

Terra Nullius

This Latin phrase literally means a land or earth that is null or void. Terra nullius stands for the idea that lands that were not possessed or used by any person or nation, or that were occupied by Indigenous peoples but were being used in a fashion that European legal systems did not understand or approve, were considered to be empty, waste, or vacant, and available for taking by Euro-Americans. The principle was used to justify Europeans claiming the lands of American Indians Nations because Euro-Americans allegedly put the land to better uses than did Indians. This principle is considered one of the elements of the international law Doctrine of Discovery.

Euro-Americans were very liberal in applying this definition to the lands of Indians in North America and against Indigenous peoples all over the world. They often considered lands that were actually owned, occupied, and being actively used by native peoples to be vacant or waste and available for Euro-American claims if they were not being used properly according to European and American law and culture. The hunting and gathering grounds of various North American tribes are classic examples of lands that Euro-Americans did not consider as being owned or used by tribes because Indians were not farming the particular lands. Consequently, Euro-Americans considered many of the lands of Native Americans to be terra nullius and available for taking.

The United States Supreme Court twice approved the idea of terra nullius in opinions in the 1840s.

Terra nullius was also used extensively by English colonists in Australia to dispossess the lands of the Aborigines.

Bibliography

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[United States v. Rogers, 45 U.S. \(4 How.\) 567, 572 \(1846\).](#)

[Martin v. Waddell's Lessee, 41 U.S. \(16 Pet.\) 367, 409 \(1842\).](#)