

THE DOCTRINE OF CHRISTIAN DISCOVERY: A Call for Its Repudiation and Reparations by People of Faith

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I. GROWING UP IN INDIAN COUNTRY: Recovering the Larger Context of the Story of my Past

I grew up in Indian Country. As a very young boy I heard it said that my great-grandmother, Margaretha, played with the Indians as a young girl, and that her future husband, my great-grandfather Joseph, fought against the Indians in two pitched battles as a “Defender of New Ulm,” my hometown, during what was then referred to as the “Sioux Massacre of 1862” and which today we know as the “Dakota – U.S. War of 1862.”¹ These fragments of the story of my first American ancestors and the Indians had a powerful impact on me and fueled my imagination as a young boy, but when I went out to look for Indians where I lived I never found any, and that is all I ever heard of either Margaretha’s and Joseph’s story.

These story fragments, of what I would many decades later learn were part of a far larger story, often came to mind as I and my childhood playmates played “cowboys and Indians” on the gorgeous summer days we spent romping around the hills and byways of the Minnesota River Valley on whose shores New Ulm was founded in 1854. Later, as a grade school student, I delivered the daily Minneapolis newspaper to downtown apartments and the local Public Library. One of the apartment buildings on my route had what looked like bullet holes in its brick walls that I was certain came from the 1862 war. The lower level of the library housed the Brown County Historical Society Museum. Stopping here on my newspaper route I saw many artifacts from the 1862 war including a human scalp taken from an Indian warrior by a soldier, and old photographs of immigrant-settlers who were refugees from the violence, many of whom were guided to safety by what came to be known as “friendly Indians.” In high school I briefly dug into the family files filled with newspaper clippings maintained by the Brown County Historical Society and learned that my great-grandfather Joseph had been a member of the local militia hastily organized for the defense of New Ulm and that after the end of the seven week war he went to Fort Snelling to join the military force being organized to protect against further attacks. As a member of that military force Joseph was present at the mass execution of 38 Dakota warriors held at Mankato on December 26, 1862. In 1863 he was a member of the military force of over 1,000 men commanded by Henry Sibley that drove the Dakota people west beyond the border of Minnesota.

The rest of Margaretha’s and Joseph’s story would not become known to me until many decades later during the opening years of the 21st Century while, as a professor of law, I was engaged in extended research on the treaties concluded between the Dakota people and the United States in the 19th Century.² While doing this research, I

came to learn that from time immemorial, the land we now know as Minnesota, has been the ancestral homeland of the Dakota people. To listen to the Dakota people today talk about it is to hear how this land – what they know as Mni Sota Makoce – gave them birth and sustained them over the centuries. Even today the Dakota people continue to view the land as their most *intimate relative* – a relative to whom they owe a duty of respect and care – in the same way their kinship system entails a duty of respect and care for each other. The people and the land are all bound up together in the stories the Dakota have told down through the centuries.

The words of two 21st century Dakota scholars reveal how the Dakota people understand their deep reverence for and interconnection with the land and each other as relatives that is at the heart of Dakota identity. Gwen Westerman, a direct descendant of several leading Dakota figures in 19th century Minnesota history, writes:

Mni Sota Makoce. The land where the waters are so clear they reflect the clouds. This land is where our grandmothers' grandmothers' grandmothers played as children. Carried in our collective memories are stories of this place that reach beyond recorded history. Sixteen different words in the Dakota language describe returning home, coming home, or bringing something home. That is how important our homeland is in Dakota regardless of where our history has taken us. No matter how far we go, we journey back home through language and songs and in stories our grandparents told us to share with our children.

"Back home" implies a return, a cycle of returning, as if it is expected, natural, a fact of life. Families gather around kitchen tables and remember the generations before us or journeys we make to or away from home. It is there, back home, where we are trying to return, where we belong, where the landscape is as familiar as our childhood beds and our mother's hands, where our roots are the deepest. It is there, back home, where we hear the repeated stories that make us who we are. So deep is that connection to the land that the word for *mother* and for the earth are the same in the Dakota language: Ina.³

The deep interconnectedness found in these words about the land as home, expresses a vision of individual human experience as being ultimately an expression of *communal interdependency* in which we, in our being, are part of one another and the land, and need each other and the land if we are to be whole selves. A poignant and powerful example of this relational sensibility and understanding of reality and human identity is found in a phrase central to the culture of the Dakota people: *Mitakuyapi Owas'in* (All My Relations). Waziyatawin, a leading contemporary scholar of indigenous history, herself a Wahpetunwan Dakota from Pezihutazizi Otunwe in southwestern Minnesota, notes that:

While [the phrase Mitakuyapi Owas'in] translates easily enough, the worldview associated with this phrase becomes apparent only when used in the context of the extensive network of other kinship terms. This is language that reflects the sacredness and interconnectedness of all creation and is used to encompass all living beings, in essence, all the natural world. It is used in greetings, in prayers, in ceremonies, in speeches, and any other time one wants to call upon all or part of creation. Thus, uttering the phrase in English does not have the same depth of meaning, because in English, other spiritual beings are not referred to with a kinship term in everyday speech, even siblings.⁴

In the 19th century another intimate, but quite different, relationship with the land would be formed by the immigrant-settlers who poured into Minnesota during the land rush that took place in the decade stretching between Minnesota's Territorial status in 1849 and Minnesota's Statehood in 1858, dramatically raising the number of immigrant-settlers in Minnesota from roughly 6,000 in 1850 to 180,000 in 1860 – a thirty-fold increase.⁵ With the flood of immigrant-settlers to Minnesota, the American story came to the Dakota homeland and dramatically changed the land itself. The land now open to settlement would, in the immigrant-settler's minds, be "improved" by such economic activities as farming, lumbering and mining.

Like other immigrant-settlers who came to Minnesota during the land rush of the 19th century, my first American ancestors came to be intimately connected to the land, but in a far different way than the Dakota people were connected with the land. While the Dakota viewed the land as their *relative, a land that possessed them*, the new Americans viewed this land as their *prized possession that they now held as individual landowners to the exclusion of all others*.

As I continued my research on the Dakota treaties, within the ever-enlarging historical context in which they were negotiated and implemented, I kept circling back from time to time to the story of my first American ancestors. I found that now I could begin to add more detail to the story fragments I had learned as a child. As the context of my research expanded, I came to realize that our national identity today is rooted in our colonial past. I learned that the vibrant agricultural, lumbering, mining, manufacturing, and commercial economy we enjoy was first formed and developed in the colonies of what would eventually become the American Republic following the War for Independence. The colonial legacy of our deep involvement in the African slave trade and our seizure of the homelands of the indigenous peoples of North America is the foundation of our economic prosperity and it has led us to a present that is shaped by race, and our separation from the land. This is the trauma of America's past. The economy and the representative democratic political society that we hold dear today was built upon land bought at a low price or seized outright from the Indigenous people and then worked by the forced labor of African slaves. Slave labor played an important role in the building of American capitalism and the prosperity that has brought to the

entire nation. In the 18th and 19th centuries a good share of the gross national product (GNP) was a direct product of slave labor. The contribution of the slaves to our shared life today is visible in Washington, D.C. where slave labor built the Executive Residence known as the White House and lifted the stones of the United States Capitol building into place.⁶

The good life in Minnesota has come from the prosperity of the nation at large and specifically as a result of the dispossession of the Dakota people from their ancestral homelands. In the 19th century this opened up to settlement the rich agricultural land that is the foundation of our state's economy. The expulsion of the Dakota people from Minnesota following the 1862 war is an example of the "ethnic cleansing" practiced across the United States against the Indigenous peoples of North America. It is what one scholar calls, "The Crime that Should Haunt America."⁷ Another scholar describes how "murderous ethnic cleansing" has played an important role in what he calls the "dark side of democracy." The story of United States government policy toward the Indigenous people of North America down through the years, that set in and shaped the American character after the close of the French and Indian War sometimes known as the Seven-Years War (1767-73), is the American version of this horrific pattern.⁸ On the collective hatred of the Indian people and the desire to displace Indigenous people from their land, the United States policy of removal was built and systematically implemented, tribe-by-tribe. In the 1850s, the policy had reached Minnesota with a vengeance. When the seven-week 1862 war ended, all of the Dakota people, those who went to war as well as those who rescued the immigrant-settlers refugees from that war, would feel the full fury of the postwar backlash. After the defeat of the Dakota, a government program was undertaken in response to widespread demands for the final expulsion of the Dakota people from the Dakota homeland. No one articulated this demand more strongly or more publicly than Governor Alexander Ramsey, who, on September 9, 1862, just days after the end of hostilities in the 1862 war, opened the special session of the state legislature he called to address the post-war situation in Minnesota with the following words:

We must, therefore, for the present, depend upon our own resources to make good to our citizens the protection which the General Government owes them, and it is to this end chiefly that I have called you together . . . to adopt . . . the measures necessary for our effectual protection.

Our course then is plain. The Sioux Indians of Minnesota must be exterminated or driven forever beyond the borders of the State.

They have themselves made their annihilation an imperative social necessity. Faithless to solemn treaty obligations, to old friendships, to the ties of blood, regardless even of self interest when it conflicts with their savage passions, incapable of honor, of truth or of gratitude; amenable to no law; bound by no moral or social restraints—they have already

destroyed in one monstrous act of perfidy, every pledge on which it was possible to found a hope of ultimate reconciliation.

They must be regarded and treated as outlaws. If any shall escape extinction, the wretched remnant must be driven beyond our borders and our frontier garrisoned with a force sufficient to forever prevent their return.⁹

In this speech, Ramsey explicitly embraced the long-established pattern of separating the Indigenous people from their homeland to a place west of the ever encroaching immigrant-settler communities now being established on the western frontier. The pattern was first set in the experience of early colonial life and extended to the territory acquired and governed by the British in the years following the end of the French and Indian War in 1773.¹⁰ After the American War for Independence, the United States became the successor sovereign over this vast territory. In 1830, three decades after the Louisiana Purchase had doubled the land mass of the United States, this pattern became a formal, Congressionally approved, federal campaign for the removal of the Indians from areas that were then opened to settlement.

In Minnesota the military campaign of 1863, that followed the 1862 war, in which my great-grandfather Joseph Vogel participated as a soldier, is an example of removal conducted through violent military action. This campaign, coupled with a state bounty placed on the head of Dakota people in Minnesota that would reach \$200 for dead Indians,¹¹ was carried out to drive the Dakota from the gently rolling prairies and beautiful valleys of the place they called *Mni Sota Makoce* – their homeland known to them as “[t]he land where the waters are so clear they reflect the clouds.”¹² When it was over, only a few Dakota remained.

In the quarter century that followed the 1862 war, four tiny Dakota communities recognized by the United States government were established in Minnesota on very small pieces of land. (These communities are known today as the Upper Sioux, Lower Sioux, Prairie Island Indian, and Shakopee Mdewakanton Sioux Communities.) In part, this action recognized the protection given by many Dakota people to the immigrant-settler refugees who fled their homes with the outbreak of the 1862 war. The vast majority of the Dakota people today, however, reside in diasporas spread out across the plains of the United States and Canada to the west of Minnesota – yet for the Dakota people Minnesota is still *Mni Sota Makoce* – the homeland in which their individual and collective identity as Dakota is rooted.

II. THE CHALLENGE OF COMING TO GRIPS WITH THE TRUTH OF THE AMERICAN STORY IN THE 21ST CENTURY

At the turn of the twenty-first century, Americans are finding it necessary to come to grips with a startling reality—the Indian people have not vanished, and the chapter of

history about the so-called “opening of the West,” in which the Indigenous peoples were dispossessed of their land, that is often thought of as closed, is not closed. In fact, it has never been closed and the story is still unfolding. The past is not dead. It is still very much with us in many ways. Its traumatic legacy is with us today and disfigures our shared life. That legacy can be readily seen in, for example, the stark picture of the many social disparities that mark contemporary life in Minnesota. The burden of the past within the Indigenous population in Minnesota includes social disparities that far exceed other ethnic groups. Not only has the Indigenous population of Minnesota been dispossessed of their homeland, they have also experienced an assault on their language, culture, and spiritual traditions that have led to social pathology that is well documented. This includes such indicators as employment, education, social services, health, housing, and contacts with the criminal justice system.¹³

How do we relate to this legacy? How should we relate to this legacy? One way or another we do and shall relate to it. The challenging question I wish to explore with you today is: How might we take a different approach to the past, in full recognition of it, acknowledging the truth of it, for the purpose of working toward social healing today and in the years to come? This challenge is posed in many settings in many ways. One of the most dramatic is one that is very close to home for me, and serves as the inspiration for my opening remarks about my immigrant-settler ancestors. That challenge involves recognizing, acknowledging, and responding, in a reparative way, to the ethnic cleansing of the Dakota people from the state of Minnesota in 1862–63. The challenge is to engage in the truth-telling that can lead us to understand that despite the many different stories of how our ancestors came to this land, deeply embedded in each of our stories is the Doctrine of Discovery.

The immigrant-settlers who flooded the land of the Dakota in the 19th century were able to build a new life in a new world marked by a prosperity that their European ancestors could only dream of. My Minnesota ancestors, some of whom like the Vogel’s from Bohemia came from impoverished land-poor peasant stock, like millions of other European immigrants prospered in the “New World” because of three features of early American history: (1) theft of land from Indigenous Peoples; (2) worked in many places by slave labor of forced immigrants from Africa; both of which were (3) legally sanctioned under the principles of English property law exported to America and imposed on the Indigenous land and African slave labor. These principles employed *possession* and *title* to give *dominion* over both the *land* and the *slave labor* to the legal owners under English property law. These three features of early American history serve as the three legs of the stool of national prosperity on which the European immigrants came to thrive in the “New World.” The legacy of this history continues to reverberate down to the present day. The question is, in the encounter with the truth of this past, what are the responsibilities of the present generation for the future?

Each of us who are descendants of immigrants must start with a recollection of our own particular story, rooted, as it is, in our own family stories, and the larger

American story. This can bring us to understand what, beyond our own choices in our present lives, has brought us to the particular place in our lives that we enjoy at this moment, and how, out of this encounter with the truth of our individual stories we can begin to act in response to heal the trauma in the larger American story of which our individual and familial stories are a part.

Eventually as my research on the Dakota treaties continued I found myself led to understand how the *Doctrine of Discovery*, which originated in the 15th century, is intimately bound up in my great-grandparents' story of coming to be landowning farmers and merchants in the Dakota homeland. I then came to see how the Doctrine of Discovery shapes the American story that is bound up in each of our individual stories today as citizens of Minnesota. That is the part of our shared story as Americans that I want to retell today.

III. THE DOCTRINE OF DISCOVERY AND HOME OWNERSHIP IN THE 21st CENTURY

The 15th century Doctrine of Discovery played a central role in shaping the understanding of land on the western frontier of the United States. It led directly to seizure of the Dakota homeland and the expulsion of the Dakota people from their ancestral homeland in Minnesota that took place in the aftermath of the Dakota – U.S. War of 1862. Today the Doctrine of Discovery is the very foundation of the legal ownership that my wife and I hold on our home in St. Paul. If you have ever owned a home the same is true for you. When this is understood we shall see that the truth of the past, then and now, calls us to take action that is rooted in our understanding of the land and our relation to it.

Think back to the “closing” that was held when you purchased your home. On that date it is likely that you sat down at a table with the owner of the property from whom you had agreed to purchase the house. Prior to this you would have signed a standard Minnesota Contract for the Purchase of Real Estate. You probably also “put down” a small sum as “earnest money” indicating your sincere desire to complete the terms of the sale. But the sale would not be completed until financing and a set of documents were prepared so that you could receive *clear title* to the house and the land on which it was built. This took time. Once the financing was arranged, a title search would be conducted to ensure that the current owner actually had title to the property and could convey it to you in the sale that you had agreed to under the purchase agreement. The title search was conducted to ensure that there were no encumbrances on the property – that is that no legal claims by anyone else were pending against the property, such as mortgages or liens of various kinds, all of which, if present and active would be what lawyers call "a cloud upon title." If such claims were active, the current owner would not be able to convey clear title to you. If the closing went forward under such circumstances all the current owner could convey to you was the current owner's interest in the property but your interest would now be subordinate to any holder of a

valid active legal claim on the property. If so these “clouds on title” would have to be cleared or “satisfied” before title could pass from the current owner to you. When the way was clear for that, title could pass to you. That event would occur at a time certain that was set and known as the “date of closing.” Once you received title you could then *take possession to the exclusion of all others*. Evidence of the fact that you were now the *title holder*, and thus the *owner* of the property over which you could now exercise dominion, was set forth in the deed document you received as part of the transaction to purchase the property. You could now open the property to use by others, permitting them to in effect take possession for the purposes of living in the home as a tenant paying rent. But you could also move in on the date of taking possession and exclude the world from your new castle.

Part of the process leading up to the closing of the sale on your house involved the updating of the legal abstract on the property you were buying. The legal abstract is a history of all prior titles to the land and any legal claims placed on that title and still pending that could place an encumbrance on the property prior to the rights you sought to acquire as the new owner on the day the closing takes place. This abstract was prepared to permit the title search that I mentioned earlier. Once the closing of the sale has been completed, and title has been conveyed to you, the abstract to your property can be updated to add your title to its history of all prior titles. The updated abstract, when read from beginning to end, now discloses how the legal title you now hold to the house in which you live, is traced back to the original grant of the land to the first private owner *after* the United States took title as the successor to the “discovering European nations” under the Doctrine of Discovery under American domestic law. When this is understood, along with the circumstances under which the United States separated the Indigenous people from their homeland and took possession of that homeland, we shall see that the truth of America’s past, then and now, calls us to take healing action that is rooted in our understanding of the land and our relation to it. If we are to be the compassionate peacemakers that our religious and faith-based traditions call us to be, our vocation as humans is to *make peace with the land AND each other* – neither task can be done in isolated separation from the other – indeed making peace with the land and each other are one and the same task.

IV. THE EUROPEAN INVENTION OF THE DOCTRINE OF DISCOVERY

The Doctrine of Discovery¹⁴ that is the root of the title each of us holds to the house in which we live today, is a European invention developed to serve the imperial interests of the Christian European nations that launched aggressive campaigns of discovery and conquest in the 15th Century. These campaigns had the potential to spark serious disputes between Western European nations as they raced each other to expand their empires on land being “discovered” far from Europe. The Doctrine of Discovery was designed to avoid such disputes so as to keep the peace between the Christian Nations of Western Europe while fostering their adventures of discovery in the “New World” to build their respective Empires.

The Discovery Doctrine facilitated the spread of Christian European dominion over land where such dominion had not previously existed by laying down the principle that once dominion was established by one Christian nation over such lands no other Christian nation could exercise the same right. Thus, in an important sense, the Doctrine of Discovery was about regulating relations between Western Christian European nations as much as it described the relations between these nations and the Indigenous peoples they encountered as a result of their imperial discovery activities.

The Doctrine authorized the “discovering” Christian nations to exercise dominion over both the Indigenous peoples encountered in distant lands, as well as their traditional homelands, by virtue of what came to be viewed as the theologically sanctioned conquest of the non-Christian inhabitants found in the “new world.” Discovery and conquest went hand in hand, to lay down a *theologically supported legal foundation* for the spread of European empire across the earth and establish the basis for private ownership of much of the newly discovered land. Thus, the Discovery Doctrine provided the basis for Spanish, Dutch, French, and British land claims in North America and for carving up the “discovered” land between these European sovereign powers, all of whom at one time or another established settlements in North America to perfect their claim to the land they “discovered” there.

The origin of the Doctrine is found in a series of 15th Century Papal Bulls and related documents. Two Papal Bulls are of special importance: *Romanus Pontifex* issued by Pope Nicholas V in 1455; and *Inter caetera divinai* issued by Pope Alexander VI in 1493, after the “discovery of America” by Christopher Columbus. *Inter caetera divinai* is the Papal Bull most often cited as the origin of the Discovery Doctrine. It divided the earth’s continents between Portugal and Spain to prevent competition between their respective imperial activities. Under this Papal Bull virtually all of the Americas were granted to Spain, with the exception of that part that would become Brazil, where Portuguese is spoken today. It “called for non-Christian ‘barbarous nations’ to be subjugated and proselytized for the ‘propagation of the Christian empire.’”¹⁵

The Papal Bulls, as well as other documents drafted to facilitate European discovery and dominion over foreign lands, were predicated on the assumed superiority and pre-eminence of the Church as the universal authority for governance of the world. In particular, they were also based, in part, on Pope Innocent IV’s thirteenth-century legal commentary, on an earlier decree by Pope Innocent III, justifying the Christian Crusades undertaken between 1096 and 1271. In addition to the Papal Bulls, calling on the Western European Christian nations to go out and subdue and reduce to slavery what were referred to as the “infidels” and “barbarous nations” of foreign lands, other documents played an important role in the creation and justification of the Discovery Doctrine. Thus, for example in 1512 Spain created the notorious “*Requerimiento*,” a document that was subsequently read out loud in Spanish by Spanish conquistadors

when they encountered the Indigenous peoples in the Americas upon landing in their land on a “discovery” voyage. The Requerimiento purported, as a matter of law, to provide justification for enslavement of the Indigenous people to whom this document was read, if they did not accept the pre-eminence of the Church and the Pope, along with the dominion of the Spanish Crown, the Christian head of state of a Christian nation, to whom God had given the power to rule over others. The last paragraph of the Requerimiento warns that if the Indigenous people did not comply, they would be subjected to war aimed at forcibly bringing about their enslavement and dispossession of their families and property.¹⁶

This history of the origin and meaning of the Doctrine is the reason the Doctrine is referred to in the title of this essay as the Doctrine of *Christian* Discovery. In sum, it was a legal doctrine, theologically sanctioned by the established Church in the 15th century, to serve the interests of the Christian nations of Western Europe as they went out to discover and claim ownership and dominion over portions of the earth previously unknown to most Western Europeans.

Eventually, as the European powers (Spain, the Netherlands, France & Britain) were supplanted in North America by the new American republic in the late 18th and early 19th Centuries, the Doctrine was embraced as legal precedent within the domestic law of the United States.¹⁷ Today it continues to function as the foundation of Federal Indian Law which governs the relations between the Indian nations, the United States and the individual states of the American Republic. Under the principles of Federal Indian Law, as elaborated by the United States Supreme Court, recognition of Indigenous people in America includes a measure of separateness, self-determination and self-governance that is far short of that traditionally accorded by the United States to other nation-states. Thus, Indigenous peoples, found within the borders of the United States, have for a century and a half been viewed as “domestic dependent nations.”¹⁸ As such they have been accorded only a limited measure of separation in which their sovereignty and tribal land rights are severely limited under two core principles of Federal Indian Law: (1) Tribes retain rights to limited self-government within their reservations; and (2) Tribes retain the right to occupancy of their lands, but tribes do not hold title to their lands. These two principles severely limit the traditional relation of tribes to their lands. Moreover, the limited rights tribes do have are subject to even further limitation since all tribal jurisdiction and tribal affairs are viewed as ultimately rooted in, and subject to, the *plenary power* of the federal government. This plenary power gives the federal government a general power over the tribes that has been held by the United States Supreme Court to be unlimited by either the Constitution or any other sources of law. Thus, the very existence of the tribes themselves, as well as their occupancy on their lands, is totally dependent on the federal government and can be modified or extinguished at the will of the government.¹⁹

A close reading of the work of the early United States Supreme Court reveals that the 19th Century incorporation of the Doctrine of Discovery in American domestic law,

and the role it plays from then down to today as the foundation of Federal Indian Law is rooted in the American Colonial experience as far back as the French and Indian War (1767-1773). When we take this long view we see how the Doctrine of Discovery in domestic American law emerges from and takes shape as a key feature of colonial life under Britain, followed by the struggle for Independence from Britain as well as the creation of the new American nation after the War for Independence. Included in many of the 19th Century American cases on “Indian Affairs” applying the Doctrine of Discovery as a matter of American law is the characterization of the Indigenous people, now subject to overriding federal authority, as “savages,” “warlike” and “heathens,” terms that reflect the theological origin of the Doctrine in the 15th Century. The 19th century Indian rights cases, in which the United States Supreme Court routinely relied on racial stereotyping language of Indians as “savages,” are regularly cited as precedent down to the present day.²⁰

The origin of this understanding of Indians as “heathen warlike savages” is rooted prominently in the American colonial experience of George Washington when he served as a British Army officer on the western Frontier of the colonies. Washington’s view of Native Americans as “savages” was deeply shaped by his harrowing experience as a British Army Officer in the French and Indian War (1767-73). In this war Washington experienced a crushing defeat in a battle and surrender at Fort Necessity.²¹ This experience no doubt colored his report as a Revolutionary American Army Officer ten years later when he submitted a report in 1783 to the Continental Congress after the defeat of Britain and the close of the American War for Independence.

The 20th Century Native American legal scholar Robert A. Williams, Jr. is especially important in coming to understand how Washington’s report to the Continental Congress, in which he played a crucial role in the formation of federal government policy on Indian Affairs and the work of the Supreme Court of the United States.²² In his report, Washington described Indian people as “Savage” and set out his recommendations for development of federal government policy on Indian Affairs in the new republic that had won its independence from Britain only a few days before he wrote the report.²³ Williams describes Washington’s crucial role in the earliest American articulation of a policy on Indian Affairs as follows:

On September 7, 1783, just four days after the signing of the definitive peace treaty in Paris ending the war with Great Britain, George Washington, commander-in-chief, at the specific request of the Continental Congress, delivered what turned out to be the basic blueprint for the Founding Fathers’ first Indian policy for the United States. That blueprint is contained in Washington’s carefully considered set of recommendations “relative to Indian Affairs” in the “Western Country.” Notably, Washington’s entire plan for dealing with the tribes of the Western Country was organized around the basic idea that the Indians on the frontier were bestial, war-loving savages and should be dealt with

accordingly as a matter of U.S. policy. They should be kept apart from the civilized population of the United States, behind a boundary line drawn to facilitate the gradual and planned colonial expansion on the country's western frontier.²⁴

Washington specifically advised against military engagements with the tribes, seeking rather to acquire Indian lands through "peaceful" means including treaty making. As he put it in his recommendations to the Continental Congress:

I repeat it again, that policy and economy point very strongly to the expediency of being upon good terms with the Indians, and the propriety of purchasing their land in preference to attempting to drive them by force of arms out of their country; which as we have already experienced is like driving the Wild Beasts of the Forest which will return as soon as the pursuit is at an end and fall perhaps on those that are left there; when the gradual extension of our settlements will as certainly cause the *Savage* as the Wolf to retire; both being beasts of prey though they differ in shape.²⁵

Washington's view of Indian people as "Savage" contained in this report written at the end of the War for Independence, was already enshrined in the Declaration of Independence at the start of that war. In that document, to which many Americans trace the origin of American identity, drafted by Thomas Jefferson in 1776, the Indigenous people of North America are expressly mentioned in the list of grievances drawn up against the Crown. These grievances constituted a bill of particulars to justify the colonies' exercise of the right to revolt to secure their independence from the rule of the King. Among these grievances was the charge that the King had "excited Domestic Insurrections amongst us" and sought "to bring on the inhabitants of our Frontiers the merciless Indian Savages, whose known Rule of Warfare, is undistinguished Destruction of all Ages, Sexes and Conditions."²⁶

The government policy that grew out of Washington's 1783 report guided the young United States in its relations with the Indigenous people as the frontier moved west with the Louisiana Purchase of 1803. It was implemented in the new territories, including what was to become Minnesota, for example, by Lewis Cass, who served first as Governor of Michigan Territory (1813-1831), and later as Secretary of War under Andrew Jackson (1831-1836). Cass was a central figure in implementing Jackson's policy of removal and he described that policy in the following words:

Like the bear, and deer, and buffalo of his own forests, an Indian lives as his father lived, and dies as his father died. He never attempts to imitate the arts of his civilized neighbors. His life passes away in a succession of listless indolence, and of vigorous exertion to provide for his animal wants, or to gratify his baleful passions Under such circumstances, what ignorance, or folly, or morbid jealousy of our national progress does it not

argue, to expect that our civilized border would become stationary, and some of the fairest portions of the globe be abandoned to hopeless sterility. That a few naked wandering barbarians should stay the march of cultivation and improvement, and hold in a state of perpetual unproductiveness, immense regions formed by Providence to support millions of human beings?²⁷

Furthermore Cass declared, “[w]e must frequently promote their interest against their inclination, and no plan for the improvement of their condition will ever be practicable or efficacious, to the promotion of which their consent must in the first instance be obtained.”²⁸

The work of the federal executive in formulating national policy on Indian affairs, most notably under George Washington and Andrew Jackson, was embraced and sanctioned by the work of the federal Supreme Court under the leadership of the so-called “great Chief Justice” John Marshall. His opinions in three cases traditionally referred to as the “Marshall Trilogy”²⁹ committed the Court to embrace the Doctrine of Discovery in service of the expansion of the American Empire. In doing so the Court became intimately involved in the dispossession of the Indigenous peoples from their homelands.

*Johnson v. M’Intosh (1823)*³⁰ is the earliest of the three cases that make up the Marshall Trilogy that stand as the foundation of Federal Indian Law. In *Johnson*, Chief Justice Marshall, writing for the Court, sets out the Doctrine of Discovery that has become the core principle on which dispossession of the Indigenous peoples’ land has been legitimated under the rule of law in the following words:

The United States, then, have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves, the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest.³¹

Marshall goes on to base this doctrine and the legal sanction it provides for dispossession on the view we saw in Washington’s report to Congress in 1783 that became the heart of United States policy on Indian affairs. Marshall refers to the Indigenous people of North America as “heathen[s]” and “fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest.”³²

V. A CHRISTIAN CRITIQUE OF THE DOCTRINE OF DISCOVERY

It is important for us today to note that the Doctrine of Discovery is deeply rooted in the Christian religious vision of 15th century European Christendom. The claimed

superiority and preeminence of Christianity justified, for Christendom, the invasion of Indigenous lands and the enslavement of Indigenous peoples.

Stephen Newcomb goes to the very root of the Doctrine of Discovery in his remarkable book entitled *Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery* (2008) to emphasize the theological underpinnings of the doctrine by pointing out that a good deal of Chief Justice Marshall's opinion in *Johnson* turns on repeated references to the distinction he makes between "Christians" and "heathens."³³ This, Newcomb argues, is often overlooked by those who view the contemporary understanding of the Discovery Doctrine as being secular in character.³⁴ The continued adherence to the doctrine by the Court in the 21st century also overlooks this fact.

Today many who claim the heritage of the Church are emphatically repudiating the Discovery Doctrine as a violation of the tradition they hold dear. In recent years, several religious bodies, including the Executive Committee of the World Council of Churches, various Episcopal bodies in the United States and Canada, the Unitarian Universalists, the United Church of Christ, the United Methodists, The Christian Church (Disciples of Christ, The US and Canada); a number of Catholic organizations, and various Quaker groups, including the New York Yearly Meeting of the Religious Society of Friends have formally repudiated the Doctrine of Discovery, inviting others to do the same.³⁵

In the face of this growing repudiation of the Discovery Doctrine by people of faith, and the absence of such repudiation by the secular courts of today, the theological mistake of 15th Century Christendom is perpetuated in the unchallenged incorporation of the Discovery Doctrine in *Johnson v. M'Intosh* that is regarded today as the cornerstone of Federal Indian Law.

In 2012 the World Council of Churches Executive Committee noted that the Papal Bulls on which the Discovery Doctrine is based "called for the non-Christian peoples to be invaded, captured, vanquished, subdued, reduced to perpetual slavery and to have their possessions and property seized by Christian monarchs."³⁶ The WCC Executive Committee went on to point out that

the current situation of Indigenous People around the world is the result of a linear programme of legal precedent, originating with the Doctrine of Discovery and codified in contemporary national law and policies. The Doctrine mandated Christian European countries to attack, enslave and kill the Indigenous Peoples they encountered and to acquire all of their assets. The Doctrine remains the law in various ways in almost all settler societies around the world today.³⁷

In light of this history, the WCC Executive Committee "[d]enounce[d] the Doctrine of Discovery as fundamentally opposed to the gospel of Jesus Christ and as a violation

of the inherent human rights that all individuals and peoples have received from God.”³⁸ In repudiating the Doctrine of Discovery the WCC Executive Committee called on governments to “dismantle the legal structures and policies based on [it]”³⁹

The gospel of Jesus, cited by the WCC Executive Committee in its repudiation of the Doctrine of Discovery,⁴⁰ is stated most simply in the Gospel of Mark: “The time is fulfilled, the kingdom of God has come near; repent, and believe the good news.”⁴¹ In this simple statement, and its elaboration in the parables and teachings of Jesus, one will search in vain for any call to embark on imperial conquests such as were carried out under the Doctrine of Discovery. To the contrary, Jesus’ teaching stands more as a challenge than as a sanction for such adventures by nations. In declaring that the kingdom of God is already imminent, and constantly breaking open, Jesus makes clear that what some might be seeking, is already at hand. Thus, he calls those who hear him to “repent.” The English word “repent” chosen to translate the Greek word *metanoia* does not fully capture the meaning of Jesus’ call as it is understood in the Greek word found in the Greek New Testament of the Bible. *Metanoia* is often translated as connoting a “change in mind” but to translate *metanoia* in this way without saying more risks missing the power of Jesus’ call to *live into* the kingdom of God that is already breaking forth among us. *Metanoia*, understood within the call of Jesus takes on a deeper meaning that calls for a radical transformation of consciousness that leads to a change in how we understand reality, ourselves, and what we are called upon to do in the world. Taking this deeper meaning of the Greek word *metanoia* into account in reading the gospels reveals that Jesus is calling those who hear him to transform their minds, in order *to see with different eyes* than they have in the past, and in so doing to recognize that what they seek is already at hand, and even “among” them, and to act in accordance with what they now see.⁴²

Illustration of what it means to change one’s mind—to see with different eyes—is found in the many parables of Jesus. Take, for example, what is perhaps the most well-known of Jesus’ parables: the Parable of the Good Samaritan found in the Gospel of Luke. In the translation of the New Revised Standard Version, it goes like this:

Just then a lawyer stood up to test Jesus. “Teacher,” he said, “what must I do to inherit eternal life?” He said to him, “What is written in the law? What do you read there?” He answered, “You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind; and your neighbor as yourself.” And he said to him, “You have given the right answer; do this, and you will live.”

But wanting to justify himself, he asked Jesus, “And who is my neighbor?” Jesus replied, “A man was going down from Jerusalem to Jericho, and fell into the hands of robbers, who stripped him, beat him, and went away, leaving him half dead. Now by chance a priest was going down the road; and when he saw him, he passed by on the other side. So

likewise a Levite, when he came to the place and saw him, passed by on the other side. But a Samaritan while traveling came near him; and when he saw him, he was moved with pity. He went to him and bandaged his wounds, having poured oil and wine on them. Then he put him on his own animal, brought him to an inn, and took care of him. The next day he took out two denarii, gave them to the innkeeper, and said, 'Take care of him; and when I come back, I will repay you whatever more you spend.' Which of these three, do you think, was a neighbor to the man who fell into the hands of the robbers? He said, "The one who showed him mercy." Jesus said to him, "Go and do likewise."⁴³

Notice how at the outset a man learned in the law (Torah), comes to Jesus who he addresses as "teacher." This reverses the order that might be expected, for Jesus was not trained in the law, although he knew it well. So what we see is a person trained in the law – the lawyer – coming as a student to talk about the law to a teacher – Jesus – who knows the law but is not trained in it. In response to the lawyer/student's question, "what must I do to inherit eternal life?" Jesus turns the question back to the student and replies with a question: "What is the written in the law? What do you read there?" When the student replies with the Great Commandment: "You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind; and your neighbor as yourself"⁴⁴ Jesus confirms that the lawyer/student has given the correct answer and urges him to act on his knowledge of it when he says: by "do this, and you will live." Note how to this point the exchange between the teacher (Jesus) and the student (the lawyer) is about what action to take in the world. The answer that is spoken by the student and affirmed by the teacher is to express love-in-action in everyday life.

Then Jesus goes on to tell the Parable of the Good Samaritan, the story of a stranger coming to the rescue of a wounded man lying along the wayside, to give an example of what it means in concrete detail to express love-in-action in everyday life. Note how the parable focuses on the action of the Samaritan in attending to the detailed needs that have arisen in the stranger's experience of having been robbed, beaten and left by the roadside. Note in particular that the Samaritan, after having set the stranger up at the inn for care while he heals, promises to return to see the stranger's needs met thorough the healing process. In this detailed description of the Samaritan's care of the stranger, the Samaritan recognizes the stranger in need as the "neighbor" to whom "mercy" as an expression of love-in-action is to be rendered. This reveals the parable as a profound teaching that calls us to recognize the stranger in need that we encounter in everyday life as *our* neighbor who deserves active our compassion expressed through our action to meet that need.⁴⁵ When we do that we show our love of God and transmit it through our love-in-action to others. How the core teaching of Jesus, to live lives of love-in-action through righteous deeds in everyday life in response to the needs of the stranger/neighbors we encounter, as described here in this parable, could

possibly support the Doctrine of Discovery is a question to be taken seriously today by all for whom the Christian tradition is held dear.

VI. REPARATIONS IN PARTNERSHIP ON THE WAY: Taking the Past Seriously on the Road to a Transformed Future

The repudiation of the Doctrine of Discovery by religious organizations comports with the growing international recognition of the human rights of Indigenous peoples and the central importance of land in that recognition, as set out in the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in 2007.⁴⁶ In light of these emerging statements, and in the absence of any constitutional foundation for the plenary power doctrine and the Discovery Doctrine on which it is founded, further adherence to these doctrines as a matter of law by domestic courts in the United States is both a legal embarrassment as well as a theological embarrassment. Legally it is a profound contradiction of the American commitment to the Rule of Law. Theologically it is a profound contradiction of the Church's commitment to the gospel of Jesus. In a nation that prides itself as committed to the Rule of Law, the Discovery Doctrine is nothing more than a judicial fiat with religious overtones. Telling this truth and facing it squarely raises the question of how action might be taken to repair the trauma of America's past that continues to afflict and shape our national life today.

The true test of any dialogue that we might engage in, about the truth of the past, in an effort to heal the trauma of America's past, will ultimately require that we take the past seriously by thinking and acting imaginatively in a way that repairs the harm and saves us from being ravaged by it in the future. And that will surely require that we think, talk, and act long and hard about the subject of reparations.

"Reparative justice" can contribute much to any effort to develop a response to the trauma of the past, but it has not received the extended study that has been given to "retributive justice." To do so we would do well to consider the work of Janna Thompson, who has developed an extended study of "historical obligation and entitlement." She argues that "as members of nations and of other organized groups and communities we *do* have historical obligations." She grounds this claim

in a conception of a society or nation as an intergenerational community. Its institutions and moral relationships persist over time and through a succession of generations, and it depends for its moral and political integrity on its members accepting transgenerational obligations and honouring historical entitlements.⁴⁷

This view leads Thompson to go on to defend what she calls a "reconciliatory" approach to reparative justice" that leads her to embrace a theory of reparations that is "obligations-dependent" rather than "rights-centered."⁴⁸ In doing so, she takes seriously

the fact of historical injustices in our shared life in a way that can enable us to take seriously the historical injustices to which the on-going trauma and social dislocation of the Dakota people today offer testimony. As she puts it at the outset of her study:

History is a tale of unrequited injustice. Treaties have been broken, communities wiped out, cultures plundered or destroyed, innocent people betrayed, slaughtered, enslaved, robbed, and exploited, and no recompense has ever been made to victims or their descendants. Historical injustices cast a long shadow. Their effects can linger long after the perpetrators and their victims are dead. They haunt the memories of descendants, blight the history of peoples, and poison relations between communities.⁴⁹

Thompson's work embraces the hope for reparative justice in the context of historical injustice and challenges us to see our relationship to both the past and the future within a framework that takes moral obligation seriously within this relationship. Her approach to the task of reparative justice in the face of historical injustice puts our imagination to the test by calling us to think and act out of a sense of justice that is not simply tied to our own individual experience, severed from the past or the future as it is in the conventional individual rights-centered approach of American law. Thompson's work calls us to think about what justice requires in the context of our communal connection and interdependence. This raises a question about the meaning of patriotism in the 21st century.

VII. "Loving a Country Enough to Remember Its Misdeeds": Public Repentance and Reparative Justice

If patriotism is the love of one's country we shall have to think deeply about what that means in light of the truth of the past. The American theologian Donald Shriver writes about this in a remarkable recent book entitled *Honest Patriots: Loving a Country Enough to Remember its Misdeeds*.⁵⁰ In his book, Shriver describes the importance of *public repentance* in the life of nations as a first step in repairing the past. Shriver describes the concrete acts of repentance in public life taken by Germany and South Africa in the 20th century, in order to call forth our imagination for what public repentance might look like in the United States in addressing the trauma of slavery in African American experience and the dispossession of the Indigenous people from their homeland. He announces this purpose in the opening pages of his book in the following words:

My chief aim in writing has been to demonstrate that it is both possible and necessary for societies to *face* and to *repent* of certain evils in their past The important thing is for a society to learn to acknowledge and turn away from those evils in firm, institutionalized forms of collective commitment.⁵¹

Shriver describes in detail how repentance in public life entails a kind of public confession through embrace of the truth of the past to acknowledge the trauma America's past has brought forward into the life of this land as a first step in taking reparative action to promote healing. Examples that he gives are the many public memorials, large and small, erected in Germany to bring the attention of the nation in its everyday life to the holocaust, and the work of the Truth and Reconciliation Commission in South Africa.

In specifically taking up the misdeeds of the American past in U.S.–Indian affairs policy, Shriver notes that our journey into the “unreflected absence” of Native Americans in the American Story as well as the story of origin of each of our families “cannot be a happy excursion”—but it might be a healing one if it becomes the occasion for concrete action taken in many ways to address the 500+ years of trauma that surrounds the full story of the Native American–European contact.⁵² That journey, if we have the will and courage to take it, begins with the fact that:

Every contemporary American lives in places where once lived members of one or another of the 550 Indian nations who we know populated the current bounds of the United States What windows on Native Americans, past and present, might be fashioned from patient inquiry into their presence in certain localities that have hosted one's own American life from birth to maturity?⁵³

In prompting us to answer the question he raises, Shriver offers the story of recent public actions in Germany and South Africa as examples of how public confession as a form repentance in public life can open the way to a transformed future. In the 1980s and 1990s, public efforts in those two countries to bring the truth of the holocaust and of apartheid to full public view, marked a first step on the road to a transformed future. Inspired by these two examples of truth-telling, Shriver says that we need to get our story straight about the tragic and traumatic dimensions of America's past—by getting all of the story out in the open and making American history complete, rather than partial, so that we can experience the “dawn of understanding at a deeper level.”⁵⁴

In the context of claims by Indigenous peoples, such as the Dakota, the challenge is significant, because, as Shriver recognizes, any serious engagement with the question of reparations in an American context must address the fact that “Indian Claims for tangible redress have long clustered around two daunting issues: *sovereignty* and *land*.”⁵⁵

Taking reparations seriously as a response to the trauma of America's past will require acknowledgement of the often suppressed truth that America was built on a three-legged stool on which American prosperity has rested for over two centuries that I

mentioned at the outset of this essay – one leg is the *land*, fraudulently acquired from the Indigenous peoples; another leg is the forced, uncompensated *slave labor* performed by African slaves torn from their homeland across the Atlantic Ocean and held as chattel property by slave owners to work the land; the third leg is the idea of *possession*. These three became combined in the *law of property* which served as the seat of the stool on which the American republic and its prosperity were constructed with legally enforceable rights under the common law imported from England to the Colonies, allowing title holders to protect their possessory interests against all others. Today American prosperity continues to rest on this three-legged stool. If we are to embody and express the love-in-action that can contribute to healing the trauma of America’s past we shall have to learn how to get up off of that stool and face each other, different as we are, and consider how we might share life together without erasing those differences or subordinating one people to the narrative and will of another.

Against the background of the centuries of injustice experienced by Native Americans marked by invasion, military attack, forced removal, and colonization, Shriver says we need to ask two questions: “(1) Can we at least begin to remember and understand the *depth* of the injustices? and (2) What restorations of land and political independence should the United States accord Indian peoples in a country and world of growing interdependence?”⁵⁶

In raising these questions, Shriver reminds us that:

[T]here are two ways down which a body of humans can go after its members have experienced gross damages from each other: They can retreat into memory as into a prison, nourish mutual hostility, and make plans for reprisal. Or, having revisited the memory, they can search together for keys that unlock the prison. They can covenant not to repeat the past and can commit mutually to finding new ways of living together.⁵⁷

When the misdeeds of our collective past are remembered, we demonstrate love of country at a deep level in the spirit of reparative justice. Doing so enables us to reclaim our shared humanity in a way that bears hope that we can write a new story of our shared life together to be passed on to benefit the children yet to be born.

VIII. CONCLUSION: TRUTH-TELLING & REPARATIONS – A Journey of Social Healing of the Trauma of America’s Past on the Way of Making Peace with the Land and Each Other

In closing I come back to the story I started with. I now know that the earliest of my immigrant ancestors came to settle upon land stolen from the Dakota people by the United States, through the Treaty of Traverse des Sioux in 1851, when that land was opened to settlement by the United States government. This is the treaty that the non-Native historian Roy Meyer refers to as a “monstrous conspiracy” of fraudulent

negotiation.⁵⁸ Less than ten years after my earliest ancestors' arrival they would be among those who took up arms in citizen militias that were engaged in the two battles of New Ulm near where the greatest loss of life occurred in the Dakota – U.S. War of 1862. They would also participate in the ethnic cleansing of the Dakota people from the state of Minnesota that followed that war. Most particularly, the images called forth in my mind by that story today vividly pose the challenge we face to recover the truth of the trauma of America's past so that it may be known and addressed in the hope of constructing a more hopeful future.

I now see the past and therefore the present in a different way. I continue to view the Minnesota River Valley as my home but I have come to experience it in a vastly different way. I now experience my home as a place that I have found in a new, yet very old land – *Mni Sota Makoce*, that ancient and current homeland of the Dakota people. I experience this as a new consciousness about where I live while continuing to call it home. This new consciousness has taken me down old paths in a new way. That new consciousness manifests itself in my recognition of the sites of various Dakota villages that once dotted the landscape of the Twin Cities of Minneapolis and St. Paul. There are few, if any, signs of these villages today – but I am now keenly aware of them as I travel through my daily routine and pass by them from time to time. They seem very present to me and have become markers of the geography that I know as home. While the physical artifacts of these villages are no longer here, these communities are no longer absent in my consciousness. Thus, I find myself as a non-Indian building my life and home on Indian land.

Facing the truth of the trauma of Minnesota's past can serve as a needed reminder of the consequences of it that we face today. As William Faulkner once famously wrote, “[t]he past is never dead. It's not even past.”⁵⁹ But there is more here for us to consider beyond simply remembering the truth of the past and how it bears on the present – in truthful remembering there is also the challenge for us to heal the legacy of the past through reparative action in the present day so that a new future may yet be born. If we are able to do that we shall write a new chapter in the American story in which we both face and act to heal the trauma of ethnic cleansing in America's past that people like me, who, as descendants of European immigrant-settlers, are the beneficiaries of, here in *this* place, we have come to call home.

EPILOGUE: THE POWER OF STORIES & THE QUESTION OF CHRISTIAN IDENTITY

We grow up and live our lives surrounded by stories. We all listen to stories, tell stories, are shaped by stories and sometimes even find that we are changed by new stories or old stories retold in a new way – for stories are bearers of truth, and that, in the words of Thomas King, is “The Truth About Stories.”⁶⁰ In this sense, each of us participates in an experience that is found in many cultures across the ages even while that experience varies widely among individuals and peoples. Stories can delight us, but

they can also tell us who we are – what is true – and what we are called to do in this world. Stories live in our hearts, and in our heads, and because of this, in significant ways, we are shaped by the stories we have heard.

Each of us has his or her own life story. But our life stories are nested within other larger stories that shape our life stories in certain ways. The story of each of our families is an example of such a larger story within which our individual life stories are nested. Some stories are large enough to have great importance for an entire group of people encompassing many individuals and families. Such stories are often called “master stories.” Master stories are the great stories by which a community names itself and its members. They are the stories through which groups of people come to understand what is real and what is of ultimate importance in their experience. Master stories often include stories of origin like the story of Adam and Eve or the discovery of America by Columbus, as well as features of individual and community identity. The norms of a community that can be seen in the patterns of behavior of its members are often found within the master story of the community that gives both the members of the community and the community as a whole a shared sense of meaning and identity. This means that master stories are not neutral. They embrace and express a particular understanding of reality and are deeply value laden.

In sum, master stories are rooted in the historical experience of a people and provide a context for understanding themselves and the world they encounter as well as guidance for how they live their lives. Out of these stories come the distinctive features of individual and collective identity shared by those who are members of a particular culture. These stories give rise to the norms of the community and provide a resource for their application. These stories are told and retold down through the ages as a central vehicle for cultural transmission and identity. In this dynamic way the master stories are foundational as well as life giving within the tradition that holds them dear.

The “American Story” of European immigrants coming to what they thought of as the “New World” where they carved out a new life for themselves on the rich land they found across the Atlantic Ocean is one example of a master story. The Doctrine of Discovery, often expressed in the idea of “manifest destiny,” played a key role in the story of westward expansion of the United States and the prosperity that would be enjoyed by the thousands of immigrant-settlers who came to Minnesota and other territories and states on the frontier during the 19th century.

Understanding the power of stories in the lives of people and nations demonstrates that storytelling is critical in our task of truth-telling – about the past and ourselves today in relation to that past. And so I am led to ask a question of those of you who, like I, take the Christian Tradition seriously in your own understanding of who you are and what you are called upon to do. It is a question that can open up a conversation of how Christians, in collaboration with other people of faith, might take reparations seriously as

the love-in-action that we are called upon to express in our lives as disciples of Jesus. It is a question I often ask of myself and I now offer it to you:

What are you claiming about yourself when you tell someone that you are Christian? (And if one of the aspects of your identity is that you are NOT Christian then ask yourself “What are you claiming about yourself when you tell someone that you are Jewish, Muslim, Buddhist, Hindu, Sikh, Ba’Hai, Dakota, Ojibwe, Ho Chunk or however you describe your deepest commitments?”)

This question raises up for reflection the implications of your identity for the actions you might take in the world. Reflection on the question can reveal the two-sided dimensions of how the question of identity relates to the action you take in the world which might be stated as follows:

1. How does your faith inform your understanding and critique of the story of the Doctrine of Discovery in America’s past and the on-going trauma that is its legacy today?

2. What action does your faith-based understanding of the story of the Doctrine of Discovery in the America’s past and the on-going trauma that is its legacy today lead you to in the practice you express in your daily life? (As Quakers often say: How do you “let your life speak” out of the spirit that you experience?)

To these questions you might also add the following as you consider your action in the world to date and what you might do in the future: *When you consider all the personal stories of your life, which ones mark a turning point, a fork in the road, that has inspired you to be engaged in healing the on-going trauma of America’s past?*

Endnotes

* © Copyright 2014 Howard J. Vogel. All Rights Reserved. Updated October 27, 2014. Howard J. Vogel, is Professor Emeritus at Hamline University School of Law where he taught Constitutional Law, International Human Rights Law, Restorative Justice and Ethics for thirty-seven years (1975 to 2012). Trained in both law and theology, his work is located at the intersection of law, religion and ethics and focuses on the possibilities of law to serve the common good in a diverse social and cultural context. He continues to teach Restorative Justice in the Dispute Resolution Institute of Hamline Law School. He also continues to engage in research, writing and speaking about the need for reparations to heal the trauma of America’s past that disfigures our common life today as the legacy of slavery and the fraudulent acquisition of Indigenous peoples’ land. A special focus of his on-going work is cultural conflict over interpretation of the treaties between the Indigenous peoples of North America and the United States, and the protection of Native American sacred sites. He is a member of the Society of Christian Ethics, the Native American and Indigenous Studies Association, and the Twin Cities Friends Meeting of the Religious Society of Friends (Quaker) in St. Paul, Minnesota. He may be contacted at hvogel@hamline.edu

¹ A monument to the “Defenders of New Ulm” stands in the City of New Ulm. Originally erected in 1891 at the very center of the intersection of State and Center streets, a major intersection, it was moved

in 1912 to an island in Center Street between State and Washington Streets a half block west of its original installation.

² The author, Howard J. Vogel, co-authored (with Bruce White) a chapter entitled “Drawing Lines on Sacred Ground” (chapter four) on the nineteenth century treaties concluded between the Dakota people and the United States for a five chapter volume co-authored by Gwen Westerman & Bruce White entitled *Mni Sota Makoce: The Land of the Dakota*. St. Paul, MN: Minnesota Historical Society Press, 2012. This volume won the 2012 Minnesota Book Award as the best book on Minnesota published the previous year. It subsequently won the Hognander Minnesota History Award in 2013 as the most outstanding scholarly work related to Minnesota history published during the preceding two years.

This volume was a collaborative effort by the eight members of the Dakota Lands in Minnesota Research Project 2009-2011. Gwen Westerman and Bruce White served as the co-directors of that project. Chapter four is based, in part, on a report prepared by Howard Vogel, in 2009, on work he performed during 2008-2009 while he was a member of the interdisciplinary, multi-cultural Dakota Lands Study Project funded by the Indian Land Tenure Foundation, for which Gwen Westerman & Bruce White also served as co-directors.

Subsequent to the publication of *Mni Sota Makoce: The Land of the Dakota* (2012) the author published a scholarly article on the Congressional abrogation of the Dakota treaties in aftermath of the 1862 war. Vogel, Howard J. “Rethinking the Effect of the Abrogation of the Dakota Treaties and the Authority for the Removal of the Dakota People from Their Homeland,” 39 *William Mitchell L. Rev.* 538 (2013).

³ Westerman & White (2012), p. 13

⁴ Wilson, Waziyatawin Angela. *Remember This!: Dakota Decolonization and the Eli Taylor Narratives*. Lincoln, NE: 2005, p.62.

⁵ Gilman, Rhoda. *The Story of Minnesota’s Past*. St. Paul, MN: Minnesota Historical Society Press, 1989, p. 103.

⁶ For a comprehensive recent history of the role of slave labor in building American capitalism see Baptist, Edward E. *The Half has Never Been Told: Slavery and the Making of American Capitalism*. New York, NY: Basic Books, 2014.

⁷ Anderson, Gary Clayton. *Ethnic Cleansing and the Indian: The Crime that Should Haunt America*. Norman, OK: University of Oklahoma Press, 2014.

⁸ This is a core phenomenon of modern democracies, and the subject of extended inquiry, in Mann, Michael *The Dark Side of Democracy: Explaining Ethnic Cleansing*. Cambridge, UK: Cambridge University Press, 2005. Mann sets out his argument in the preface to his book in the following words: “[M]urderous ethnic cleansing has been a central problem of our civilization, our modernity, our conceptions of progress, and our attempts to introduce democracy. It is our dark side. . . . [P]erpetrators of ethnic cleansing . . . are created by conflicts central to modernity that involve unexpected escalations and frustrations during which individuals are forced into a series of more particular moral choices. Some eventually choose paths that they know will produce terrible results. . . . The proposition underlying this book is that murderous ethnic cleansing comes from our civilization and from people, most of whom have not been unlike ourselves.” Mann (2005), p. ix. Mann describes this pattern in an American context. Mann (2005), pp. 83-98.

⁹ Alexander Ramsey, *Message to the Legislature of Minnesota*, Delivered at the Extra Session, September 9, 1862, p. 19, available at http://dlxs.library.cornell.edu/m/mayantislavery/browse_M.html (scroll down to “Minnesota.Governor (“1860-1863:Ramsey”; then select “Message of Governor Ramsey to the Legislature of Minnesota: delivered at the extra session, September 9, 1892.”).

¹⁰ Fred Anderson, a leading historian of the French and Indian War, locates the origin of the widely held pattern of “Indian hating” in the aftermath of “Pontiac’s War” in 1763. Anderson, Fred. *The War that Made America: A Short History of the French and Indian War*. New York, NY: Penguin Books, 2006, pp. 236-38, 264-65. Robert Williams, Jr. locates the Euro–American pattern of subjugation of Indigenous peoples as far back as two papal communications from Pope Innocent IV delivered to the Great Khan of the Mongols in 1246. Williams, Robert A. Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York, NY: Oxford University Press, 1990, pp. 3-9. Removal

as the heart of Indian policy was made famous, of course, by President Andrew Jackson in the 1830s. This policy was grounded in the vesting of title to Indigenous land in the United States under the Doctrine of Discovery, incorporated in American domestic law by the United States Supreme Court in *Johnson v. M'Intosh*, 21 U.S. 543 (1823). For an extended discussion of the history of *Johnson v. M'Intosh*, see Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed the Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005.

¹¹ *The Winona Daily Republican*, Sept. 25, 1863, p. 1. "The state reward for dead Indians has been increased to \$200 (from \$25) for every red-skin sent to Purgatory. This sum is more than the dead bodies of all the Indians east of the Red River are worth." Little Crow, the leader of the Dakota warriors in the Dakota-U.S. War of 1862, was killed in the summer of 1863 when he and his son Wowinapa were spotted picking raspberries near Hutchinson, Minnesota. Nathan Lamson and his son Chauncey both shot Little Crow. Subsequently, Little Crow's body was scalped and mutilated before being displayed in public in the town. Nathan was awarded \$500 from the State of Minnesota for his part in the killing of Little Crow, while Chauncey collected the bounty of \$75 for Little Crow's scalp. See Carley, Kenneth. *The Dakota War of 1862*. St. Paul, MN: Minnesota Historical Society Press, 2d ed. 1976, pp. 83-86.

¹² This is the translation given by Gwen Westerman. Westerman & White (2012), p. 13.

¹³ See Graves, Kathy Davis & Ebbott, Elizabeth. *Indians in Minnesota*. Minneapolis, MN: University of Minnesota Press, 5th ed. 2006, pp. xiii-xiv, 93-95, 159-305 (describing current documented disparities in these categories found in the experience of Indians in Minnesota).

¹⁴ For an extended discussion, and provocative theological critique, of the role of a deformed Christian social imagination that collaborated in, and offered a theological justification for, the emergence of the political hegemony of Western European nation-states from the 15th through the 20th centuries see, Jennings, Willie James *The Christian Imagination: Theology and the Origins of Race*. New Haven, CT, 2010. For an extended discussion of the religious origin of the Doctrine as an instrument of domination grounded in the idea of the exclusivity and superiority of the Christian Tradition, see Newcomb, Steven T. *Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery*. Golden, CO: Fulcrum Publishing, 2008; Rivera-Pagan, Luis N. *A Violent Evangelism: The Political and Religious Conquest of the Americas*. Louisville, KY: Westminster/John Knox Press, 1992. For an extended discussion of the origin of the Doctrine of Discovery and its role in shaping the legal image of Native Americans, see Williams, Robert A. Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990, pp. 13-50. For an extended discussion of the incorporation and continuing role of the Doctrine of Discovery as precedent in American domestic law, see Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed the Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005, and Watson, Blake. *Buying America from the Indians: Johnson v. McIntosh and the History of Native Land Rights* Norman, OK: University of Oklahoma Press, 2012. For a discussion of ten characteristics of the Doctrine of Discovery, including the assumed preeminence of the Christian European Nations and the United States and how that played an important role in the westward expansion of the United States that came to be rationalized through "Manifest Destiny," see Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny*. Lincoln, NE: University of Nebraska Press, 2008, pp. 3-10, 12-23, 25-58, 115-61.

¹⁵ Executive Committee, World Council of Churches, Statement on the Doctrine of Discovery and Its Enduring Impact on Indigenous Peoples, para. 6 (Feb. 17, 2012) [hereinafter WCC Executive Committee Statement] (quoting Pope Alexander VI), available at <http://www.oikoumene.org/en/resources/documents/executive-committee/bossey-february-2012/statement-on-the-doctrine-of-discovery-and-its-enduring-impact-on-indigenous-peoples.html>

¹⁶ For the text of the Requerimiento go to <http://www.doctrineofdiscovery.org/index.htm> then click on the "Papal Bulls" link, then click on "The Requerimiento 1512" link.

¹⁷ The incorporation of the Doctrine of Discovery into domestic American law took place in the important United States Supreme Court case of *Johnson v. M'Intosh*, 21 U.S. 543 (1823), which stands as precedent down to the present day. Together with *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831) *Worcester v. Georgia*, 31 U.S. 515 (1832), it is one of three cases that make up what is commonly

referred to as the “Marshall Trilogy” which deeply shapes Federal Indian Law down to the present day. The name of the trilogy is derived from the fact that Chief Justice John Marshall wrote the opinions for the Court in all three cases.

¹⁸ The United States Supreme Court so held in *Cherokee Nation*, 30 U.S. 1, p. 17.

¹⁹ The principles of Federal Indian Law are summarized by many scholars. See, for example, Canby, William C., Jr. *American Indian Law in a Nutshell*, 5th Edition. St. Paul, MN: West, 2009.

²⁰ See generally Williams, Robert A. Jr., *The Algebra of Indian Law: The Hard Trail of Decolonizing and Americanizing the White Man’s Indian Jurisprudence*, 1986 Wisconsin Law Review (1986): 219.

²¹ Anderson (2006).

²² Williams, Robert A. Jr. *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America*. Minneapolis, MN: University of Minnesota Press, 2005.

²³ Williams describes how Washington’s characterization of the Indian as “Savage as the Wolf” came to dominate American Indian Affairs policy. Williams (2005), pp. 39-45.

²⁴ Williams (2005), p. 40 (citations omitted).

²⁵ Williams (2005), p. 42 (emphasis added) (quoting Letter from George Washington to James Duane on Sept. 7, 1783), reprinted in *Documents of U.S. Indian Policy* (1990), pp. 1-2.

²⁶ *The Declaration of Independence*, 1776, para. 29.

²⁷ *Policy and Practice of the United States and Great Britain in Their Treatment of Indians*, 24 N. Am. Rev. 265, 391-92 (Apr. 1827), reprinted in Prucha, Francis Paul. *Lewis Cass and the American Indian Policy*. Detroit, MI: Wayne State University Press, 1967, p. 13.

²⁸ *Documents of U.S. Indian Policy* (1990), pp. 8-9.

²⁹ Wilkinson, Charles F. *American Indians, Time and the Law: Native Societies in a Modern Constitutional Democracy*, New Haven, CT: Yale University Press, 1987, p. 24.

³⁰ 21 U.S. (8 Wheat.) 543 (1823).

³¹ *Johnson*, 21 U.S. 543, p. 587; see Williams (2005), pp. 52-53 (referring to Marshall’s quote as the “Doctrine of Discovery”).

³² *Johnson*, 21 U.S. 543, pp. 577, 590.

³³ Newcomb (2008), pp. 85-102.

³⁴ Newcomb (2008), pp. 85-102. Despite Newcomb’s deep appreciation for Robert Williams, Jr.’s work on the Discovery Doctrine, Newcomb criticizes Williams’s characterization of the Discovery Doctrine as a *secular* doctrine. Newcomb (2008), p. 139 n.3.

³⁵ WCC Executive Committee (2012); For statements by a growing number of faith-based groups go to <http://www.doctrineofdiscovery.org/index.htm> then click on the “Faith Communities” link, then click on the individual links found there for statements on the Doctrine of Discovery by the following faith-based groups: Anglican Church of Canada; Catholic Organizations, Episcopal Church, Friends General Conference (Quakers); The Christian Church (Disciples of Christ, The US and Canada); United Church of Christ, United Methodist Church, Unitarian Universalist; and World Council of Churches. The action taken by New York Yearly Meeting of the Religious Society of Friends (Quaker), *Minutes of the 317th New York Yearly Meeting* (July 22-28, 2012), is also available at http://www.nyym.org/?q=yym_2012summin#thurs.

³⁶ WCC Executive Committee (2012), para. 3.

³⁷ WCC Executive Committee (2012), para. 6.

³⁸ WCC Executive Committee (2012), para. 7, pt. A. (The source cited has two parts “A.” The citation here is to the second one.)

³⁹ WCC Executive Committee (2012), para. 7, pt. B.

⁴⁰ WCC Executive Committee (2012), para. 7, pt. A (denouncing the Doctrine of Discovery).

⁴¹ Mark 1:15 (*The New Oxford Annotated Bible: New Revised Standard Version*).

⁴² “The kingdom of God is not coming with things that can be observed; nor will they say, ‘Look, here it is!’ or ‘There it is!’ For, in fact, the kingdom of God is among you.” Luke 17:20-21 (*The New Oxford Annotated Bible: New Revised Standard Version*).

⁴³ Luke 10:25-37 (*The New Oxford Annotated Bible: New Revised Standard Version*).

⁴⁴ The “Great Commandment” appears throughout the teachings of Jesus. Most often, the citation given for it appears in Matthew 22:37-39 (*The New Oxford Annotated Bible: New Revised Standard Version*), where Jesus identifies it as the Great Commandment.

⁴⁵ My explication of the parable of the Good Samaritan follows that of Luise Schottroff. *The Parables of Jesus*. Minneapolis, MN: Augsburg Fortress, 2006, pp. 131-37. Schottroff emphasizes how the parable emphasizes the doing of “righteous deeds” – of love-in-action to care for the stranger in need – as an expression of loving God and is thus in keeping with Jewish tradition. In doing so she criticizes the way this parable has sometimes been interpreted by Christians as anti-Jewish.

⁴⁶ *U.N. Declaration on the Rights of Indigenous People*, G.A. Res. 61/295, arts. 3-7,10, 26-28, U.N. Doc. A/RES/61/295 (Oct. 2, 2007), available at <http://www.unhcr.org/refworld/docid/471355a82.html> (adopted by the General Assembly in 2007; articles 3 through 7 address indigenous peoples’ self-determination, article 10 addresses them not being subject to forcible relocation from their lands, and article 26 through 28 address their rights to their lands).

⁴⁷ Thompson, Janna. *Taking Responsibility for the Past: Reparation and Historical Justice*, Cambridge, UK: Polity, 2002, p. xviii.

⁴⁸ Thompson, Janna (2002), pp. xix & 39.

⁴⁹ Thompson, Janna (2002), p. vii.

⁵⁰ Shriver, Donald W. Jr., *Honest Patriots: Loving a Country Enough to Remember its Misdeeds*. New York, NY: Oxford University Press, 2005).

⁵¹ Shriver, Donald (2005), p. ix (emphasis added).

⁵² Shriver, Donald (2005), p. 209 (citing Loewen, James. *Lies My Teacher Told Me: Everything Your American History Textbook Got Wrong*. New York, NY: Touchstone Books, 1996).

⁵³ Shriver, Donald (2005), p. 210.

⁵⁴ Shriver, Donald (2005), p. 246 (quoting at n. 86, Steve Schlarb, ed., *Oglala Lakota Sioux: Russell Means, Eagle Man, laws, issues* ed. Steve Schlarb, Part 2. *History & Leaders of the Oglala Lakota Sioux*, www.lakotamall.com/oglalasiouxtribe/, pp. 2-3).

⁵⁵ Shriver, Donald (2005), p. 251.

⁵⁶ Shriver, Donald (2005), p. 246.

⁵⁷ Shriver, Donald (2005), p. 260.

⁵⁸ Meyer, Roy W. *History of the Santee Sioux: United States Indian Policy on Trial*. Lincoln, NE: University of Nebraska Press, rev. ed. 1993, pp. 114, 87 (quoting Newton H. Winchell, *The Aborigines of Minnesota: A Report based on the collections of Jacob V. Brower and on the field surveys and notes of Alfred J. Hill and Theodore H. Lewis*. St. Paul, MN: The Pioneer Company, 1911, p. 554).

⁵⁹ Faulkner, William. *Requiem for a Nun*, New York, NY: Random House, 1951, p. 92 (emphasis added).

⁶⁰ King, Thomas. *The Truth About Stories: A Native Narrative*. Minneapolis, MN: University of Minnesota Press, 2003.