

## DOCTRINE OF DISCOVERY – REPUDIATION

(A&P 2019, p. 368–78, 35)

Call to Action No. 46, ii of the Truth and Reconciliation Commission calls upon the parties of the Indian Residential Schools Settlement Agreement (which includes The Presbyterian Church in Canada) to a “repudiation [rejection] of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius* and the reformation of laws, governance structures and policies within their respective institutions that continue to rely on such concepts.”<sup>2</sup>

The Doctrine of Discovery and its accompanying concept of *terra nullius* were developed in the middle ages and deployed in the centuries following to legitimize European monarchs’ colonial efforts to subjugate non-Christians and seize their property across the globe. This will be explained below, following the witness of Indigenous voices as to the ongoing harm stemming from the Doctrine of Discovery. The attitudes that underline the Doctrine of Discovery and *terra nullius* have thus shaped the colonial relationship between Indigenous and non-Indigenous people in Canada for hundreds of years. In response to Call to Action No. 46, ii, The Presbyterian Church in Canada began to examine where its policies have been shaped by concepts such as the Doctrine of Discovery and *terra nullius*. The Presbyterian Church’s Assistant Archivist Bob Anger researched and prepared a detailed narrative chronology (1886–1969) reflecting how some of these attitudes manifested in the church, particularly with regards to its operation of residential and day schools. This work is discussed briefly below (see p. 372–74) but a more extensive film and a webinar have also been prepared on his research and are available on the Healing and Reconciliation section of Justice Ministries’ website [presbyterian.ca/healing](http://presbyterian.ca/healing).

The effects of actions rooted in the Doctrine of Discovery and concepts like *terra nullius* are devastating. Former Chief Justice Beverley McLachlin has called Canada’s treatment of Indigenous people since the colonial period cultural genocide.<sup>3</sup> The Truth and Reconciliation Commission of Canada called the residential school system cultural genocide.<sup>4</sup> A hard and complicated truth is that The Presbyterian Church in Canada was an agent in that system. As we confront this truth, we bear witness to its current and ongoing legacy. The Rev. Dr. Margaret Mullin, Thundering Eagle Woman, minister at Place of Hope Church in Winnipeg, writes that, “the legacy of colonization and the residential school system still presents itself in serious and complicated brokenness today. That brokenness of Indigenous Spirit manifests itself through anger, violence, illness, addictions, dysfunctional families and dysfunctional power structures. Generational trauma is difficult to resolve but not impossible.”<sup>5</sup> The Doctrine of Discovery was one of the tools used to shape this generational trauma. In order to continue the work of undoing the trauma, we must understand and repudiate this doctrine in our church not only in its historical use but also any present legacy. Hearing the voices of survivors and other Indigenous people is paramount to walking the path of reconciliation, therefore, this report begins with voices discussing the current and living legacy of the Doctrine of Discovery.

This report has been reviewed by the Presbyterian National Indigenous Ministries Council (NIMC), as well as several church committees and theologians.<sup>6</sup> The church is fortunate to have the wisdom and advice of those who consulted.

### The Current and Living Legacy: Witness from National Indigenous Ministries to the effects of Colonization

Presbyterian Indigenous ministries hosted conversations in 2018 with members of their communities to discuss the living legacy of colonialism. (See Indigenous Ministries on p. 326.) The church is deeply grateful for their reflections. These notes are from those conversations and identify themes in how colonial attitudes springing from the Doctrine of Discovery are still shaping and harming, relationships between Indigenous and non-Indigenous people in Canada:

- Racism: “It is very hurtful to read what we as Indigenous people were viewed as.<sup>7</sup> How do you repair 500 years of being nothing?”
- Loss of connection to community and culture: “Many people discussed the loss that has happened in our communities and how it has affected the overall sharing of knowledge and traditions. So many families were left without elders...the knowledge keepers are passing on at an alarming rate and healthy grieving practices are not being supported.”
- Shame and self-hate: “Our DNA and the blood memories we have of what we grew up with and the impacts of growing up in a racist community has been very hurtful and caused much shame and often self-hate. This has been passed down to their children and now seeing the effects with addiction, family breakdown and suicide.”
- Violence: “they should acknowledge the student on student abuse.”

- Broken families, broken communities; displacement from families and communities: one elder spoke about how their siblings attended schools run by different church denominations and how this split forever changed how they connected to their family. Another person said: “One survivor shared about growing up knowing she was different due to her skin colour and growing up in a religious home and not being allowed to come into contact with her own ‘kind’.”
- Youth suicide: “our children are suffering – living with the effects of Indian residential schools – no resources for our damaged children.”
- Broken trust (within families and between peoples): “Are you with us or not?”
- Sense of isolation, segregation: “It is still happening – still acting like we are not here – even though they say there is a respect – nation to nation relationship – out of sight, out of mind is how many feel.”
- Sense of helplessness, hopelessness and the ongoing influence of the doctrine: “The control and continued implications of the doctrine of discovery re: colonialism and discrimination factors are still happening today and its authority is still being enforced and governed.”

These next reflections name how the church has been complicit in this harmful legacy and how the church can change its behaviours to make significant steps toward healing relations:

- Failure to listen: “People do not realize the underlying damage done by the Doctrine of Discovery.”
- Be an ally: “Don’t just listen to stories and feel sorry. Educate yourself about the real history and speak up!”
- Speak out: There is a sense that the church doesn’t stand with Indigenous peoples regarding issues of concern to Indigenous peoples: “even in land claims – they need to show support or help advocate with first nations – be an ally”.
- Acknowledge the land: “They need to...acknowledge this is our land.”
- Honour treaties: “They have to recognize the treaty boundaries.”
- Support Indigenous-led healing initiatives, especially in communities where the church caused devastation – help [with] healing centres and gatherings.

The following reflections note the need for more education and awareness regarding the ongoing effects of the Doctrine of Discovery and *terra nullius*, as well as the need for concrete actions that flow from repudiating them:

- The importance of the land: “It is all about the land and it [the repudiation of the Doctrine of Discovery] should have a reference as to how it impacted the people and the relationship. The land was so important and when the children were taken from the land it caused a life sentence.”
- More awareness needed: “There needs to be more awareness and education about the Doctrine of Discovery at all levels. People need to be aware of the powers and controls of the Doctrine of Discovery.”
- Action is necessary, not just words: “The repudiation has to be more than a document and words and action needs to also be a major part of the whole process.”

The testimonies from Presbyterian Indigenous ministries present a reminder that the Doctrine of Discovery and *terra nullius* have impacted – and continue to impact – Indigenous people in not only disputes regarding access to land and resources but also in everyday interactions with those who consider Indigenous people to be inferior.

### **HOW WERE THE DOCTRINE OF DISCOVERY AND *TERRA NULLIUS* FORMED?**

The Doctrine of Discovery is a set of concepts developed from a series of papal bulls (decrees) issued around the 15th century, while *terra nullius* is Latin for “empty land”. Land was treated as *terra nullius* if it was deemed unoccupied or unowned – specifically, this often was assumed to mean unfarmed by European standards.<sup>8</sup> Drawing on the concept of *terra nullius*, the papal bulls provided theological justification and legal backing to European monarchs to invade and seize non-Christian lands, enslave non-Christian people and to take their property.

The papal bull *Dum Diversas*, for example, was issued by Pope Nicholas V in 1452 and granted the King of Portugal “full and free power, through the Apostolic authority by this edict, to invade, conquer, fight, [and] subjugate the Saracens and pagans and other infidels and other enemies of Christ...and to lead their persons in perpetual servitude and to apply and appropriate [their] realms, duchies, royal palaces, principalities and other dominions, possessions and goods of this kind to you and your use and your successors the Kings of Portugal.”<sup>9</sup> The edicts that were issued through – as Nicholas himself points out – “Apostolic authority” were more concerned with aiding European monarchies and nascent European nation-states to garner more land resources, power and money by whatever means available than they were with matters of faith. It was in the interest of the late medieval papacy to support such secular efforts because doing so created a kind of dependence of the various monarchies on ecclesiastical power and authority.<sup>10</sup>

The attitudes behind these practices continued even after the power of the medieval papacy waned. The ideology that European colonial powers had a right to appropriate lands and possessions and treat non-Christians they encountered as undeserving of the rights accorded to their own citizens flows from these doctrines and heavily influenced the legislation that eventually governed Indigenous-Crown relations. It also heavily influenced the system of residential and day schools in which the church was complicit. The Truth and Reconciliation Commission created a public record of the experiences of survivors of residential schools, detailing the impact of these experiences and their continuing harm. Consider for a moment the following scenario, which was an all too familiar result of the attitudes and legislation that concepts like the Doctrine of Discovery and *terra nullius* fostered:

Imagine a knock on your door. You open it and are met by strangers accompanied by a police officer. These people are speaking a different language, so you don't understand what they're saying. Eventually, you come to the surreal realization that they've come for your children. There is some time given to pack clothes and say goodbye. Any resistance is met with the threat of arrest by the police. You're not sure where your children are going or if you will ever see them again. You're wondering what you did wrong. You have no idea what is happening as you helplessly watch this nightmare unfold before your eyes.

### **HOW DOES AN EVENT LIKE THIS AFFECT THE CHILD? THE PARENTS? THE COMMUNITY?<sup>11</sup>**

The cumulative effects of experiences such as the one just described can be summed up in two words: generational trauma. Doctrines that supported treating Indigenous people as incapable of caring for themselves, their land and their children unjustly robbed Indigenous people of the ability to fully shape their lives and their future and resulted in legislation that produced systems such as the residential schools, the day schools and the Sixties Scoop.

There is no consensus about the full extent of the contemporary ramifications of the Doctrine of Discovery and *terra nullius* in Canadian law. For the church, what is important is how the behaviours and activities that reflect these concepts influence the church's mission and ministry with Indigenous people and more broadly, how the Doctrine of Discovery has shaped attitudes of the dominant society toward Indigenous people. The focus of the Church must be on reconciliation and healing the trauma we helped cause. The church's integrity is tied to its accountability for its role in the residential and day school system and the extent that colonial attitudes underscored the church's mission and ministry with Indigenous people. Recognizing this, in 1994 The Presbyterian Church in Canada confessed its complicity in the Government of Canada's policies of assimilation, the harm it caused and that "the roots of the harm we have done are found in the attitudes and values of western European colonialism and the assumption that what was not yet moulded in our image was to be discovered and exploited." (A&P 1994, p. 376)

### **THEOLOGICAL REFLECTION ON THE DOCTRINE OF DISCOVERY AND *TERRA NULLIUS*: READING LIKE A CANAANITE**

The relationship between scripture and colonialism is complex. Historically, the Bible has been used both as a weapon of colonial oppression and a source of hope and liberation for the oppressed. In the aftermath of the Doctrine of Discovery and *terra nullius*, we listen to the text to identify its colonial tones and also to hear the voices of those who were silenced and ignored in the biblical witness. Biblical interpretation is never a neutral task – we hear the text as those who have been shaped and formed in a historical ethos that has been unjust toward Indigenous people.

The Doctrine of Discovery and *terra nullius* have been supported by interpretations of scripture that rely on two particular texts which speak to biblical land traditions. The first is from Genesis chapter one:

Then God said, "Let us make humankind in our image, according to our likeness; and let them have dominion over the fish of the sea and over the birds of the air and over the cattle and over the all the wild animals of the earth and over every creeping thing that creeps upon the earth."  
(Genesis 1:26)

A particular understanding of the notion of humans having "dominion" over creation, one where dominion is based in the ability to exert power, is at the root of ideologies such as the Doctrine of Discovery and *terra nullius*. But is such an understanding of dominion warranted?

Looking at the wider context of scripture, how does God seem to understand the land God's creation and human relationship to it? If we examine the book of Leviticus, for example, God speaks: "The land must not be sold permanently, because the land is mine and you reside in my land as foreigners and strangers. Throughout the land that you hold as a possession, you must provide for the redemption of the land." (Leviticus 25:23–24, NIV) As Leviticus makes clear, people may hold the land; we may use it, care for it and otherwise steward it but we do not ever fully own it such that we could dispose of it as we will. We are not to deal with it in any permanent way. God

made it, the text states and so God owns it; our dominion is one of care and stewarding, not of ruling. The text goes so far as to call the Israelites themselves, as well as any other people, “foreigners and strangers” on the land – strangers whom God hosts in a model act of hospitality. This understanding of land and humans’ relation to land could hardly be said to be depicted in the Doctrine of Discovery, which treats the land as though it is somehow “empty” and available for enduring domination, not to mention conquest.

The second text whose interpretations have been used at times to support such ideas as the Doctrine of Discovery is from Matthew 28, also known as the Great Commission:

Go therefore and make disciples of all nations, baptizing them in the name of the Father and of the Son and the Holy Spirit. (Matthew 28:19)

Musa Dube, a scholar from Botswana, challenges traditional Protestant interpretations of this passage, which she views as generally imperialist in nature. Matthew’s commission, Dube claims, has been interpreted and enacted as a justification for uninvited border-crossing.<sup>12</sup> She asks,

Does such an imperative consider the consequences of trespassing? Does it make room for Christian travelers to be disciplined by all nations? Or is the discipling in question conceived solely in terms of a one-way traffic? ...the text clearly implies that Christian disciples have a duty to teach all nations, without any suggestion that they must also in turn learn from all nations.<sup>13</sup>

There are many examples of the people of Israel entering land that was already occupied. The much sought-after ‘promised land’ was entered in a manner that violated and terrorized its inhabitants (Deuteronomy 7:20, 30–31; Exodus 3:6–10; Joshua 23). How are we to read stories such as these, that seem to reflect attitudes much like those expressed in the Doctrine of Discovery and *terra nullius*?

Biblical scholar Laura Donaldson invites biblical interpreters to “read like a Canaanite”, by recognizing the presence of others in the text who are not the primary focus of biblical authors. Although the Exodus story is a paradigmatic exploration of freedom and liberation, it does not promote freedom and liberation for all. Scripture tells us that God sends the Israelites into the home of the Canaanites. The promised land is already inhabited, albeit by a much-maligned race. The account of God’s directive to the Israelites that we find, for example, in the book of Joshua is at best to avoid other races and at worst a directive to kill and destroy not only the Canaanite people but also their culture. Reading the story from the position of Canaan’s inhabitants or indeed, from the perspective of any modern people whose land has been expropriated, such as the Indigenous people of North America, highlights the other side of the story. Rather than considering the story of the Promised Land in isolation and from only one perspective, we can use the practice of letting scripture shed light on itself. Where there are difficult passages, we can read them in light of the rest of the Biblical witness.

One of the central affirmations of Genesis and a foundational text in Christian tradition, Genesis 1:27, is that humans are created in the image of God:

So God created humankind in his image  
in the image of God he created them;  
male and female he created them.

The account in Genesis thus tells us that the Canaanites were created in God’s image as well. What is the nature of the God in whose image we were created? What does scripture in its fullness tell us about the God who created us?<sup>14</sup>

The overall picture scripture paints is that we worship a God who rules not with dominating power but through sacrificial love; who loved the world, the ‘the other’, the privileged and the marginalized. Indeed, the Gospel of Matthew relates how God chose to become incarnate as a descendant of Rahab – one of the few Canaanite survivors of the fall of Jericho (Matthew 1:5). In fact, taking a closer look at Jesus’ genealogy listed in Matthew (and remembering that Jesus’ name is a variant of the earlier name Joshua, who was responsible for the fall of Jericho and the slaughter of the Canaanites) we see several marginalized peoples present there. Jesus’ genealogy includes women in a patriarchal context, a Canaanite and a Moabite, both of whom were peoples identified in other passages of the Bible as cultures to shun. These are not the names one might expect to find in the genealogy of the Son of God incarnate – if, that is, one thinks of God as being a God of domination rather than a God of sacrificial love for all people.

The Doctrine of Discovery and *terra nullius* are based on the idea that the ‘other’ is not worthy of basic human rights or respect. Jesus, on the other hand God incarnate, showed respect and love toward ‘the other’, for example, the Syrophenician/Canaanite woman in Mark 7 and Matthew 15 and the Samaritan in Luke 10. Our God became

incarnate in order to reveal God's love for those who are finite and flawed, both those at the centre and at the margins. Reading like a Canaanite would let us see the story of the woman in Mark 7 and Matthew 15 and the Samaritan in Luke 10, as examples of Jesus' love and care in accepting those that others in his society would have had trouble respecting or even treating as humans made in God's image, with full worth and rights.

Jesus modelled servant ministry for building community and as the basis for relationships. Relationships marked by domination are incompatible with Jesus' teachings about right relationship. Manifestations of superiority, power seeking and domination in human relationships are a sign of brokenness. The roots of harm seen in colonization and the residential and day school system are a sign of brokenness. However, Jesus' death and resurrection is fundamentally about healing a broken relationship between God and God's image-bearers.

This work of healing is echoed by Paul in 2 Corinthians 5 when he calls a broken church back into right relationship and reminds its members that God has "entrusted the message of reconciliation to us". This is not merely a call to action but a reminder of our identity in Christ as beloved children of God.

In light of the Doctrine of Discovery, *terra nullius* and our participation in residential and day schools, we confess our failure to be ambassadors of reconciliation. In the words of the Confession adopted by the 1994 General Assembly, "We confess that The Presbyterian Church in Canada presumed to know better than Aboriginal peoples what was needed for life...in our cultural arrogance we have been blind to the ways in which our own understanding of the Gospel has been culturally conditioned." (A&P 1994, p. 376) But in Jesus Christ we are called back into right relationship with God and with each other, repudiating doctrines of superiority and seeking the witness of Indigenous people as we form new relationships.

Our church, as a perpetrator of brokenness, is called into a ministry of reconciliation as part of that healing process. We are invited to approach scripture in a manner that allows and encourages such healing.

### **WHAT THE RESEARCH SHOWS**

In an effort to respond fully to the call to repudiate the Doctrine of Discovery, The Presbyterian Church in Canada undertook a review of its archives to determine where and how attitudes flowing from that doctrine or the concept of *terra nullius*, were active. We found many examples. The following words from the Rev. Hugh McKay, missionary at Round Lake, Saskatchewan, are from The Presbyterian Church in Canada's 1886 Acts and Proceedings in a report of the Foreign Missions Committee (the predecessor of International Ministries). He was reporting on the residential school at Round Lake, run by The Presbyterian Church in Canada, (A&P 1886, p. xciv):

...We have been much encouraged in our experiment (i.e. of a school in which poor Indian children are both boarded and taught) during the past two winters; and we feel that we can recommend a school of this kind on a large scale to the sympathy of the Church. We have read of asylums for dogs and cats; and the work is spoken of as a work of mercy. Are not these little children better than they? Is it a work to be despised to take these little ones and lift them up from the poverty and filth and paganism in which we find them to become useful citizens of our country and sharers with us of the bright hope of a better life beyond?... We think schools of this kind should be established in many places; schools in which the children could be kept, fed, clothed and educated. They would thus be under our control and away from the pernicious influence of the pagan... If this plan were adopted, we feel assured that, in a few years, instead of wandering pagans, we should have industrious and happy communities and many true Christians.

To be clear, the influence the Rev. McKay is recommending attempting to thwart is the influence of parents and community members on their own children, which is labelled pernicious. This quotation, only one of many, highlights the kinds of attitudes the Doctrine of Discovery fostered in the mainstream culture of the time, including the church and how such attitudes contributed to the establishment of institutions like the residential and day school systems.

Indeed, a persistent theme that emerges from the research the church's Assistant Archivist, Bob Anger, undertook is a lack of empathy by the church toward Indigenous people. This lack of empathy is a failure on the part of the church to recognize the image of God in Indigenous people. It was manifested in:

- The presumption of inferiority of Indigenous people and culture and/or superiority of Euro-Canadian people and culture.
- Language and terminology that neglects and negates the full dignity of Indigenous peoples (e.g. Indians, heathens).

- Affirmation of the need to “civilize” Indigenous people by changing their language, appearance and culture.
- Justification of land seizures away from Indigenous peoples.<sup>15</sup>
- The removal of Indigenous children from their communities for the express purpose of ‘civilizing’ (to mould into Western European appearance, behaviours and language; praising compulsory attendance at residential school).
- Setting educational curriculum that furthered assimilation processes (e.g. exclusively teaching subjects and trades foreign to Indigenous life and livelihood; prohibiting expression of Indigenous language).

This is not a comprehensive list of the ways in which the church lived out colonial attitudes to the intense harm of its Indigenous neighbours. Colonial attitudes also manifested in liturgical and educational resources, such as missions studies.<sup>16</sup>

Additionally, other avenues of research into residential schools continues to reveal disturbing parts of this legacy, including at Presbyterian-run schools. Historian Mr. Ian Mosby, for example, published a report about nutritional experiments carried out on Indigenous adults and over 1,000 Indigenous children between 1942 and 1952.<sup>17</sup> Some of these children attended the Presbyterian-run Cecilia Jeffrey Indian Residential School. These nutritional experiments were carried out without the knowledge and consent of the affected communities and the parents whose children attended residential schools. A 1954 report obtained from the Indian and Northern Health Services archives by CBC in 2013 indicated that a school nurse experimented with 14 different drugs to treat “ear troubles” in children at Cecilia Jeffrey and that some of the children who were administered the drugs became deaf.<sup>18</sup> This research is chilling and painful to read. It reveals additional information about residential schools that must be acknowledged and is rightly part of the public record.

Bob Anger’s research in The Presbyterian Church in Canada’s archives shows that the language, perspective and content of resources changes over time. Between 1960 and 1980, for example, there is a noticeable change in educational content related to Indigenous people (e.g. the word “Indian” stops being used and is named as pejorative). Activities for children become more culturally sensitive and educational resources start to incorporate contextual information about different First Nation’s traditions.<sup>19</sup> Change is not a clear-cut path and these documents reflect a tension between current and changing norms (e.g. in terminology and methodology).

The research document detailing examples of the Doctrine of Discovery impacting the church’s language and policies is available through Justice Ministries or the Archives. A webinar and a video outlining the findings of this research are also available on the church’s website. We thank Bob Anger for his work.

### **DID PEOPLE RESIST ATTITUDES OR ACTIONS THAT JUSTIFIED EUROPEAN SOVEREIGNTY OVER INDIGENOUS LANDS AND PEOPLE?**

Indigenous people resisted and continue to resist, domination by non-Indigenous people, culture and governments. This is evident even within church records. Early correspondence between the church and Mr. James Nesbitt, the first Presbyterian missionary to work with Indigenous people in Canada, indicates that Indigenous people expressed anxiety regarding the tenuous nature of their status and lands.<sup>20</sup> Indigenous peoples resisted sending children to residential schools, not necessarily as a rejection of education per se but rather rejecting the separation of children from their parents and community. (A&P 1892, Appendix 11, p. 220 and A&P 1893 FMC report, appendix p. xcvi) A 1923 article in *The Presbyterian Witness* by Mr. R.B. Herron, former principal of a Presbyterian-run residential school near Regina, communicates the anxiety of parents over inappropriate education curriculum and poor education outcomes at residential schools, claiming that parents have no “voice” in the selection of teachers or in the subjects their children are required to study and concluding it is doubtful that when they leave at age 18 they could pass examinations higher than those set for a class of fourth or fifth grade white children.<sup>21</sup> Students that ran away from residential schools demonstrated their own form of resistance to and rejection of, residential schools.

Additionally, some members of the church drew attention to the treatment of Indigenous people. The Confession acknowledges “that there were some who, with prophetic insight, were aware of the damage that was being done and protested but their efforts were thwarted”.<sup>22</sup> Principal Caven of Knox College, for instance, drew the 1886 General Assembly’s attention to the treatment of Indigenous people by the Dominion of Canada: “it seems to be established by irresistible evidence that in too many instances a people who are wards of the Government have been wronged and defrauded by those who are specially appointed to care for them and promote their interests.”<sup>23</sup> Even this expression of concern reflects acceptance of a paternalistic ward-caregiver relationship imposed on Indigenous people by the Government of Canada, however. Principal Caven’s critique focused on inappropriate behaviour of civil servants towards Indigenous people as a hindrance to Christian missionary efforts rather than critiquing the ward-caregiver relationship itself.<sup>24</sup>

## **WHAT DOES IT MEAN TO REPUDIATE THE DOCTRINE OF DISCOVERY AND *TERRA NULLIUS*?**

This report opened with a brief reflection on Micah's call to do justice, love kindness and walk humbly with God. It also spent some time examining some of the biblical passages that have been used in colonial ways to support colonial practices, challenging those interpretations from the broader context of the Bible and Christian tradition. Whenever something that has significantly shaped our understanding is let go, such as, in this case, the Doctrine of Discovery, there will be some anxiety. What does it mean to repudiate these doctrines from the church's history that have a legacy today? What are the consequences? Many other churches have already repudiated the doctrine of discovery (a list of several denominations who have done so can be found below, p. 376). One potential question that might be raised, since the Doctrine of Discovery played such a large role in the ideology that supported taking land from Indigenous people, is whether repudiating the Doctrine of Discovery and *terra nullius* has any effect on Crown sovereignty. The Truth and Reconciliation Commission recognized that there may be anxiety surrounding this question and addressed it in their final report:

We would not suggest that the repudiation of the Doctrine of Discovery necessarily gives rise to the invalidation of Crown sovereignty. The Commission accepts that there are other means to establish the validity of Crown sovereignty without undermining the important principle established in the Royal Proclamation of 1763, which is that the sovereignty of the Crown requires that it recognize and deal with Aboriginal title in order to become perfected. It must not be forgotten that the terms of the Royal Proclamation were explained to and accepted by, Indigenous leaders during the negotiation of the Treaty of Niagara of 1764.<sup>25</sup>

This notion of perfecting the validity of Crown sovereignty points to the Crown acting in such a way that it is recognized as performing the appropriate sort of actions and engaging in the appropriate sort of relations that a sovereign Crown would. It is in doing so that other nations recognize and acknowledge the sovereignty of a Crown. Such international recognition is important because it underpins the foundations of sovereignty; in a real sense, nations are sovereign because other nations treat them as such. Thus, living up to the treaties that it signed and undertaking appropriate relations going forward, including where there is a need to repair and rebalance those relations by taking actions like repudiating harmful doctrines that had previously supported its actions, is a way to "perfect" the sovereignty of the Crown, rather than undermine it.

In faith, we understand that the just actions God calls us to are not always easy but when we follow them, good ensues, relationships are made right and the community as a whole flourishes. Repudiating colonial ideology such as the Doctrine of Discovery and *terra nullius* means that we will have to examine where our past and present, policies, programs and structures are informed by or contribute to colonial or racist understandings. It means we will have to engage in heartfelt examination, from a position of understanding the significant harm done, to work to change our future.

Repudiating would not simply be giving up something harmful, then; it is also committing to a healthier future more in line with our own doctrine and the understanding of justice we as a denomination have come to through engaging scripture. As we profess in Living Faith 8.4.2–3: "God's justice is seen when we deal fairly with each other and strive to change customs and practices that oppress and enslave others. Justice involves protecting the rights of others. It protests against everything that destroys human dignity." The Doctrine of Discovery is founded on principles that destroy human dignity. Given the severity of harm it has caused, a full and firm repudiation is absolutely necessary for healing and reconciliation efforts to which The Presbyterian Church in Canada has already committed itself in our 1994 Confession, as well as in order to uphold the doctrine we profess.

The words of our Confession are prayed with profound sorrow and regret but our conviction will be measured in the actions of the church going forward. Some of the activities and behaviours named in the Confession that a repudiation of the Doctrine of Discovery and *terra nullius* would seek to redress are: presuming western European cultures were superior to Indigenous cultures and using that assumption to justify support for bans on Indigenous spiritual practices; presuming to know better than Indigenous peoples what was needed for life; supporting the removal of children from Indigenous communities for the purpose of undermining the transmission of Indigenous language, culture, spirituality and identity; and using foreign disciplinary actions, creating a setting of acquiescence and obedience in which physical, sexual, emotional and psychological abuse occurred.<sup>26</sup> Having laid out these activities and behaviours and borne witness to the intergenerational trauma they engendered, it is clear why we should desire to utterly reject this doctrine and live out a wholly new witness founded on the justice we profess.

## WHERE TO NOW? THE TRC AND THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The Truth and Reconciliation Commission's final report names the living and ongoing legacy of colonization, including residential schools. This legacy includes missing and murdered Indigenous women and girls; overrepresentation of Indigenous children in Canadian welfare agency care; the need for the provision of resources to keep Indigenous children in culturally appropriate environments and the need for greater transparency and reporting for the apprehension of Indigenous children; persistent poverty in Indigenous communities; persistent underfunding of services in Indigenous communities; loss of language and culture; ongoing violations of Treaties; land claim disputes; and violations of Indigenous peoples' rights. The Truth and Reconciliation Commission, also named The Indian Act, as an example of the ongoing legacy of colonization since it sets regulations on Indigenous identity and governance.<sup>27</sup>

Having considered some of the present and historical legacy of attitudes and actions flowing from the Doctrine of Discovery and *terra nullius*, it is good to ask: how can the church work for reconciliation in this context? The form that a repudiation of the Doctrine of Discovery and *terra nullius* takes in other denominations who have already made it varies somewhat but moves in similar directions. In light of what has been said thus far, it comes as no surprise that, for example, the Christian Reformed Church in North America both rejected the doctrine and branded it a heresy:

- The Christian Reformed Church in North America (CRCNA) convened a task force that “struggled with the manifestations of brokenness in the long arch of the history – and present reality – that is the Doctrine of Christian Discovery”. The CRCNA’s 2016 Synod adopted a recommendation that it “acknowledge that the existing Doctrine of Discovery is a heresy and we reject and condemn it”. [crcna.org/sites/default/files/2016\\_acts.pdf](http://crcna.org/sites/default/files/2016_acts.pdf).
- In 2010, The Anglican Church in Canada’s General Synod passed a resolution to “repudiate and renounce the Doctrine of Discovery as fundamentally opposed to the gospel of Jesus Christ and our understanding of the inherent rights that individuals and peoples have received from God”. [archive.anglican.ca/gs2010/resolutions/a086](http://archive.anglican.ca/gs2010/resolutions/a086). In 2014 the General Synod established a commission to form a plan to follow up this resolution.
- In 2016 the Canadian Conference of Catholic Bishops issued a document stating it “considers and repudiates illegitimate concepts and principals used by Europeans to justify the seizure of land previously held by Indigenous peoples and often identified by the terms ‘Doctrine of Discovery’ and the notion of *terra nullius*”.<sup>28</sup>
- Similar statements have been made by the Religious Society of Friends; the Salvation Army, the United Church of Canada and others.

The Truth and Reconciliation Commission has said the framework for reconciliation in Canada is the United Nations Declaration on the Rights of Indigenous Peoples (hereafter the United Nations Declaration). The United Nations Declaration does not name the Doctrine of Discovery or *terra nullius* specifically but addresses the attitudes and assumptions that lay at the heart of these concepts, stating:

All doctrines, policies and practices based on 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.<sup>29</sup>

Put into practice, the United Nations Declaration provides sign posts for the journey to reconciliation between Indigenous and non-Indigenous people. Repudiating the Doctrine of Discovery is one step on that journey. Further, efforts to implement the United Nations Declaration can be understood as actions that meaningfully reject the Doctrine of Discovery and begin to dismantle its effects. The church has already advocated that the Government of Canada uphold the principles of the United Nations Declaration and harmonize Canadian laws and policies with the United Nations Declaration.<sup>30</sup>

The Truth and Reconciliation Commission also provides helpful guidelines to establish respectful relationships which could be applied to repudiating the Doctrine of Discovery. In the context of the relationship between Indigenous and non-Indigenous people and particularly in light of the legacy of residential and day schools, the requirements for respectful relationship include:

1. awareness of the past,
2. acknowledgement of harms,



3. atonement for harms done and
4. actions that change behaviour.<sup>31</sup>

These requirements must be expressed in institutions and in personal relationships.

The Assembly of First Nations also provides helpful guidelines for what it means to repudiate doctrines or concepts of superiority. They are summarized here:

- Acknowledge the consequences such doctrines have had for Indigenous peoples.
- Reject these concepts as illegal, immoral and a violation of human rights and affirm that they can never be used in such a manner again.
- In partnership with Indigenous peoples, examine how Canadian history, laws, practices and policies have relied on these concepts.
- Repudiate these concepts in a legislative (the church might say polity) framework and harmonize laws and policies with the UN Declaration on the Rights of Indigenous Peoples.
- Redress the violation of Indigenous people’s rights, including lands, territories and resources taken without Indigenous’ peoples free, prior and informed consent.
- Ensure such principles are never used again.<sup>32</sup>

**WHAT IS CLEAR IS THAT ACTIONS MUST FOLLOW WORDS FOR A STATEMENT OF REPUDIATION TO BE MEANINGFUL.**

The Confession serves as an ongoing acknowledgment of the devastating harm of colonization and is a covenant of the church’s commitment to seek new understandings and to walk in ways consistent with right relationship between Indigenous and non-Indigenous peoples. This report has attempted to name and acknowledge these harms. Atonement and reconciliation, however, can only be measured in the words and actions of the church over time. The Doctrine of Discovery and *terra nullius* as embraced and taught by the church is a failure of the church to believe and live the gospel. We reject this doctrine not simply because we affirm the UN Declaration but because we believe this doctrine is contrary to the will and way of God as revealed in Jesus Christ. Let us, therefore, act in ways consistent with our Confession, with the living faith we profess and with our calling to be agents of reconciliation as disciples of Christ.

In light of the theological and pastoral findings in this study of the Doctrine of Discovery and *terra nullius* the following recommendation is in response to TRC Call to Action Nos. 46, ii and 49 are proposed.

**Recommendation No. 10** (adopted, p. 35)

That The Presbyterian Church in Canada repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.

This recommendation recognizes and affirms language in the UN Declaration on the Rights of Indigenous Peoples as it relates to repudiating concepts used to justify European sovereignty over Indigenous lands and peoples. This language is particularly important because the Truth and Reconciliation Commission’s has named the UN Declaration as the framework for reconciliation.<sup>33</sup>

**Recommendation No. 11** (adopted, p. 35)

That The Presbyterian Church in Canada affirms that all doctrines, policies and practices based on or advocating for 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.

**Recommendation No. 12** (adopted, p. 35)

That The Presbyterian Church in Canada seek to engage in relationships with Indigenous peoples that reflect the principles of the UN Declaration on the Rights of Indigenous Peoples as the basis for right relationships.

**Recommendation No. 13** (adopted, p. 35)

That Justice Ministries produce a resource that reflects on the history and ongoing legacy of the Doctrine of Discovery and *terra nullius*, including suggested actions that courts of the church may take to repudiate the Doctrine of Discovery and *terra nullius*.

**Recommendation No. 14** (adopted, p. 35)

That members and courts be encouraged to study the Doctrine of Discovery and *terra nullius* in order to understand the contemporary ramifications of concepts used to justify European sovereignty over Indigenous lands and peoples in Canada, including how this is reflected in The Presbyterian Church in Canada’s mission and ministry with Indigenous people.

**RESOURCES**

The following provide information about the Doctrine of Discovery and *terra nullius* as legal concepts

- Larissa Behrendt, “The Doctrine of Discovery in Canada” and “Contemporary Canadian Resonance of an Imperial Doctrine” in *Discovering Indigenous Lands: the Doctrine of Discovery in the English Colonies*. Oxford: Oxford University Press, 2010.
- Jennifer Reid, “The Doctrine of Discovery and Canadian Law”, *Canadian Journal of Native Studies*, 2(2010): 335-359).
- Assembly of First Nations, “Dismantling the Doctrine of Discovery”, online at [afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf](http://afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf).
- Senwung Luk, “Ditching the Doctrine of Discovery (and what that means for Canadian law), Olthuis, Kleer and Townshend (OKT), online at [oktlaw.com/ditching-doctrine-discovery-means-canadian-law](http://oktlaw.com/ditching-doctrine-discovery-means-canadian-law).

**RESPONDING TO TRC CALL TO ACTION NO. 48, III**

Truth and Reconciliation Commission (TRC) Call to Action No. 48, iii calls on church parties to the Indian Residential Schools Settlement Agreement to commit to “engaging in ongoing public dialogue and actions to support the United Nations Declaration on the Rights of Indigenous Peoples”.<sup>34</sup> The TRC recognized the United Nations (UN) declaration as the framework for reconciliation in Canada.<sup>35</sup>

The Presbyterian Church in Canada participates in ecumenical advocacy initiatives in support of the implementation of the UN Declaration into Canadian law. This advocacy has primarily focused on Private Member’s Bill C-262. An act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples. The bill was introduced to the House of Commons by Mr. Romeo Saganash in April 2016 and proposes a 20-year timeline for consultation and reporting on the implementation of the UN Declaration into Canadian law. The Assembly of First Nations and Amnesty International Canada, among other organizations, have supported Bill C-262 in open letters to members of Parliament and senators. ([declarationcoalition.com/statements](http://declarationcoalition.com/statements))

Bill C-262 passed Third Reading in the House of Commons on May 30, 2018 and at the time this report was written, the bill was awaiting Second Reading at the Senate. The Moderator wrote to each Senator in October 2018 expressing support for Bill C-262. The Moderator also signed on to two ecumenical letters on the subject on Indigenous rights.

The first letter was sent to the Prime Minister following The Supreme Court of Canada’s decision regarding *Mikisew Cree First Nation v. Canada (Governor General in Council)*. The decision stated that parliament does not have a duty to consult Indigenous peoples when making laws. The letter from church leaders expressed hope that the government will maintain a higher standard for consultation with Indigenous peoples than expressed in *Mikisew* on legislation that affects them.

The second ecumenical letter was sent to all senators in February 2019 encouraging them to support Bill C-262.

**ENDNOTES**

<sup>2</sup> Ibid. 5.

<sup>3</sup> Former Chief Justice of the Supreme Court of Canada Beverley McLachlin gave a speech on May 28, 2015 and referred to Canada’s treatment of Indigenous peoples as “cultural genocide” that began in the colonial period. “Reconciling Unity and Diversity in the Modern Era: Tolerance and Intolerance”, Remarks of the Rt. Hon. Beverley McLachlin, P.C. Chief Justice of Canada, at the Aga Khan Museum, Toronto, Ontario, May 28, 2015.

<sup>4</sup> The Truth and Reconciliation Commission Cultural named the residential school system cultural genocide. Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), 1. Cultural genocide is not included under international law.

<sup>5</sup> Margaret Mullin, “When Will It Be Enough?” *Presbyterian Connection*, March 2019.

<sup>6</sup> The National Indigenous Ministries Council, Healing and Reconciliation Advisory Committee, Justice Ministries Advisory Committee, Life and Mission Agency Committee, Dr. John Vissers, Dr. Richard Topping, Dr. Ray Aldred. Dr. Vissers and Dr. Topping were consulted because of their participation in the 2013 consultation regarding the church's statement on Aboriginal Spirituality. (A&P 2013, p. 508–18). Dr. Aldred is head of the Indigenous Studies Program at the Vancouver School of Theology.

<sup>7</sup> Referring to church archival documents regarding residential schools.

<sup>8</sup> One frequent measure used by European Powers to determine ownership was whether people were using the land for European-style agriculture. See Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), p. 46.

<sup>9</sup> Pope Nicholas V, *Dum Diversas*. Translation from unamsanctamcatholicam. [blogspot.com/2011/02/dum-diversas-english-translation.html](http://blogspot.com/2011/02/dum-diversas-english-translation.html). Prior to the section quoted, Pope Nicholas V placed the actions he was condoning (invade, conquer, fight, subjugate...) in the context of defending the faith against non-Christians and "growing" the religion.

<sup>10</sup> In the words of the Assembly of First Nations, "[the Doctrine of Discovery] was invalidly based on the presumed racial superiority of European Christian peoples and was used to dehumanize, exploit and subjugate Indigenous Peoples and dispossess us of our most basic rights. This was the very foundation of genocide. Such ideology led to practices that continue through modern-day laws and policies." See "Dismantling the Doctrine of Discovery" p. 2, [afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf](http://afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf).

<sup>11</sup> Kevin Berube, "The intergenerational trauma of First Nations still runs deep", *Globe and Mail*, February 16, 2015. Kevin Berube is director of the Mental Health and Addictions Program at the Sioux Lookout Meno Ya Win Health Centre, which provides health services to 30 First Nations communities in Northwestern Ontario. A band member of Flying Post First Nation, he has more than 20 years of experience in child welfare, mental health and addictions working with First Nations communities.

<sup>12</sup> Dube, Musa W. 1998, "Go Therefore and Make Disciples of All Nations" (Matthew 28:19a): *A Postcolonial Perspective on Biblical Criticism and Pedagogy* Tolbert, Mary Ann (eds.), *Teaching the Bible: The Discourses and Politics of Biblical Pedagogy* Orbis Books, Maryknoll, New York, p. 224–46.

<sup>13</sup> Ibid.

<sup>14</sup> As an example of commentary on the importance of Genesis chapter one, in his reflection on the first chapter of Genesis, Rabbi Jonathan Sacks writes that "Genesis 1:26–27 is not so much a metaphysical statement about the nature of the human person as a political protest against the very basis of hierarchical, class- or caste-based societies, whether in ancient or modern times. This is what makes it the most incendiary idea in the Torah. In some fundamental sense we are all equal in dignity and ultimate worth, for we are all in God's image regardless of colour, culture or creed." Rabbi Jonathan Sacks, "The Genesis of Justice (Bereishit 5775)" [rabbisacks.org/genesis-justice-bereishit](http://rabbisacks.org/genesis-justice-bereishit).

<sup>15</sup> While land was not seized by The Presbyterian Church in Canada, the church documents record affirmation of these activities by the Government of Canada.

<sup>16</sup> See, for example, Book of Common Order, 1922; p. 68–9.

<sup>17</sup> Mosby, Ian. "Administering Colonial Science: Nutrition Research and Human Biomedical Experimentation in Aboriginal Communities and Residential Schools, 1942–1952" *Histoire sociale/Social History* XLVI, 91 (Mai/May 2013), p. 615–42.

<sup>18</sup> "Ear experiments done on kids at Kenora residential school", CBC News, online at [cbc.ca/news/canada/thunder-bay/ear-experiments-done-on-kids-at-kenora-residential-school-1.1343992](http://cbc.ca/news/canada/thunder-bay/ear-experiments-done-on-kids-at-kenora-residential-school-1.1343992).

<sup>19</sup> See, for example, content in "Our Neighbours" Mission Study for Primary Children 1964–1965, by The Presbyterian Children's Work Committee; "What's in a Name?" and "Outdoor Cooking" from Anishinabe Fellowship, Children of the Church Explorers, 1976–1977; and "Native Peoples of North America" and "Help put a new foundation under Mistawasis reserve church", 1985–1986.

<sup>20</sup> Letter of Rev. James Nisbet dated 30th July 1866. *The Home and Foreign Record of the Canada Presbyterian Church*, No. 2, Vol. VI (Dec. 1866), p. 47–8.

<sup>21</sup> R.B. Heron, *The Presbyterian Witness*, September 26, 1923.

<sup>22</sup> Former staff were again acknowledged by the 2011 General Assembly (A&P 2011, p. 32).

<sup>23</sup> Article reporting on the General Assembly, *The Presbyterian Witness and Evangelical Advocate*, June 26, 1886 (Vol. XXXIX, No. 26).

<sup>24</sup> Ibid.

<sup>25</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), p. 195.

<sup>26</sup> Each section of this paragraph reiterates activities named in The Presbyterian Church in Canada’s 1994 Confession. (A&P 1994, p. 376–77).

<sup>27</sup> It was provisions in the Indian Act that banned Indigenous cultural and spiritual practices and required Indigenous children to attend residential schools. The TRC has said of its impact: “The Indian Act was a piece of colonial legislation by which, in the name of ‘protection,’ one group of people ruled and controlled another.” TRC Summary report, p. 55.

<sup>28</sup> [ccc.ca/site/images/stories/pdf/catholic%20response%20to%20doctrine%20of%20discovery%20and%20tn.pdf](http://ccc.ca/site/images/stories/pdf/catholic%20response%20to%20doctrine%20of%20discovery%20and%20tn.pdf).

<sup>29</sup> See: [un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](http://un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf). This wording is on p. 3 of the Declaration.

<sup>30</sup> The Moderator of the 2010 General Assembly, the Rev. Dr. Herb Gale, wrote to the Government of Canada to commend its statement of support for the UN Declaration. The Moderator of the 2016 General Assembly, the Rev. Dr. Karen Horst, as part of an ecumenical statement, stated that The Presbyterian Church in Canada would implement the UN Declaration. That same year, the General Assembly adopted a recommendation that congregations and presbyteries be encouraged to study the United Nations Declaration on the Rights of Indigenous Peoples. The church is currently advocating in that support of private members’ Bill C-262 which proposes a legislative framework for Canadian laws and policies to be harmonized with the UN Declaration on the Rights of Indigenous Peoples. At the time of writing, Bill C-262 was at second reading in the Senate; in October 2018, the Moderator of the 2018 General Assembly, the Rev. Daniel Cho, wrote to all senators in support of Bill C-262.

<sup>31</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, 2015, p. 6–7.

<sup>32</sup> The AFN’s original wording is addressed particularly at the Government of Canada and reflects this in its language. The summary of these guidelines in this document are meant to keep the spirit of the original context while being meaningful to the church. [afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf](http://afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf), p. 2.

<sup>33</sup> [nctr.ca/assets/reports/Final%20Reports/Executive\\_Summary\\_English\\_Web.pdf](http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf). See in particular the section “Reconciliation as Relationship” beginning, p. 21.

<sup>34</sup> [nctr.ca/assets/reports/Calls\\_to\\_Action\\_English2.pdf](http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf).

<sup>35</sup> This is principle 1 from the TRC’s principles of reconciliation. See [nctr.ca/assets/reports/Final%20Reports/Principles\\_English\\_Web.pdf](http://nctr.ca/assets/reports/Final%20Reports/Principles_English_Web.pdf).