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July 29, 2022

His Holiness, Pope Francis
Apostolic Palace
00120 Vatican City

Saint Martha House
00120 Città del Vaticano
Vatican City

Your Holiness:

RE: CALL TO PERSONALLY ACCEPT AND ATONE FOR THE "DOCTRINE OF DISCOVERY"
REQUEST TO RECANT, RESCIND AND REPLACE ALL RELATED PAPAL BULLS

On behalf of the 63,000 First Nations citizens of the twenty-three First Nations in northern Manitoba affiliated with the Manitoba Keewatinowi Okimakanak, Inc. (MKO) I am writing to request that you personally accept responsibility and atone for the catastrophic effects upon the Indigenous peoples of the world of the "Doctrine of Discovery" which was set in motion, approved and sanctified by a series of Papal Bulls issued in the fifteenth and sixteenth centuries.

There can be no question that the Papal Bulls of 1452 (*Dum Diversas*), 1455 (*Romanus Pontifex*), 1456 (*Inter Caetera*), 1493 (*Eximiae devotionis*, *Inter caetera* and *Dudum siquidem* collectively described as the "Bulls of Donation") and the Treaty of Tordesillas of 1494, which was approved by a Papal Bull of 1506 (*Ea Quae*), are the foundation and establish the principles of the "first discovery doctrine" or the "Doctrine of Discovery". The Doctrine of Discovery continues to be applied by the courts of the "Christian" colonizing nations as established international and domestic law to this day.

For example, the relatively recent 2005 decision of the Supreme Court of the United States, in *City of Sherrill v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005), written by the late Justice Ruth Bader Ginsburg for the majority, refers the Doctrine of Discovery at footnote 1:
https://supreme.justia.com/cases/federal/us/544/197/

> *"Under the "doctrine of discovery," County of Oneida v. Oneida Indian Nation of N. Y., 470 U. S. 226, 234 (1985) (Oneida II), "fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign—first the discovering European nation and later the original States and the United States," Oneida Indian Nation of N. Y. v. County of Oneida, 414 U. S. 661, 667 (1974) (Oneida I).*

The United States Supreme Court in *Sherrill v. Oneida* cites with authority the 1823 decision of the same court in *Johnson & Graham's Lessee v. McIntosh*, 21 U.S. 543 (1823). In *Johnson v. McIntosh* then-Chief Justice Marshall outlined the doctrine of discovery as established international law which underpinned the unilateral assumption by the European powers and later the independent states and then by the United States of the sovereignty of the Indigenous peoples of North America over their lands, at page 21, US 573:
https://supreme.justia.com/cases/federal/us/21/543/#tab-opinion-1922743

"Spain did not rest her title solely on the grant of the Pope. Her discussions respecting boundary, with France, with Great Britain, and with the United States all show that she placed in on the rights given by discovery. Portugal sustained her claim to the Brazils by the same title. France also founded her title to the vast territories she claimed in America on discovery."

In Canada, the 1823 decision of the United States Supreme Court in *Johnson v. McIntosh* is referenced and cited with authority in a number of decisions of the courts, as just one example, at paragraph 103 of the decision of the Federal Court of Appeal in *R. v. Guerin*, 1982 CanLII 2971 (FCA). *Johnson v. McIntosh* also appears prominently in the landmark 1973 Supreme Court of Canada decision addressing Aboriginal title in *Calder et al. v. Attorney-General of British Columbia*, 1973 CanLII 4 (SCC), [1973] SCR 313: https://www.canlii.org/en/ca/scc/doc/1973/1973canlii4/1973canlii4.pdf

"The case most frequently quoted with approval dealing with the nature of aboriginal rights is Johnson v. McIntosh[26]. It is the locus classicus of the principles governing aboriginal title. Gould J. [note: Gould J. was the Judge at the trial level of Calder] in his reasons said of this case at p. 514:

The most cogent one of these is the argument based upon a classic and definitive judgment of Chief Justice Marshall of the United States, in 1823, in the case of Johnson v. McIntosh, (1823) 8 Wheaton, p 541, wherein that renowned jurist gave an historical account of the British Crown's attitude towards the rights of aboriginals over land originally occupied by them, and an enunciation of the law of the United States on the same subject.

and on p. 518 he said:

For more than 150 years this strong judgment has at various times been cited with approval by such authorities as the House of Lords (Tamaki v. Baker [1901] A.C. 561 at 580); the Supreme Court of Canada (St. Catherine's Milling v. The Queen (1886) 1887 CanLII 3 (SCC), 13 S.C.R. 577, Strong, J. at 610); Court of Appeal for Ontario, (in the same case, (1886)—13 O.A.R. 148, Burton, J.A., at 159-160); Ontario High Court, Chancery Division (in the same case, 10 O.R. 196, Boyd, J., at 209); Court of Appeal for British Columbia (White and Bob, supra p. 230); Supreme Court of New Brunswick (Warman v. Francis (1958)—1958 CanLII 284 (NB QB), 20 D.L.R. (2d) 627, Anglin, J., at 630).

Chief Justice Marshall said in Johnson v. McIntosh:

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendency. The potentates of the old world found no difficulty in convincing themselves that they made ample compensation to the inhabitants of the new, by bestowing on them civilization and Christianity, in exchange for unlimited independence. But, as they were all in pursuit of nearly the same object, it was necessary, in order to avoid conflicting settlements, and consequent war with each other, to establish a principle which all should acknowledge as the law by which the right of acquisition, which they all asserted, should be regulated as between themselves. This principle was that discovery gave title to the government by whose subjects, or by whose authority, it was made, against all other European governments, which title might be consummated by possession.

> *The exclusion of all other Europeans necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives, and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the assertion of which, by others, all assented.*
>
> *Those relations which were to exist between the discoverer and the natives, were to be regulated by themselves. The rights thus acquired being exclusive, no other power could interpose between them. In the establishment of these relations, the rights of the original inhabitants were, in no instance, entirely disregarded; but were necessarily, to a considerable extent, impaired. They were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle that discovery gave exclusive title to those who made it.*

In this way, the papal bulls which form the foundation of the doctrine of discovery form an ongoing part of the common law of Canada and the law of the United States as elements of established international and domestic common law. Therefore, the Papal Bulls remain very much in effect to this day.

We have carefully reviewed the positions of the Holy See regarding the current legal effect of the Papal Bulls which set in motion, approve and sanctify the doctrine of discovery as these positions are set out in the July 16, 2007 letter from Nuncio Magliore to Haudenosaunee Faithkeeper Oren Lyons and in the April 27, 2010 Statement from the Permanent Observer Delegation of the Holy See to the United Nations Permanent Forum on Indigenous Issues, both enclosed.

I do not have words to express the profound depth of our disappointment that these official statements on behalf of the Holy See accept no responsibility whatsoever for the unquestionable fact of the domination of sovereign peoples, dispossession of lands, enforced religious conversion, enslavement and mass genocide carried out in the name of Christ that was expressly set in motion, approved and sanctified by these Papal Bulls.

The Holy See suggests as its core position in the 2007 letter and the 2010 Statement that the Treaty of Tordesillas of 1494 "abrogated" the Papal Bulls and rendered them ineffective after 1494. The letter and Statement fail to note that the terms of the Treaty of Tordesillas expressly *"entreat our most Holy Father that his Holiness be pleased to confirm and approve this said agreement, according to what is set forth therein; and that he order his bulls in regard to it to be issued to the parties or to whichever of the parties may solicit them, with the tenor of this agreement incorporated therein, and that he lay his censures upon those who shall violate or oppose it at any time whatsoever."*

As requested in the terms of the Treaty of Tordesillas, the papal bull of *Ea Quae* of Pope Julius II of January 24, 1506 expressly:
https://clc-library-org-docs.angelfire.com/ea.html

> *"(…) do by these apostolic writings enjoin Your Fraternity that you (or either one of you, if so be) do proceed to approve and confirm by our authority the aforesaid agreement, convention, and compact and everything set forth in the said instrument relating thereto, and all that has followed thereupon with the consent of both kings, decreeing it to possess perpetual authority."* (emphasis mine)

Clearly, the previous Papal Bulls forming the basis for the Doctrine of Discovery are not abrogated by the Treaty of Tordesillas of 1494. Hiding behind tortured and erroneous legal arguments is not in keeping with the teachings of Jesus Christ.

The Holy See also suggests in the 2007 letter and 2010 Statement that the Papal Bulls are abrogated as no person is known to have been excommunicated or suffered any other penal sanction imposed under the Canon Law by a breach of these Papal Bulls. That a penal sanction lies quiet does not invalidate the law.

Further, we are deeply disappointed that the Holy See appears to suggest in the 2007 letter and the 2010 Statement that it is simply not a concern of the Holy See that states continue to apply the effect of the Papal Bulls and the Doctrine of Discovery as principles of established international law and the common law of states as a current legal justification for the continuing domination and dispossession of lands of sovereign Indigenous peoples in the United States and Canada.

Respectfully, the Holy See and the Church continue to bear a responsibility each and every day for the continuing intergenerational effects of the domination of sovereign peoples, dispossession of lands, enforced religious conversion, enslavement and mass genocide carried out in the name of Christ that was expressly set in motion, approved and sanctified by these Papal Bulls.

Moreover, there is a significant distinction in law between the term "abrogate" and "rescind" in terms of the legal status of the Papal Bulls. The chain of reasoning of the Holy See in the 2007 letter and the 2010 Statement is that by no act of the Holy See the Papal Bulls are "abrogated" and therefore of no continuing legal effect as far as the Holy See is concerned. There is no expression of moral or spiritual responsibility.

We now call on Your Holiness to accept moral and spiritual responsibility and to issue a further Papal Bull which will formally and unambiguously recant, rescind and replace all previous Papal Bulls related to and which continue to be relied upon by states as the foundation of the "doctrine of discovery". In this way, Your Holiness will set aside and sever any continuing moral, spiritual or legal reliance on these Papal Bulls as justification for the past and continuing actions of the colonizing nations through the Doctrine of Discovery and from having any basis in international law or the common law of states.

Such acts of recantation, atonement and reconciliation by Your Holiness is also consistent with the United Nations Declaration on the Rights of Indigenous Peoples, as set out in the fourth paragraph of the Preamble:

> *"Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust;"*

As well, such actions by Your Holiness would be consistent with the statement given by Your Holiness at Maskwacis, being that the Indian Residential School system is "incompatible with the Gospel of Jesus Christ". Clearly, the worldwide catastrophic effects of the principles of the Doctrine of Discovery that were set in motion, approved and sanctified by the Papal Bulls is "incompatible with the Gospel of Jesus Christ".

Please contact Brennan Manoakeesick, Chief of Staff at (204) 795-0449 or brennan.manoakeesick@mkonorth.com and Dorothy Smith, Executive Assistant, at (204) 918-8101 or dorothy.smith@mkonorth.com to arrange a discussion and to confirm the response of the Holy See.

In the spirit of Peace, Justice and Reconciliation,

Garrison Settee
Grand Chief
MANITOBA KEEWATINOWI OKIMAKANAK, INC.
Encl. 2
cc. MKO First Nations
The Most Reverend Ivan Jurkovic, Apostolic Nuncio to Canada