

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Jordan Loewen-Colón ([00:07](#)):

Hello and welcome to the Mapping the Doctrine of Discovery Podcast. The producers of this podcast would like to acknowledge with respect the Onondaga Nation, firekeepers of the Haudenosaunee, the Indigenous Peoples on whose ancestral lands, Syracuse University now stands. And now, introducing your hosts, Phil Arnold and Sandy Bigtree.

Philip P. Arnold ([00:33](#)):

Welcome everyone to Mapping the Doctrine of Discovery. My name is Philip Arnold. I'm Professor of Religion and core faculty and Native American Indigenous Studies and the founding director of the Skä•noñh - Great Law Peace Center.

Sandy Bigtree ([00:47](#)):

And I'm Sandy Bigtree, a citizen of the Mohawk Nation at Akwesasne. I sat on the collaborative for the Skä•noñh Center and I am also on the board for the Indigenous Values Initiative.

Philip P. Arnold ([01:01](#)):

This podcast is being sponsored by the Henry Luce Foundation. Today, we're very happy to have a conversation with Steve Schwartzberg. Steve, welcome to the podcast.

Steven J. Schwartzberg ([01:16](#)):

Thank you. It is an honor and a pleasure to be here. For those who don't know me, I'm the author of a book called Arguments Over Genocide: The War of Words in the Congress and the Supreme Court over Cherokee Removal. I'm a former director of undergraduate studies for International Studies at Yale, a former candidate for Congress in the Illinois 5th District, and currently an instructor in political science at DePaul University.

Philip P. Arnold ([01:38](#)):

So, that was one of the things we wanted to ask you about. Well, running for Congress in the 5th District in Chicago. When was that and why?

Steven J. Schwartzberg ([01:49](#)):

So, that was 2018 and that was for two primary reasons. One, to raise the issue of Medicare for all, which I'm a strong supporter of and the incumbent Michael Quigley, who won the election handily by the way, was at that point not a supporter of, he claims to have changed since so. Maybe my campaign did some good.

([02:05](#)):

And second, to raise the issue of tribal sovereignty and to make it clear to people that by tribal sovereignty, I mean the sovereignty of any nation like France, Britain, the Mohawk Nation, all of these nations have, in my opinion, equal rights under the law of nations, and those equal rights should be recognized by everyone.

Philip P. Arnold ([02:23](#)):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Yeah. One of the things that, of course, we have mutual friends like Steve Newcomb, Tink Tinker, Peter d'Errico, and you've got all these remarkable endorsements for your new book, Arguments over Genocide, and we want to get into that. But I wonder if you could tell us briefly what brought you to the general topic of the Doctrine of Discovery and the genocide of indigenous peoples in the United States?

Steven J. Schwartzberg ([02:56](#)):

Well, this is a little unusual as a story. It was the cover of a book. And I know it said "Don't judge a book by its cover." But there was a book called the Cherokee Renascence in the New Republic some years ago, which featured the famous image of Sequoyah gesturing with his pipe at the 86-symbol syllabary that he had developed that formed the basis of the written Cherokee language.

Philip P. Arnold ([03:17](#)):

I know the image.

Steven J. Schwartzberg ([03:18](#)):

Yes. I was fascinated with the idea that there had been a renascence and what that might mean through that book. Ultimately, I came in contact with Steve Russell, a Cherokee jurist who managed to get himself elected judge in Texas, which is no mean feat, I'm sure, and who wrote a wonderful book called Sequoyah Rising. Through Steve, I came into contact with Peter d'Errico, then Steve Newcomb and JoDe Goudy and those around redthought.org. That was my real source of introduction to the Doctrine of Christian Discovery some years ago.

Philip P. Arnold ([03:52](#)):

Wow. Yeah. What we've discovered doing this podcast is that the Doctrine of Discovery is what you would say is a many-splendored thing. I mean, I'm being sarcastic here. But there's a lot of tentacles in this topic. It reaches in all kinds of directions. Of course, my orientation and our orientation is religion. But you seem to have a different orientation. You're talking most explicitly about Marshall's Trilogy, am I correct in that?

Steven J. Schwartzberg ([04:36](#)):

Yes. I think, let me back it up and give it a somewhat larger frame.

Philip P. Arnold ([04:39](#)):

Sure.

Steven J. Schwartzberg ([04:40](#)):

Let's start with Tiokasin Ghosthorse and Steve Newcomb's formulation of the View from the Shore. That is to say the view of the native peoples watching these European dominators coming across the Atlantic Ocean. I'm not really qualified to speak to this View from the Shore. This is the perspectives, after all, of hundreds of distinct nations.

([05:00](#)):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

But I think I can safely say that all of them would agree that when it comes to the claim that you can discover an inhabited country and that you can claim a right on the basis of that discovery over that country and over its inhabitants, you're making a claim that is absurd and dishonest.

[\(05:17\)](#):

And from my perspective, it is dishonesty and violence that are at the heart of the Doctrine of Christian Discovery and the heart of our practice to this day as whenever that doctrine has been challenged over the course of more than five centuries now. There has been a habit on the part of the Euro-Christians as Tink Tinker refers to white people. I think it's a better term for us.

[\(05:38\)](#):

There has been a habit on our part of doubling down on moral depravity. And that is what I see is at the heart of the Doctrine of Christian Discovery. That's what John Marshall is doing in his trilogy, which I refer to as Marshall's War Against the Rights of the native nations. Sorry. Let me let you get a word in that for us?

Sandy Bigtree [\(05:58\)](#):

Well, right from the onset it was violent with the Jesuits arrival in the Northeast. Even before these laws were established, they just came in and within just a couple decades claimed to have shifted matriarchal societies that were connected to a way that they understood their proper relationship in the world to a patriarchal shift of domination and hierarchy.

[\(06:26\)](#):

So, that was already fomenting and has continued to foment in who we are today and we're dealing with this now, and religion was at the base of this. And now, we're dealing with Christian nationalization and it's terrifying if we don't arrest this and identify it and talk about this for what it is. I don't see any way of understanding our predicament.

Steven J. Schwartzberg [\(06:55\)](#):

I agree with that entirely. I think I try and present our predicament as one of what I call the global great divide, which is the divide between those who believe in benevolent authority, however they may want to define it and people fight wars over that. They believe in benevolent authority is necessary to the creation or establishment or maintenance of any worthwhile community in its relations with other communities.

[\(07:19\)](#):

And those on the other hand, who recognize that all life is one that we are diverse and many and unified at the same time, all of our relations, and that the beloved community in a sense already exists so that our responsibility as living beings is to live in harmony and a balance with and within that community, not to try and create something that already exists, but to be in harmony and in relationship with what already exists.

[\(07:46\)](#):

That's sort of how I see the underlying religious spiritual. I'm not sure exactly how to talk about it, difference between the view from the ship and the view from the shore, the view from the ship ... Sorry.

Sandy Bigtree [\(07:59\)](#):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Go ahead.

Steven J. Schwartzberg ([08:00](#)):

The view from the ship is the view of the dominators. These are people who believe in authority. And the authority's form is patriarchal. But if they were taking a matriarchal form, it would still be a belief in authority. It would be like Margaret Thatcher in Britain. It wouldn't be anything different. It would still be dominating other people and dominating all our relations. That's so objectionable.

Sandy Bigtree ([08:27](#)):

That's the operative word, relationships, our relations to one another and to the natural world. It was astounding how they knew how to penetrate this culture. They came here and we were taught cross-board and all our educations that indigenous people were inferior and did not have the ability to express themselves and communicate very well. But it's quite the contrary because we practiced a peace and establishing proper relationships with other sovereign nations in this territory that were indigenous sovereign.

([09:10](#)):

They were great orators. As soon as the Europeans came here, they were right away challenging them in their way of thinking and how this could not possibly sustain itself. And they were traveling to Europe. There are so many accounts of these great orators speaking in Europe in 17th century, 18th century, and some are claiming today, some of these very early orators actually triggered a whole new way of thinking. It became known as the Enlightenment.

Steven J. Schwartzberg ([09:47](#)):

Yes. So, I think this is very true and it's very important to realize that the doubling down on moral depravity that I'm talking about is in Marshall's case, a reaching over the enlightenment over democratic theory back to 15th century jurisprudence in order to found US property law. So, there is a doubling down on the dishonesty and the violence there.

([10:10](#)):

In a way, if you go back to the 16th century debates between las Casas and Sepulveda within Spain over the illegitimacy of Spanish activity in the New World, Spanish land theft and Spanish genocide. The claim that las Casas makes is that these conquistas are evil, anti-Christian and unlawful.

([10:34](#)):

And Sepulveda defending the Spanish monarchy. I think I've got a quote here that, in fact, I'm sure I do, that captures Sepulveda's language, "In prudence talent virtue and humanity, they're as inferior to the Spaniards as children to adults, women to men as the wild and cruel to the most meek as the prodigiously and temperate to the constant and temperate that I've almost said as monkeys to men." That's Sepulveda's claim in the middle of the 1600s as to why las Casas is wrong.

([11:13](#)):

In other words, las Casas says, "No, this genocide is not to be justified in Christian terms." And Sepulveda says, "Oh, but we're a Christian civilization and what we do is justifiable." That's a doubling down on moral depravity. Then you get the enlightenment, as you said, directly out of the contact with indigenous peoples and the realization that there's a different way of living.

([11:35](#)):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

You get one of my favorite figures, James Wilson, who I consider in many ways, the framer, the founder, the architect of the Constitution of the United States in a pamphlet 1744. He says, "All men are, by nature, equal and free. No one has a right to any authority over another without his consent. And all lawful government is founded upon the consent of those who are subject to it."

[\(11:58\)](#):

And he says, "We have no right over the Indians, whether within or without the real pretended limits of any colony." That is to say he's a democrat, small d. And he believes in the sovereignty of all peoples. And he forms a constitution with his allies that has treaties as the supreme law of the land, and these treaties are definitely including treaties with the native nations.

[\(12:24\)](#):

The initial motion in the constitutional convention refers to just treaties ratified. But the language of the constitution is treaties made or which shall be made specifically to include treaties with the native nations. And John Marshall ignores all of that when he doubled down on moral depravity in *Johnson v. M'Intosh*, and then again, even worse in *Cherokee Nation v. Georgia*.

Philip P. Arnold [\(12:49\)](#):

Yeah. That's fascinating. Your idea that Marshall jumps over certain chunks of history that really defined democracy in a way to reclaim the Doctrine of Discovery as an original source of US property law. It's always fascinated me. And I'm going to maybe be a little unfair because I know your area is not in religion. But I just have to ask, what is it about Christianity that really becomes so abusive, intrusive, and persistently so, I would say? There's a lot of things happening around 1492, a lot of things.

[\(13:56\)](#):

And, I mean, one of the things we've been able to tease out is the Age of Discovery is really just an extension of the crusades in many ways. So, I mean, it is an open question for me. I just wonder if you have ideas about it. I mean, what is it about Christianity in this formulation that becomes so violent and abusive?

Steven J. Schwartzberg [\(14:29\)](#):

So, I would say, and this is interesting because I come to Christianity from Judaism, I'm baptized in 2006 in search of a universalism. And what I find ultimately is a false universalism. But the initial promise that attracted me was the claim in Christ, there's neither Jew nor Greek, slave nor free, male and female for all are one. That's attractive.

[\(14:52\)](#):

But the problem is twofold. The first is the assumption that the body of Christ, the members of the community are somehow Christians rather than all living beings, means that those who are inside are different from those who are outside and they're going to bring, in Sepulveda's language in the 16th century, is drawing on the Gospels, we will compel them to come in. That's a reference to Luke 14.

[\(15:19\)](#):

Now, initially that is meant to be hospitality. That is meant to be rhetoric. Not in that way meant to be violence. And Sepulveda turns it and makes it violence. Although there had been earlier. St. Augustine had done something similar with regard to people already inside the church. But Sepulveda takes in, we're going to compel them to come in with force and violence.

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

[\(15:39\)](#):

So, partly, it's a question of who is in. And if you don't have everybody in from the get-go, then you're going to be abusive to those who are on the outside. And when I say everybody, and I don't mean that people are to be thinking of themselves as Christians. But any Christian who wants to be a Christian, in my opinion, should look to see Christ in all living beings and to learn of who Christ is from all living beings.

[\(16:05\)](#):

If the people coming over on the ship had sought to learn about Christianity from the native peoples, they would've learned a lot. I'll give you an example. A friend of mine, JoDe Goudy of the Yakama nation is asked by a Christian friend of his, "I'm a child of God. That's who I am at the deepest level. Who are you?" And you can hear in that question all sorts of problematic attitudes.

[\(16:28\)](#):

And JoDe pauses for a moment and says, "Of creation?" I think from a Christian perspective, a sincere Christian perspective that is a more honest answer, a more accurate answer, a more humble answer, a better answer in every way, shape and form than this child of God formulation.

Sandy Bigtree [\(16:44\)](#):

Oh, it's such a dividing line when we were working with Jesuits because we repurposed a Jesuit fort at the place where the Haudenosaunee's Great Law of Peace was established. So, this was really challenging because nobody knew about the Great Law of Peace. And it's a far better story to be telling than one of failed conquests, actually. The Jesuits were run out in only a few months. But, oh, my God.

Philip P. Arnold [\(17:15\)](#):

Yeah. Yeah.

Steven J. Schwartzberg [\(17:17\)](#):

Well, just the whole focus on peace. I mean, what do we want in our relations with one another? Respect.

Sandy Bigtree [\(17:25\)](#):

We would have priests talking to us and they felt they were being understanding by just super imposing the word creator for their God. And I would like, "Oh, my goodness. No. You cannot do that. Your God is hierarchical. Ours is not. Ours is diverse. It's ever-changing. It's regenerative in the very water we drink." We're talking about completely different orientations here. And that very basic effort to try to connect with us was more divisive because, no, we are not you. Yeah.

Steven J. Schwartzberg [\(18:03\)](#):

I would say to Phil's question about what there is in Christianity? This is an even deeper level of what there is that's wrong with Christianity that you're touching on, this notion of the far away up there somewhere, divinity as against we are all interconnected and all of us are entitled to respect and to write relationships. The more horizontal view of reality and of the fact that there's an indwelling life in everything.

## S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.

Philip P. Arnold ([18:36](#)):

Exactly.

Steven J. Schwartzberg ([18:37](#)):

That view is suppressed in the axial age to a large extent, and not just in Christianity across a host of religions and spiritual philosophies.

Philip P. Arnold ([18:47](#)):

Oh, wow.

Steven J. Schwartzberg ([18:48](#)):

Nationalism comes in, I would say, in part as a result of the Doctrine of Discovery. And nationalism then squelches some of this super hierarchical stuff, but doesn't replace it with equality, replaces it with its own secular hierarchies. That's how I view the Doctrine of Christian Discovery is as a substitute religion for what Christianity was claiming to be but was not actually pursuing.

Philip P. Arnold ([19:19](#)):

There is a theology implied in the Doctrine of Discovery, certainly. I mean, that's not the work that we would take on necessarily. We wouldn't work within, say, a specific denomination or something. But rather to change, say, their theological positioning or orientation. But I can see what you mean in terms of the Doctrine of Discovery itself, having a kind of implicit theology, a notion of [inaudible 00:19:55] God. Right. Right.

Sandy Bigtree ([19:58](#)):

It's a God.

Steven J. Schwartzberg ([19:59](#)):

Not that we own it. It's obscene.

Sandy Bigtree ([20:02](#)):

And you're obedient to it.

Steven J. Schwartzberg ([20:04](#)):

Obedient to it and force other people into obedience to it at knifepoint and gunpoint.

Sandy Bigtree ([20:09](#)):

Right.

Philip P. Arnold ([20:11](#)):

So, one of the things that Sandy was indicating the urgency of these issues around the Doctrine of Discovery and why we're revisiting all this history, it's not something I thought I would do when I was in graduate school. But there is an urgency to this because you see it playing out in the world today.

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Christian nationalism, for example. It has its origin in Doctrine of Discovery, Doctrine of Christian Discovery. I wonder what you think of that and how you conceive of that linkage.

Steven J. Schwartzberg ([20:53](#)):

So, I think of it in two ways. One, as an exaggeration of something that is ubiquitous in even American society at its best. So, American society at its best, I still think of in terms of the way John Trudell puts it, techno-logic civilization.

Philip P. Arnold ([21:11](#)):

Yeah. We love John Trudell.

Steven J. Schwartzberg ([21:14](#)):

So, that techno-logic civilization is naturalism. And it's best, that's a sense that those who are members of the nation are equal and sovereign. The problem, of course, is that all sorts of people are left out who are not treated as equal and not treated as sovereign. But that's at its best and that's just not good enough. That is still coming from the notion that we came over here, we Euro Christians, and we can dominate here.

([21:40](#)):

In fact, the laws that involve living with this land, the laws of this land are the international laws and usages that were present among the native nations here before the Euro Christians got here. That's what valid laws. So, the laws, the teachings of the Anishinabek, for example, about love, respect, truth, honesty, courage, humility, wisdom.

([22:05](#)):

The teachings that surround those words that I just named, that's legal foundation of just one native nation or group of native nations. But I think is compatible with the ontologies of the native nations of Turtle Island, generally. And it's not compatible with American law. American law doesn't rely on these foundations. And even if it did rely on these foundations, it relies on them through authority, through domination as opposed to through feeling what the body politic feels is true and how we should act.

([22:44](#)):

And I take this back to the debates over genocide in the 1830s where you have somebody like Jeremiah Evarts who says that we should be feeling keenly the injustice that we're about to perpetrate on the native nations. He's appealing to the American people to feel. And that appeal to feeling is an appeal to real law, in my opinion.

([23:09](#)):

But when we face our law on what the body politic feels of justice feels of right relations, feels of truth, feels of honesty, feels of wisdom, that is not how the American people at their best think of their constitution. So, I think of white Christian nationalism as an exaggeration of the worst features, but I think even at best it's just not good enough.

Philip P. Arnold ([23:37](#)):

I mean, what's fascinating about Marshall ... Well, sorry, Sandy, did you want to say something?

Sandy Bigtree ([23:42](#)):

## S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.

No. Go ahead.

Philip P. Arnold ([23:42](#)):

What's fascinating to me about Marshall is that he utilizes these Catholic formulations coming out of the Vatican and papal bulls in a Protestant nation building project. And at the time, of course, there would be no relationship with Catholics or the Vatican that would've been tolerated by the founding fathers in these early formulations of the United States. And yet, theologically, if you want to put it that way, theologically, he's utilizing this language for a Protestant nation. So, it doesn't really matter in terms of what kind of Christianity we're talking about.

Steven J. Schwartzberg ([24:34](#)):

Well, it does matter because he's dishonest. I mean, in a sense you can say that all you're a Christians are dishonest. But there's, again, this intensification of it among the worst elements. Let me give you three quotes and that will convey where I'm coming from. The first is from John Forsyth, who's senator from Georgia, who's the central advocate of what becomes the Trail of Tears.

([24:55](#)):

And he says, and this is the most succinct formulation of the Doctrine of Christian Discovery in this period that I know of. He says, "All Christendom seems to have imagined that by conveying that immortal life promised by the Prince of Peace to fallen man to the Aborigines of this country, the right was fairly acquired of disposing of their persons and their property at pleasure."

([25:19](#)):

That's the extreme formulation of the Doctrine of Christian Discovery. And that's the majority position in the Congress. The minority position in the Congress, although it's a close-run thing, the vote is 102 to 97 in the House of Representatives. The minority position is best articulated by Asher Robbins who says, "Does our civilization give us a title to his right, a right which he inherits equally with us from the gift of nature and of nature's God. The Indian is a man and has all the rights of man the same God who made us, made him and endowed him with the same rights for one blood as he made all the men who dwell upon the earth."

([25:54](#)):

Now, that's an inadequate position because it's still saying, "We can decide what the national rights of the native nations are on their land." But it's at least a more honest position than Forsyth's. And what does Marshall do when these two positions come before the Supreme Court? He says, "If it be true that the Cherokee Nation have rights, this is not the tribunal in which those rights are to be asserted. If it be true that wrongs have been inflicted and still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future."

Jordan Loewen-Colón ([26:30](#)):

Do you need help catching up on today's topic or do you want to learn more about the resources mentioned? If so, please check our website at [podcast.doctrineofdiscovery.org](http://podcast.doctrineofdiscovery.org) for more information. And if you like this episode, review it on Apple, Spotify or wherever you listen to podcasts. And now, back to the conversation.

Philip P. Arnold ([26:49](#)):

## S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.

This tribunal is the Supreme Court, right?

Steven J. Schwartzberg ([26:52](#)):

This is the Supreme Court. The Supreme Court is washing its hands of the Constitution. And because it washes its hands of the Constitution, it changes constitutional law to this day. It makes a claim that the United States has a right to dominate the native nations. It has a right to deny or to disregard any treaty with the native nations. It assumes a position of supremacy in Christian terms, in white terms, however you want to look at it, that persists to this day as the law of the land, even though it's not compatible with the Constitution.

([27:27](#)):

But every Supreme Court decision since then, you read Peter d'Errico's wonderful book, Federal Anti-Indian Law. You can see every decision since the Marshall Trilogy, since Marshall's War, and you can see this dominationist politics denying the Constitution, denying the native nations their rights even in our law.

Philip P. Arnold ([27:52](#)):

So, we've gotten different takes on the trilogy in these podcasts. For example, Lindsay Robertson who wrote an excellent book on Johnson. He said that Marshall maybe just stepped in it with Johnson and then regretted the implications of the decisions later on, particularly in Worcester. So, you seem to have a different kind of perspective on what ...

Steven J. Schwartzberg ([28:40](#)):

Yes. I have a very different perspective from that. And I go at length in my book into Marshall's dishonesty, and I provide evidence for it. I know we want to have somebody to be a hero against Andrew Jackson or somebody who at least stands up partially against Andrew Jackson. It isn't John Marshall. John Marshall is accused by the ... there are two lawyers for the Cherokee Nation in oral argument in Cherokee Nation v. Georgia.

([29:04](#)):

One of them, William Wirt finds a book that Marshall wrote in 1804, 1805. It's a biography of George Washington. And in this biography, it talks about the founding of Georgia in 1733, and the way the Georgians or the Euro Christians coming over who will become Georgians have this charter from the king. And they're claiming the Georgians in the 1830s that this charter gives them domination rights over the native peoples and the native people's lands.

([29:35](#)):

And what this lawyer points out is that Marshall himself in his book said, "Although they had this charter, they signed a treaty with the Creek Nation to whom these lands were acknowledged to belong." Marshall deletes that sentence in later editions of the book to whom those lands were acknowledged to belong. Oh, no, no. We're just going to erase that.

Philip P. Arnold ([30:04](#)):

Wow.

Steven J. Schwartzberg ([30:05](#)):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

That's one of many examples I give of his dishonesty. In *Worcester v. Georgia*, he pretends to support the rights of the Cherokee nation, but he never talks about their treaty rights. But their treaty rights are rights under the supreme law of the United States. And the United States is bound by those treaties and obliged to comply with them. And Marshall carefully doesn't mention any treaty rights. He says they have the rank of treaty partners.

[\(30:33\)](#):

What does that mean? It doesn't mean that they've got any rights. They don't have rights, legal rights in Marshall's framework. What they have is natural rights and traditional rights, and those can be encroached upon by the federal government at will. So, yes, *Worcester v. Georgia* is a slap at George's efforts to unilaterally pursue genocide. But it says the Congress, it is effectively can pursue genocide on its own, no problem. That's how *Worcester v. Georgia* should be read in my judgment.

Sandy Bigtree [\(31:07\)](#):

And then federal Indian law dictates that native nations are now under the guardianship of the United States.

Steven J. Schwartzberg [\(31:16\)](#):

Right. This is another key phrase. What does it mean to be under the guardianship? What does the trust relationship mean? People talk about the trust relationship as if it's some kind of great thing. The first instance of the trust relationship in practice in *Cherokee Nation v. Georgia* is the genocide of the 1830s. It's saying, "We're going to trust the Congress of the United States to move all of these native nations across the Mississippi and say 25%, 20% of them are going to die along the way."

[\(31:43\)](#):

And this is known in advance. Lewis Cass, the Secretary of War in the Jackson administration, writes to Jackson at September of 1831. And he says, "Without adequate preparations, great sufferings must be encountered upon the journey, and many will doubtless perish." And months later, one in five Choctaw nationals are dead. Because that's what it is, the killing goes on for year after year after year in the 1830s.

Sandy Bigtree [\(32:13\)](#):

Fascism.

Steven J. Schwartzberg [\(32:14\)](#):

This is costing 40% of the national budget. This is obscenity. And we Euro Christians are largely unaware of this and unaware of the way it's justified by the Supreme Court and the way it twists little bit of our relations with the native nations to this day.

Philip P. Arnold [\(32:35\)](#):

Yeah. Yeah.

Sandy Bigtree [\(32:36\)](#):

Well, this happened in Europe, in the Romans across the cross the country. Many of our cities in New York state are named after Rome. I mean, it's just completely bizarre. But how do some of the founding

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

fathers embrace the Haudenosaunee and the principles of the Great Law of Peace and they use the symbolism of the clustered arrows to represent the presidential seal. It's just a few years after that, the Roman fascist begins [inaudible 00:33:10] stands on either side of the House of Representatives, Speaker of the House.

[\(33:15\)](#):

It's right during this time. It makes this shift and our country's divided. And I don't want to say elections are a horrible thing, but the Haudenosaunee were able to arrive to consensus in agreements on how to proceed. And yet, that was one of the first acts the United States forced on native nations was to make them vote. And that's always like puts you in opposition. It's not relationship building. It's a very brash way that divides families and friends, and we're seeing that more today than we have yet since the Civil War.

Steven J. Schwartzberg [\(33:55\)](#):

I think our comment is very wise. I think that's exactly right. What I talk about in an essay that was published in Dissident Voice called Rethinking Nationalism and Democracy with a View from the Shore, is that democracy as we see it, democracy and human rights, the way the United States advertises it is a failed effort to enter into indigenous history and culture.

[\(34:16\)](#):

It's an attempt to be self-governing without knowing what self-government really is, because self-government rests ontologies on ways of knowing moral truth, and there are many, many ontologies in the indigenous world, but they all connect, as far as I understand it, morality and knowledge. Whereas in the western world, knowledge and power are made to be interchangeable and morality is someplace else.

[\(34:45\)](#):

And so, if we are going to find a way out of our current dilemma, we, the world at this point, I think we have to move to voluntarily entering into millennia of indigenous culture and indigenous ontologies. That's the great challenge that we face to get free of techno-logic civilization.

Philip P. Arnold [\(35:06\)](#):

That's terrific. I have a persistent question, though, going back to the 1830s. Sorry. I do want to get into the consequences of all this. But oftentimes, the presidency of Andrew Jackson is presented as a coup around the removals against the wishes of Congress and against the Supreme Court. We have a constitutional crisis at that moment, or that's how some people would interpret what's going on. What I hear is you've got a different take on all of that, right?

Steven J. Schwartzberg [\(35:51\)](#):

Yes. I do. Yeah.

Philip P. Arnold [\(35:52\)](#):

That basically Jackson and Marshall are, what, barking up the same tree, sort of.

Steven J. Schwartzberg [\(35:59\)](#):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Yes. And not just Jackson and Marshall, but the Congress. The Congress votes very clearly for removal for the Trail of Tears, the majority of Congress. It's close. But there's a majority on the wrong side of the issue. But I would say that the trajectory of American democracy, to come back to Sandy's question, at one point has somebody like Benjamin Franklin saying, "We think our manners, the height of civility, they think the same of theirs. There's an openness, a recognition that the native nations have their own concepts, their own ways of doing things, and that we can learn from them."

[\(36:44\)](#):

I think there's an openness. And that openness is connected to the enlightenment, obviously, and it's connected to a position on racial equality that has been suppressed in the public memory and that I want to bring forward and then talk about how that position is defeated in the 1830s. So, the position is, this is Congressman James Hillhouse of Connecticut in 1796 in the House of Representatives.

[\(37:12\)](#):

The first principle that is laid down in the rights of man is that all men are born free and equal. It does not say all white men. He did not believe, he said that the house would ever admit so absurd, a doctrine as that different shades in a man's complexion would increase or diminish his natural rights. There is a naivete in the founding generation as well as hypocrisy, as well as active advocacy for slavery. That naivete gets squelched. That naivete had some possibilities of hope for understanding other peoples and other understanding other ways of being in the world.

[\(37:51\)](#):

It gets squelched in the 1830s by states' rights. But what are states' rights? States' rights are the claim that because some Christians saw with their magic Christian eyes, this chartered territory, they own it and could do whatever they want to land in its inhabitants. That's the hardcore Christian discovery basis of states' rights. And in the 1830s, Georgia is saying, "We've got the right to squelch the Cherokee Nation, squelch the Creek Nation."

[\(38:20\)](#):

And Forsyth is explicitly genocidal. He says, "If their separate existence as a tribe is destroyed by state legislative enactments, the control of the government of the United States, even over the commerce with them is at an end. So, you've got your Constitution, but we've got our state of Georgia and we're going to commit genocide, or you're going to get these Indian nations off of our land."

[\(38:44\)](#):

That's the threat that Georgia is making. And not just Andrew Jackson is affected by this threat, and not just John Marshall is affected by this threat, but John Quincy Adams, who's the opposition to Jackson at 1828, after he loses the election basically sides with Georgia. So, it would've been the same even if John Quincy Adams had won in 1828.

[\(39:09\)](#):

The driving force behind the genocide of the 1830s is the state of Georgia and the concept of states' rights and the concept of Christian discovery, and that sweeps all before its path ultimately. But there is massive opposition. And I want to stress that. It is a fought-out issue in this. And the people who are fighting for some semblance of justice and honesty are defeated.

[\(39:35\)](#):

But Marshall's not one of those fighting for some semblance of justice and honesty. And Jackson's not one of those people fighting for some semblance of justice and honesty, and Georgia certainly isn't.

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Philip P. Arnold ([39:46](#)):

So, this idea of states' rights is really the coup against federalism then?

Sandy Bigtree ([39:53](#)):

Right.

Steven J. Schwartzberg ([39:53](#)):

It's the coup against federalism. But federalism is John Marshall. He's as corrupt. It's right people are. Because what Wilson said was that we have our rights as a people, as a sovereign people under the law of nations, and ultimately under God, we're answerable to the law of nations. We're answerable to other peoples. We're answerable to God. And Marshall says, "No. We're not answerable to anybody other than ourselves."

Philip P. Arnold ([40:18](#)):

Yeah. Right. Yeah.

Sandy Bigtree ([40:22](#)):

But I'd heard also that the Constitution acknowledges treaties with Indian nations as being the supreme law of the land. Writing it in the Constitution in a way solidified the status of the federal government. So, because the states were gaining power and it was becoming disjointed and there was no way to unify, that's completely against what the Haudenosaunee were talking about, this union of nations coming together. So, it's all divided. I mean, some people are trying to see through this new imagining of the Americas and others are still caring for this violent threat of the Roman Empire.

Philip P. Arnold ([41:07](#)):

Right. And I think ...

Steven J. Schwartzberg ([41:10](#)):

It's an excellent way of putting it, that it's the violent threat of the Roman Empire that becomes the dominant mainstream. In some sense, it's always the dominant mainstream. It's challenged, and then there's a doubling down on moral depravity.

Philip P. Arnold ([41:23](#)):

Yeah. That's why we've often talked about the 1790 Nonintercourse Act, which is thrown over, it sounds like by the kind of states' rights movement that you're describing. And after all, the Nonintercourse Act is there to try to substantiate the federal government over and against. They can't make these little deals. States can't make deals with individual native nations and such.

Sandy Bigtree ([41:56](#)):

Because every agreement transaction between states and native nations has to be ratified by Congress.

Philip P. Arnold ([42:06](#)):

Exactly.

## S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.

Sandy Bigtree ([42:06](#)):

And that's what that was repositioning that again.

Philip P. Arnold ([42:09](#)):

Yeah. Fascinating.

Steven J. Schwartzberg ([42:10](#)):

I've got a quote here I want to share with you from George Washington that I think gets at this pretty clearly. This is Washington in 1789 urging the Senate of the United States to establish the practice of ratifying treaties with the native nations. "It doubtless is important that all treaties and compacts formed by the United States with other nations whether civilized or not, should be made with caution and executed with fidelity." So, there is somebody, I think Washington is pretty hypocritical, but incredibly violent.

Sandy Bigtree ([42:49](#)):

Yeah. No doubt.

Steven J. Schwartzberg ([42:50](#)):

But in spite of the hypocrisy and the violence, at least is giving lip service to the truth that treaties are the supreme law of the land that is attacked by John Forsyth in a way that carries dishonesty. I mean, forgive me for politicizing this by bringing in Donald Trump. But I think Forsyth and Trump are peas in a pod in this. This is Forsyth's language because he's got to deal with this question of these treaties.

([43:15](#)):

And he says, "That the President has made, with the advice and consent of the Senate, various contracts with Indians that called them treaties, is not to be denied. That various contracts have been made with the Indians by states and individuals, under the superintendents of the United States is certain. They have been submitted to the Senate voted upon as, and have been called, treaties."

([43:35](#)):

"What I assert is that these instruments are not technically treaties, supreme laws of the land, superior in obligation to state constitutions and state laws. Can it be believed that the stern jealousy of the state governments gave to the United States the power to use a miserable fragment of the population of a state, to extend, indefinitely their authority, and narrow that of the state government? How then can a contract made with a petty dependent tribe of half-starved Indians be properly dignified with a name and claim the imposing character of a treaty?"

([44:06](#)):

Again, this is just dishonesty and violence. This is who we are at some very deep level. There are people within us who are fighting to change that. The whole hope of the enlightenment, the whole hope of the American Revolution was that the American people would be self-governing the way the native nations are self-governing. That was the hope. And that was smashed very early on with the emergence of the state governments, with the articles of confederation.

([44:35](#)):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

There was an effort in the Constitution to try and bring back in some respect for international law, for the law of nations, for the common good. But by and large, the trajectory has been downhill in terms of our relations with the native nations all the way from the beginning. The notion of progress that Americans like to believe in has no relationship to reality when it comes to our relations with the native nations.

Philip P. Arnold ([45:07](#)):

Yeah. Yeah. And I just can't help but wonder the consequences for the Trilogy, Marshall, the removals, this early period, how it's being played out today. I mean, it seems we're in the middle of election season, seems like it's been going on forever. You just see the same themes. It's not so much like history repeating itself. It's more like we have a mythic framework that we're operating within. I'll use the religious language, or some other. Maybe we're just structurally built in the United States in a way that we seem to not be able to break out of this kind of pattern.

Steven J. Schwartzberg ([46:07](#)):

I think the way we break out of this is by, first of all, feeling grief. I don't think we break out of this by fixing it. I think the presumption that we could fix anything, especially without working with other peoples, without working with the native nations without recognizing their leadership, is an obscenity. We cannot fix things. And that's the way we tend to go is we want to fix things.

([46:31](#)):

But if we could manage to sit with our own grief at the injustice we've inflicted on others, even just for a little while, it might open us to the idea that there are different ways of being in the world. There are different ways of doing things. We might begin to ask some questions. That's where my hope is, is that the American people can come to sit with the grief of our own injustice and to think about what we might do differently in the world.

Philip P. Arnold ([47:00](#)):

It's interesting that you mentioned grief because as you know, we're in the Onondaga Nation territory here in Syracuse, New York. And Onondaga Nation is maybe one of only three federally recognized Native American nations of the 575 or whatever it is now that have rejected the Bureau of Indian Affairs Government that still govern themselves with their clan representation, govern themselves by the Great Law of Peace, what's called the Long House tradition, and have done for thousands of years.

([47:49](#)):

And their process is all centered around grief, what they call condolence in English. The process of raising leadership into their ...

Sandy Bigtree ([48:03](#)):

Representatives.

Philip P. Arnold ([48:04](#)):

Yeah. The clan representatives into their positions, their life positions is all through the process of condolence. I think this is one of the more profound aspects of the Haudenosaunee and likely in other

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

traditions as well. Because if you really sit with, as you say, sit with your grief around the passing of a person or a certain moment, then that can lead to new kinds of relationships.

Sandy Bigtree ([48:44](#)):

Right. I mean, no one really talks about grief. It's like hidden. It's hidden from your children. This dominant society, they refrain from taking their children to funerals. They're told these made-up stories even about holidays. It's all based in lies and avoidance. We've got a lot to sift through here, because we've been educated, all of us now, with some manipulative propaganda. It's frankly propaganda.

([49:22](#)):

I was just talking about our Columbus statue here. It's not retaining history. Nobody knows the history about him sailing here on the Doctrines of Discovery to annihilate millions of people and take all their wealth and enslave their bodies. I mean, nobody, that's the history. The other that he's a hero, that's propaganda. And are we going to start seeing through what's honorable and it's going to unite us or something that's just going to subdue and dominate masses of peoples and countries and the environment. I mean, I don't know how we're going to get out of this, frankly. It's really terrifying.

Steven J. Schwartzberg ([50:11](#)):

I think part of the reason why grief opens a path out of it is it takes us out of our egos. And I think the United States, I think every people, well, every non-indigenous people has an ego. And that ego tries to be dominant. And to the extent that the American people focus on their state, on their government, on structures of power and authority on the super-rich, it doesn't focus on what really matters on what's real. It's focusing on propaganda, as you say. It's focusing on this ego. And this ego, "Eh." It's not really there.

([50:53](#)):

What's really there in the world is our relationships with one another and it's our love for one another. If we can feel that, we can find our way out of the situation that we're in.

Sandy Bigtree ([51:07](#)):

Right. I mean, not to just jump into religion, but it's a religion based on sin and guilt. How about starting there? Questioning how do we raise a loving world or family that's wholesome when it's just drilled into you? You have to focus to save your soul on salvation, your individual salvation to cut through all this. No. I don't think that's going to do it. It hasn't so far. We've got to connect with one another and the earth have relationships that are viable and regenerative and healthy.

Steven J. Schwartzberg ([51:54](#)):

Yeah. I agree with that entirely. The idea that you can save an ego because that's really what it is. It's looking for salvation for an ego rather than salvation for a true self, because salvation for a true self is in relationships.

Sandy Bigtree ([52:09](#)):

Right. Well put.

Philip P. Arnold ([52:11](#)):

## **S05E04: Unveiling the Doctrine of Discovery: Historical Injustice and Pathways to Healing with Steven J. Schwartzberg.**

Yeah. Which are all around us anyway.

Steven J. Schwartzberg ([52:14](#)):

Right.

Philip P. Arnold ([52:14](#)):

I would like to thank you, Steven, for a really fascinating conversation. The book is Arguments Over Genocide: The War of Words in the Congress and the Supreme Court over Cherokee Removal. Published last year. Now, available in paperback. Thanks very much. This has been a terrific conversation.

Sandy Bigtree ([52:38](#)):

Yes. Thank you.

Steven J. Schwartzberg ([52:39](#)):

Yes. Thank you.

Sandy Bigtree ([52:41](#)):

And good luck with your work.

Steven J. Schwartzberg ([52:42](#)):

Appreciate it. You as well.

Jordan Loewen-Colón ([52:46](#)):

The producers of this podcast were Adam DJ Brett and Jordan Loewen-Colón. Our intro and outro is Social Dancing Music by Orris Edwards and Regis Cook. This podcast is funded in collaboration with the Henry Luce Foundation, Syracuse University, and Hendricks Chapel, and the Indigenous Values Initiative. If you like this episode, please check out our website and make sure to subscribe.

MUSIC ([53:08](#)):

[foreign language 00:53:09]