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Killers of the Flower Moon is a Study in Genocidal Villainy That Continues in Today's War on Native American Sacred Sites

Still from Killers of the Flower Moon (Apple).

By what imagined rights does the United States attempt to legitimize its original conquest of Indigenous Peoples and continue to obliterate Native Americans' Holy Places? In the quest for mineral enrichments–be it oil, copper, lithium, or uranium– how long should we enable and benefit from the sort of genocidal dispossession depicted in *Killers of the Flower Moon*?

From the first contact between Europeans and Indigenous Peoples, the dehumanization of American Indians has been the invention necessary to Colonialism. To this end, Spain's monarchs solicited pontifical decrees, "Papal Bulls." Popes blessed inherently non-Christian subjugations of "heathens, infidels, and savages," birthing the Doctrine of Discovery, the notion that cross-Atlantic sea travel somehow conveyed title to "America" to European nations. Pope Francis repudiated this indefensible foundation for White

Supremacy earlier this year, but its legal and cultural legacies live on, perpetuating the inhumane treatment of Indigenous Peoples so poignantly depicted in *Killers*.

Founding American myths of the righteousness of conquest and of Manifest Destiny both fed and were propagated by the *Marshall Trilogy*, the suite of Supreme Court opinions (1823 –1832) at the root of U. S. American Indian Law. The first chief justice, John Marshall, wrote that the courts of the conqueror would not apologize for bringing the benefits of "civilization" to America's Native Nations. Marshall argued that leaving Native Peoples in possession of their lands and resources would condemn America to a forever wilderness and that solving the "Indian problem" required subordination of Native Americans as "wards of the state."

The juggernaut of subsequent court decisions affecting Native Americans rests upon Marshall's ideology. SCOTUS cases, like *Tee-Hit-Ton Indians v. United States*, further ensconced Christian discovery as the law of the land. This case's ancestors were the Trail of Tears, a legacy of broken treaties in the name of Westward expansion, massacres, notably at Sand Creek and Wounded Knee; the diminishment of 2/3 of tribal lands under the Allotment Acts of the late 19th and early 20th centuries; the forced and genocidal residential school placement of Native American children run by Christian missionaries with their indoctrinating dogma; and the attempted destruction of tribal societies under the Termination Act policies of the 1950s.

All who appear before the Courts of the self-claimed Conqueror—lawyers, plaintiffs, advocates, witnesses, etc.—should acknowledge that these reputed precedents are corrupt and absurd. Nowhere are they more potentially consequential than in battles over Native American Holy Places, especially Chi'chil Biłdagoteel (Oak Flat), the Nde (Western Apache) Holy Place under siege by Resolution Copper, a mining company created by Rio Tinto and BHP.

Two prior court decisions, each unmistakably reliant upon the Doctrine of Discovery and the *Marshall* Trilogy, offer Resolution Copper leverage in its quest to exterminate all vestiges of Nde rights to their territory and to the free exercise of their religion. In *Lyng v. Northwest Indian Cemetery Protective Association* (1988), the Supreme Court ruled that road construction through a sacred landscape did not burden the religious practices of the Yurok, Karuk, and Tolowa Nations. Justice O'Connor's majority opinion employs two myths. The first: "whatever rights the Indians may have to the use of the area—those rights do not divest the Government of its right to use what is, after all, *its* land." The second myth requires the suspension of self-evident truth of the place-based nature of most

Native American religions: “the proposed road does not violate the First Amendment regardless of its effect on the religious practices of the respondents because it compels no behavior contrary to their belief.”

In *Navajo Nation v. United States Forest Service* (2007), the U.S. Ninth Circuit Court of Appeals cited the *Lyng* decision in permitting a private ski resort to spray hundreds of acre-feet of recycled sewage water as artificial snow onto the San Francisco Peaks—the Holy Place known as Dook’o’oosłíid to the Navajo, Nuva’tukya’ovi to the Hopi. Lawyers representing the United States asserted that Indians would experience only minor “diminished spiritual fulfillment,” a wretched, callous, and racist utterance that demeans our American government.

Despite their curable flaws, these and other mythic precedents remain pivotal in *Apache Stronghold v. United States*, the most important current test of U.S. devotion to Native American inferiority and White Christian Supremacy. *Apache Stronghold* asserts Nde Aboriginal and treaty rights to territory purloined by the United States now managed by the U.S. Forest Service, land on offer to Resolution Copper as part of a shadowy political deal buried in the National Defense Appropriations Act for 2015. The *Apache Stronghold* case affirms that Resolution Copper’s mine—which all acknowledge will create a mile-wide subsidence crater at least 1,000 feet deep—will engulf and destroy the Chi’chil Biłdagoteel Holy Place and prohibit Nde free religious exercise. Apache Stronghold’s September 2022 brief in support of the October 2023 rehearing before eleven judges presiding in the Ninth Circuit Court of Appeals, confirms that multiple U.S. courts “have held the government substantially burdens religious exercise not only when it imposes penalties or denies benefits, but also when it “prevents” religious exercise,” *except* when it is Native American religious exercise that the government prevents.

Here’s the rub. Most Western-centric judges are blinded not only to culturally embedded aspects of Native American land relationships but also to myths at the root of Indian Law. According to the law that judges are to apply, obliteration does not equal coercion. This is pious anarchy. It is an unknowing and uncaring avenue of the jurists, and it is more inexcusable than an incompetent understanding of Native American religious necessities.

Harvard University Professor Joseph Singer, an expert on the *Marshall Trilogy* and American property law, explains that,

We do not acquire property by conquest today. . . . [We say] too much time has passed to rectify the wrongs of conquest. . . . But if we face facts, we cannot be comforted with the

idea that conquest is something that predates the United States. Nor is it a thing of the past to grant Indian nations less protection for their property rights than is granted to non-Indians. Conquest . . . is not something we can treat as finished or completely repudiated. . . . The absolute minimum we can do today to accomplish this is to stop engaging in acts of conquest now."

Like the murderous rampages by the non-Indians who killed, connived and swindled the Osage for their oil, and where the United States took nearly a blind eye to that onslaught, the extirpation of Native American Holy Places has become intolerably justified by those who substitute the necessity of economic exploitation and plunder for their formerly righteous religious indignation toward Indians as savages.

Government advocacy for obliterating Native American Holy Places, along with any arguments that offenses to the "religious sensibilities" of Native Americans are more acceptable than offenses to others, are acts of violent, race-based inhumanity. More than an anachronism, the U.S. message to the Nde—take your prayers elsewhere, abandon your religion, or find solace in Christianity—is an intolerable affront to our Nation's founding principles and an irrevocable violation of the United States' pledge to Indigenous Peoples and to the world at large to forever endeavor to form a more perfect Union. Non-Indians ask, "Where will the Indians' demands stop?" The Indians have been asking the same of non-Indians for over 500 years, "Where will your demands stop?"

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