .Robinson, *supra* note 165, at 301.

179 .*Id.*

180 .*Id.*

181 .IUCN, The Impact of IUCN Resolutions on International Conservation Efforts: An Overview 3 (2018), https://portals.iucn.org/library/sites/library/files/documents/2018-011- En.pdf (emphasis added).

182 .The motions process for the WCC in Marseille adhered to the following timeline: submission of motions (May–Aug. 2019); publication of motions (Oct. 2019); online discussion of motions (Dec. 2019–Mar. 2020); electronic vote on motions (Oct. 2020); publication of results (Nov. 2020); submission of new and urgent motions (Aug.–Sept. 2021); contact groups (Sept. 2021); Members Assembly (Sept. 2021). *See Motions,* IUCN World Conservation Cong. Marseille, https://www.iucncongress2020.org/event/members-assembly/motions (last visited Oct. 6, 2021).

183 .*Id.*

184 .*About*, *supra* note 95.

185 .*See* discussion *supra* Part I.B.1.

186 .Miller, *supra* note 19, at 41.

187 .*Id.*

188 .Motion 048, *supra* note 2, at ¶ 3.

189 .*Conference Room Paper on the DoD*, *supra* note 108, at ¶ 19.

190 .*Id.*

191 .*Id.* at ¶ 22.

192 .Mark Jones, *The World Conservation Congress—Talking Shop or True Force for Change?*, Wildlife & Countryside Link (Sept. 2016), https://www.wcl.org.uk/the-world-conservation-congress-%E2%80%93-talking-shop-or-true-force-for-change.asp.

193 .*Id.*

194 .*Id.*

195 .*Individual Voting Result—3rd Sitting (Available to Members Only)*, IUCN World Conservation Cong. Marseille, https://portals.iucn.org/union/node/28797 (last visited Oct. 21, 2021) [hereinafter *Individual Voting Results*].

196 .Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, s. 14(1) (N.Z.).

197 .The Whanganui iwi are a M#ori tribe that had sought recognition for the river as an ancestor for 140 years. Eleanor Ainge Roy, *New Zealand River Granted Same Legal Rights as Human Being*, Guardian (Mar. 16, 2017), https://www.theguardian.com/world/2017/mar/16/new-zealand-river-granted-same-legal-rights-as-human-being.

198 .Christopher Finlayson, *Whanganui River Settlement Passes Third Reading*, Beehive (Mar. 16, 2017), https://www.beehive.govt.nz/release/whanganui-river-settlement-passes-third-reading.

199 .Elizabeth Macpherson et al., *Meet the River People: Who Speaks for the Rivers?*, stuff (Apr. 2, 2018), https://www.stuff.co.nz/environment/102741097/meet-the-river-people-who-speaks-for-the-rivers.

200 .Ctr. for Env't L. Stud., *supra* note 42, at 9.

201 .*Id.* at 7.

202 .*Co-Management of National Parks with Traditional Owners*, Gov. S. Austl., https://www.environment.sa.gov.au/topics/park-management/co-management-of-parks (last visited Oct. 6, 2021).

203 .*Id.*

204 .*Id.*

205 .*Id.*

206 .*Id.*

207 .Motion 048, *supra* note 2, at ¶ 2.

208 .Those that abstained from voting on Motion 048 include state members from Portugal, Belgium, Germany, France, Monaco, Norway, New Zealand, Australia, Sweden, Luxembourg, Canada, Switzerland, and the United States. *Individual Voting Results*, *supra* note 195.

209 .Those that voted for Motion 048 include state members from Namibia, Thailand, Vietnam, Senegal, Uganda, Sri Lank, China, Nepal, Oman, Egypt, Jordan, Costa Rica, Niger, Spain, Romania, Austria, Panama, Tunisia, South Korea, Fiji, Ecuador, Uruguay, Albania, Iraq, Kosovo, and Brazil. *Id.*

210 .Miller, *supra* note 19, at 42.

211 .John, *supra* note 89, at ¶ 29.

212 .*Id.*

213 .*Id.*

214 .Motion 048, *supra* note 2, at ¶ 3.

215 .*Id.*

216 .John, *supra* note 89, at ¶ 24.

217 .*Id.*

218 .*Id.*

219 .TRC, Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada 168 (2015), https://united-church.ca/sites/default/files/Executive_Summary_English_Web.pdf.

220 .*Id.* at 340.

221 .*Id.* at 137–38.

222 .*Id.* at V.

223 .*Id.*

224 .*Id.* at VI.

225 .*Id.* at V.

226 .*Id.* The 2021 discovery of hundreds of unmarked graves at several former Indian Residential Schools highlights the ongoing importance of the TRC as well as other truth and reconciliation commission. Karine Duhamel, *Unmarked Graves Are a Moment of Truth for Canada-Indigenous Reconciliation*, World Pols. Rev. (Sept. 21, 2021), https://www.worldpoliticsreview.com/articles/29996/with-unmarked-graves-at-residential-schools-canada-faces-a-mom

227 .TRC, Truth and Reconciliation Commission of Canada: Calls to Action calls to action 6–12 (2015), https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-docume

228 .*Id.* at calls to action 62–65.

229 .*Id.* at call to action 62.

230 .*Id.* at call to action 63.

231 .*National Centre for Truth and Reconciliation Opens in Winnipeg*, CBC News (Nov. 3, 2015), https://www.cbc.ca/news/canada/manitoba/national-centre-truth-reconciliation-winnipeg-1.3301305.

232 .*Education*, NCTR, https://nctr.ca/education/ (last visited Oct. 1, 2021).

233 .*Id.*

234 .*Beyond 94: Truth and Reconciliation in Canada*, CBC News, https://newsinteractives.cbc.ca/longform-single/beyond-94 (last visited Oct. 1, 2021). "Complete" refers to "Calls to Action which have been fully implemented." *Id.*

235 .*Seeid.* at calls to action 6, 9, 64. "Not started" refers to "Calls to Action in which no action plan has been developed and/or no funds have been committed, to implement the Call to Action." *Id.*

236 .*Seeid.* at calls to action 8, 10, 11, 63, 65. "In Progress — Projects proposed" refers to "Calls to Action in which the relevant parties involved have either committed to an action plan or funding, but not yet followed through with it." *Id.*

237 .*Seeid.* at calls to action 7, 12, 62. "In Progress — Projects underway" refers to "Calls to Action in which the relevant parties involved are actively working towards implementing that call, with both a timeline and (where needed) the funding to make it happen." *Id.*

238 .Miller, *supra* note 19, at 42.

239 .Motion 048, *supra* note 2, at ¶ 4.

240 .Episcopal Church, Repudiate the Doctrine of Discovery, 2009-D035, 76th Gen. Convention (2009), https://episcopalarchives.org/cgi-bin/acts/acts_resolution-complete.pl?resolution=2009-d035.

241 .Anglican Church of Canada, Repudiate the Doctrine of Discovery, A086–R1, 2010 Gen. Synod (2010), http://archive.anglican.ca/gs2010/resolutions/a086/.

242 .*Id.*

243 .*Study Guide: Doctrine of Discovery: Stolen Lands, Strong Hearts*, Anglican Church of Can. (Mar. 2019), https://www.anglican.ca/wp-content/uploads/doctrine-study-guide_ver3_complete.pdf.

244 .*Repudiations by Faith Communities*, Doctrine of Discovery, https://doctrineofdiscovery.org/faith-communities/ (last visited Oct. 2, 2021).

245 .*About*, ELCA, https://www.elca.org/About (last visited Oct. 3, 2021).

246 .*What is the World Council of Churches?*, World Council of Churches, https://www.oikoumene.org/about-the-wcc (last visited Oct. 3, 2021).

247 .Emily McFarlan Miller, *Denominations Repent for Native American Land Grabs*, Religion News

Serv. (Aug. 22, 2018), https://religionnews.com/2018/08/22/denominations-repent-for-native-american-land-grabs/.

248 .*Id.*

249 .*Id.*

250 .*Id.*

251 .*See* discussion *supra* Part I.C.

252 .Jenkins, *supra* note 96.

253 .*Id.*

254 .*Id.*

255 .Renée K. Gadoua, *Bishop Supports Apology on Papal Bulls that Justified Indigenous Oppression*, Catholic News Serv. (July 7, 2021), https://www.catholicnews.com/bishop-supports-apology-on-papal-bulls-that-justified-indigenous-oppression/.

256 .*Id.*

257 .*Id.*

258 .Jenkins, *supra* note 96.

259 .*Bishop Douglas J. Lucia*, Roman Cath. Diocese of Syracuse, https://www.syracusediocese.org/about-us/bishop-elect-douglas-john-lucia-installation/ (Oct. 24, 2021).

260 .*Id.*

261 .Gadoua, *supra* note 255.

262 .Rob Gillies, *Pope Francis Will Meet Survivors from Canadian Church-Run Boarding Schools at the Vatican This Spring*, Am. Mag. (Feb. 1, 2022), https://www.americamagazine.org/politics-society/2022/02/01/pope-francis-canada-first-nations-242318?cx_testId=1&c

263 .Mark Lowen, *Pope Urges "Radical" Climate Response in Exclusive BBC Message*, BBC (Oct. 29, 2021), https://www.bbc.com/news/world-europe-59075041.

264 .*Pope Francis: Destroying the Earth Is a Sin and Should Be a Crime*, Stop Ecocide (Nov. 18, 2019), https://www.stopecocide.earth/press-releases-summary/pope-francis-destroying-the-earth-is-a-sin-and-should-be-a-cri

265 .Motion 048, *supra* note 2, at ¶ 34 (emphasis added).

266 .Benjamin, *supra* note 4.