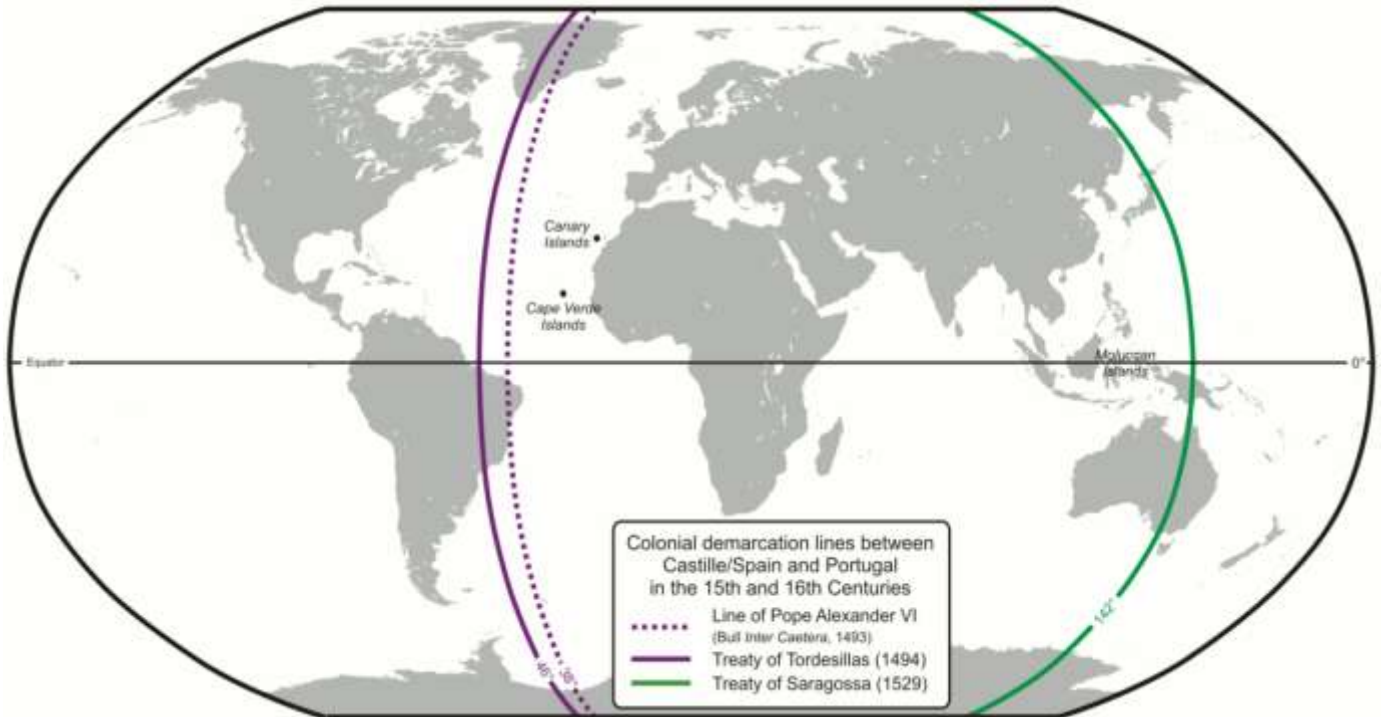


## ***Honoring Indian Law and Treaties***

*Educational Materials for Broadcast # 14 – December 2021*

*“Indigenous Perspectives” program*



*Map Credit: By Lencer - Own work, CC BY-SA 3.0,*

<https://commons.wikimedia.org/w/index.php?curid=3194339>

### **I. World Map Questions**

1. What does the grey color symbolize, on the map above?
  - a) water
  - b) land
  - c) territory claimed by both Spain and Portugal as theirs to rule
  - d) areas discussed at the Treaty of Saragossa
  
2. What is the meaning of the white color on this map?
  - a) water
  - b) land
  - c) areas occupied by European settlers
  - d) areas discussed at the Treaty of Saragossa

3. Which line indicates the earliest division of world claims between Spain and Portugal?
  - a) Straight horizontal black line
  - b) Solid green curving line
  - c) Dotted purple curving line
  - d) Solid green curving line
  
4. What would be the best title for this map?
  - a) "Portugal Claims Most of the Americas"
  - b) "Pope Alexander VI Changes his Mind"
  - c) "The Importance of Islands"
  - d) "Spain and Portugal Divide Up the World"
  
5. For reflection and discussion:  
What could be added to this map, to make it more useful to you for understanding how the Europeans asserted their claims to ruling the world during their "Age of Discovery"?

**II.Vocabulary:** Choose the best definition for each underlined word or phrase, in these quotations from the show.

1. "...the struggle for the understanding of sovereignty as between Native peoples and the United States was going on right from the start."  
Sovereignty means the
  - a) amount of wealth a group has
  - b) religious beliefs of most of the people
  - c) ultimate right to rule others within a certain territory
  - d) respect for human rights of people from other countries
  
2. "It's not only vis-à-vis the Native peoples that this claim is made; it's vis-à-vis other European nations."  
Vis-à-vis means:
  - a) in relation to
  - b) disagreeing with
  - c) in support of
  - d) after negotiating with

3. "...we should intervene with an injunction on behalf of the Cherokee Nation."  
Injunction means:
- a) an argument
  - b) a court order requiring some specific action
  - c) a crossroads
  - d) an appeal to a higher court
4. "...he litigated indigenous land and fishing rights..."  
Litigated means:
- a) reached an agreement about a conflict
  - b) had a good debate about an interesting topic
  - c) took a case to a court of law, seeking a legal decision
  - d) ignored a problem and decided not to do anything about it
5. "...unceded traditional territory of the Abenaki people..."  
Unceded means
- a) sovereign
  - b) unoccupied
  - c) shared by mutual agreement
  - d) never given up by a treaty
6. "...everywhere Native peoples exist, on Turtle Island and around the world..."  
Turtle Island means
- a) nature sanctuaries and national parks
  - b) land so isolated that the Europeans never reached it by ship
  - c) the earth (land), as opposed to water (oceans)
  - d) the North American continent
7. "...the situation is really exemplified by the Mohawk, who have areas that straddle that border."  
Exemplified means:
- a) provides a good example
  - b) ignored
  - c) disputed in a court of law
  - d) approved

8. "...any treaty that is signed with a Native nation is not really binding upon the United States..."

"Binding" means:

- a) irrelevant
- b) required
- c) optional
- d) undecided

9. "There are about 80,000 people who are extirpated from their land in the Trail of Tears."

Extirpated means:

- a) easily moved from one place to another
- b) pulled out by the roots; destroyed, eliminated
- c) allowed to remain
- d) eventually returned

10. "...they behave without any subordination to order and to hierarchy..."

Subordination means:

- a) ruling others; having power over them
- b) enforcing equal rights for all in a group
- c) accepting an inferior position; obeying someone in command
- d) rebelling against authority

### III. Speakers and Quotations

Answer the following questions with reference to the four speakers below (real people from different times and places) giving their views on relationships between native peoples and newcomers.

Speaker A: "*[I order you to]* discover countries unknown to Christian people and take possession of them, notwithstanding the occupancy of the natives who are heathens."

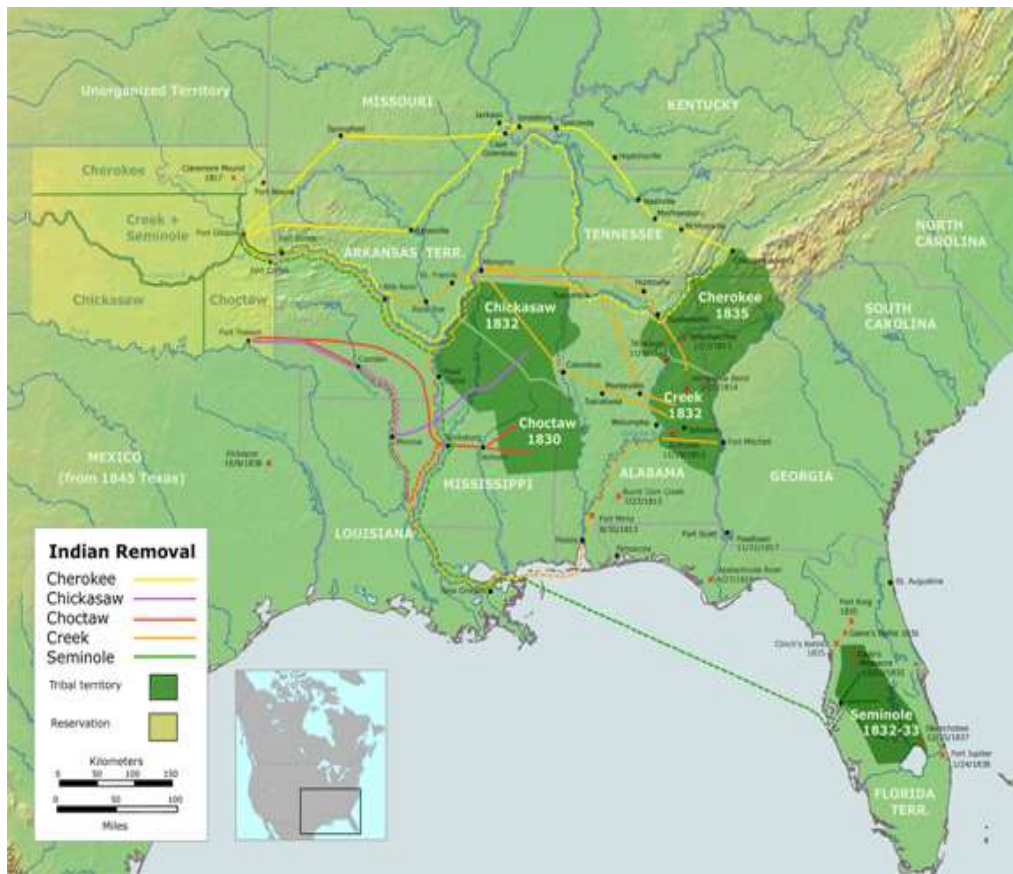
Speaker B: "We *[the settlers in the 13 British colonies]* have no right over the Indians, whether within or without the real or pretended limits of any colony....grants made 3000 miles to the eastward have no validity with the Indians."

Speaker C: “The Indian Territory is admitted to compose part of the United States. In all our maps, geographical treatises, histories, and laws, it is so considered....They acknowledge themselves in their treaties to be under the protection of the United States... They may more correctly, perhaps, be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will...”

Speaker D: “...the Cherokees were the occupants and owners of the territory in which they now reside, before the first approach of the white men of Europe to the western continent; 'deriving their title from the Great Spirit, who is the common father of the human family, and to whom the whole earth belongs.' Composing the Cherokee nation, they and their ancestors have been and are the sole and exclusive masters of this territory, governed by their own laws, usages, and customs.”

1. Which Speaker is most directly expressing the Doctrine of Christian Discovery?  
a) Speaker A    b) Speaker B    c) Speaker C    d) Speaker D
2. Which Speaker is most directly saying that Indian Nations do not have any sovereign rights of their own?  
a) Speaker A    b) Speaker B    c) Speaker C    d) Speaker D
3. Which two Speakers are most sympathetic to the Indian claims of legal rights to their land?  
a) Speakers A and B                      b) Speakers A and C  
c) Speakers B and C                      d) Speakers B and D
4. One Speaker is actually John Marshall, in the US Supreme Court. He is giving the reasoning behind the decision that allowed Georgia to take over the lands and property of Native nations, and force the peoples' “removal” across the Mississippi River to flat dry land in new territory. Which Speaker is Chief Justice John Marshall?  
a) Speaker A    b) Speaker B    c) Speaker C    d) Speaker D
5. Which Speaker is most directly opposing John Marshall's viewpoint? (the quotation is from the Cherokee arguments in the Supreme Court)  
a) Speaker A    b) Speaker B    c) Speaker C    d) Speaker D

#### IV. Map of the Process of Indian Removal, 1830–1838<sup>1</sup>



1. Which color shows the lands where the Five Civilized Tribes (Cherokee, Chickasaw, Choctaw, Creek, Seminole) were living up through 1830? \_\_\_\_\_
2. Which color shows the new area into which all these people were forced to move by the Indian Removal Act? \_\_\_\_\_
3. What country ruled the present-day state of Texas at this time? \_\_\_\_\_
4. Which was the only Nation whose people were forced to travel a good deal of the way by boat, instead of walking overland? \_\_\_\_\_
5. How does the map show the routes taken by the Cherokee that came to be known as the “Trail of Tears?” \_\_\_\_\_
6. What present-day state’s lands were the destination (reservations) for the people and nations being “removed”? \_\_\_\_\_

<sup>1</sup> Credit: Own work by Nikater, submitted to the public domain. Background map courtesy of Demis, [www.demis.nl](http://www.demis.nl) and Wilcomb E. Washburn (Hrsg.) Handbook of North American Indians. Vol. 4: History of Indian-White Relations. Smithsonian Institution Press, Washington D.C. 1988. ISBN 0-16004-583-5, Public Domain, <https://commons.wikimedia.org/w/index.php?curid=2681249>

## **V. For Individual or Group Research and Discussion**

This exploration of “Honoring Indian Law and Treaties” has focused on the struggles of Indian Nations in the United States to preserve at least some of their lands and rights, against the pressures from incoming settlers often supported by United States government. The Indian Nations have depended on treaties and the United States court system in many of their efforts, but with very mixed results.

These suggestions for research and discussion are based on five US Supreme Court cases involving Indian Treaties.

### ***Johnson v. M’Intosh 1823***

In a unanimous decision, the court ruled that Indians could not hold ultimate legal title to their land, because through the Doctrine of Discovery all the land in the US ultimately belongs to the non-Natives.

### ***Cherokee Nation v. Georgia 1831***

The court ruled, by a vote of 7 – 2, that treaty agreements between the Cherokee Nation and the state of Georgia were not binding on Georgia, so that Georgia could force Native peoples off their land.

### ***Williams v. Lee 1959***

The court ruled, unanimously, that the Navajo tribal court had jurisdiction in a case where a non-Native trader (Lee) operating inside the Navajo reservation wanted Arizona law to support his taking of Williams’ sheep to pay a debt.

### ***Washington State Department of Licensing v. Cougar Den, Inc, 2019***

The court ruled 5-4 that a trucking company owned by the Yakama Nation could not be taxed for using state highways to transport fuel into Yakama territory. The language of the original treaty, as understood by the Yakama in 1855, included their right to use roads to travel outside their reservation area.

### ***McGirt v. Oklahoma, 2020***

The court ruled 5-4 that a Seminole man accused of major crimes committed on the Muscogee-Creek Reservation should be tried under Creek tribal court, not Oklahoma state court. Creek Reservation land in Oklahoma was granted to them by treaty as part of the “Removal” in the 1830s, and that should still be honored.

***Choose one of the US Supreme Court cases from the list above, and find out:***

- a) What was the original case about? (who were the people, groups or government bodies that ended up in state and ultimately federal courts to try to solve their dispute)?
- b) Which side ultimately “won” the case, after the Supreme Court justices decided?
- c) What reason did the majority of the court give, for making their decision?
- d) Why was this court decision important for the Native American Nations and people, going forward? To what extent did it benefit or harm them?
- e) If you were a Supreme Court justice involved in that decision, how would you have voted? How would you explain your vote?

## **VI. Food Sovereignty**

“Sovereignty” means complete independence and self-government; having the right to rule yourself. The question of sovereignty for Indian Nations is bound up with treaty rights and how much they have complete control over their own reservation lands; it is a source of uncertainty and conflict today.

But the word “sovereignty” is also increasingly used to refer to another kind of independence: the ability to grow, prepare and eat your own food, instead of relying on buying manufactured food items produced in other places.

Looking at each of the four images below, reflect on – in group discussion and/or in written form:

- a) the key elements that the artists chose to illustrate food self-sufficiency;
- b) the extent to which they portray the issue as a conflict or a cooperative venture;
- c) the extent to which they are linking food sovereignty to indigenous rights;
- d) the connections between control over your own land and growing or raising/catching healthy food.



Image A



Image Credit: Canadian Catholic Organization for Development and Peace  
[Creative Commons Attribution-NonCommercial-ShareAlike.](https://www.sourcewatch.org/index.php?title=File:Food_Sovereignty_Biodiversity.jpg)  
[https://www.sourcewatch.org/index.php?title=File:Food\\_Sovereignty\\_Biodiversity.jpg](https://www.sourcewatch.org/index.php?title=File:Food_Sovereignty_Biodiversity.jpg)

Image B



Image Credit: National Congress of American Indians  
<https://www.ncai.org/initiatives/partnerships-initiatives/food-sovereignty>

Image C



<https://ccednet-rcdec.ca/en/event/2018/06/19/indigenous-food-sovereignty-summit>  
Canadian Community Economic Development Network  
[Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License.](https://creativecommons.org/licenses/by-nc-sa/4.0/)

Image D



<https://orinocotribune.com/food-sovereignty-prize-2019-venezuela-awarded-plan-pueblo-a-pueblo/>  
Creative Commons license Source: Orinoco Tribune

## Answers to multiple choice and fill-in-the-blanks questions

### I. World Map Questions

1 - b                      2 - a                      3 - c                      4 - d

### II. Vocabulary Questions

1 - c                      2 - a                      3 - b                      4 - c                      5 - d  
6 - d                      7 - a                      8 - b                      9 - b                      10 - c

### III. Speaker Questions

1 - a                      2 - c                      3 - d                      4 - c                      5 - d

### IV. Indian Removal Map Questions

1. dark green
2. very light green/yellow-green
3. Mexico
4. Seminole
5. yellow lines
6. Oklahoma

Link to audio podcast:

<http://www.ecologia.org/news/14.IndianLawDec2021.mp3>



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*Materials reviewed and updated, March 2023 - CS*