The Doctrine of Discovery in Australia and the United States
By Professor Robert J. Miller

SYNOPSIS: England explored and colonised the United States, Australia, New Zealand, and Canada under the authority of an international law called the Doctrine of Discovery. Europeans justified their sovereign and property claims over Indigenous Peoples and their lands all around the world with the Discovery Doctrine. This legal principle was rationalised by religious and ethnocentric ideas of European and Christian superiority over the other cultures, religions, and races of the world. The Doctrine provided that newly-arrived Europeans automatically acquired property rights in the lands of Indigenous Peoples and gained political and commercial rights over the Indigenous inhabitants. The United States Supreme Court expressly adopted Discovery in 1823 in the case of Johnson v. M’Intosh and American, Australian, Canadian, and New Zealand governments and courts have cited and relied on that case and Discovery to try to control Indigenous Peoples.

Australia and the United States did not apply the elements of Discovery in the exact same manner or at the exact same time periods; but the similarities of their use of Discovery are striking and not the least bit surprising since the Doctrine was English colonial law. Viewing Australian and American history and law in light of the Doctrine of Discovery helps to expand the knowledge and understanding of both countries and their attempts to colonise Indigenous Peoples.

Robert J. Miller is a professor at Lewis & Clark Law School in Portland, Oregon, USA. He is the Chief Justice for the Grand Ronde Tribe’s Court of Appeals, and a citizen of the Eastern Shawnee Tribe of Oklahoma. Publications include, Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies, (co-authored with Indigenous professors from Australia, New Zealand, and Canada) (Oxford University Press, 2010).

When: Monday, 29 October at 6.00pm
Where: Moot Court Room, Ligertwood Building, North Tce
RSVP: http://adelaide.custhelp.com/ci/documents/detail/2/russlrrp
For more information on RUSSLR events: www.adelaide.edu.au/lawandreligion

Co-Sponsored by

adelaide.edu.au