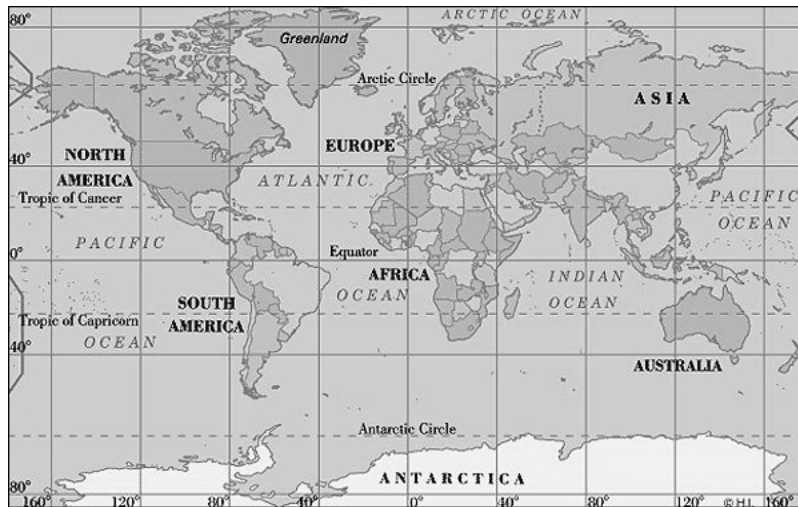


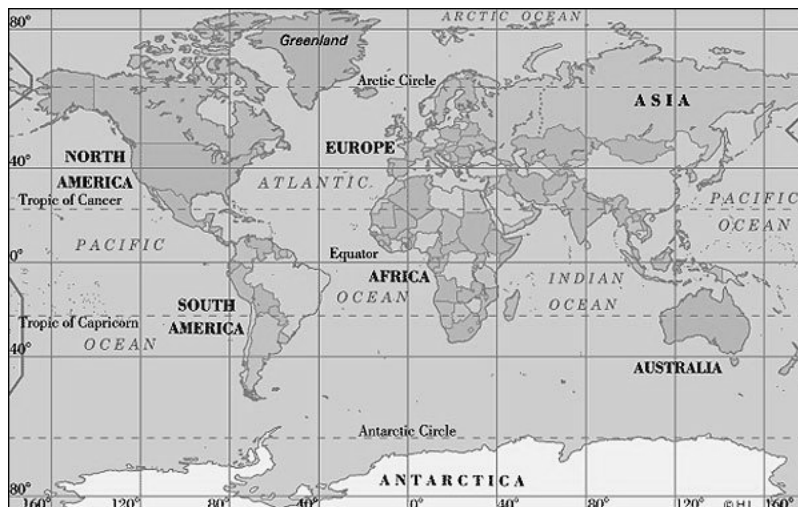
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**Indigenous Peoples and
International Law**



What's Happening in the 1400s?

- People are travelling all over the place
- The end of the Crusades; domination of the Christian church; beginnings of nation states
- Portugal and Spain cut off from Europe by Pyrenees
- The “age of exploration” = colonization



Romanus Pontifex 1455

- The Pope claims the role of spiritual ruler of the world
- The world is divided between Christians and “unbelievers” (heathens, infidels)
- Christians have rights; others do not
- The RP “donates” land to the west and south to Portugal for Christianizing, trading



Inter Caetera 1493

- Demarcated a line 100 leagues west of the Azores, drawn from the North Pole to the South Pole that differentiated Portugal from Spain's claims to the New World
- Christians can hold Dominion; others cannot
- Would the Indians accept Christian God and the King of Spain?

Las Casas



Las Casas / Sepulveda



The Debate at Valladolid

Sepulveda	Las Casas
Indians not rational beings; barbarians; cites Aristotle that inferior beings are born to slavery	No one is born to slavery; mankind is one; "savage peoples are like uncultivated soil"; peaceful societies
Indians deviation from Spanish customs/law were violations of natural law and justified war as punishment	Punishment requires jurisdiction and neither Emperor nor Pope had jurisdiction over Indians because they were pagans, not heretics
Indians oppressed and killed innocents among themselves – human sacrifice; cannibalism	Rare, but it existed. Wrong; but War is the greater evil. Indians need to be persuaded and shown, not killed
Force is necessary to Christianize; cites biblical passages seen as justifying use of force to bring within the fold (e.g., using force to bring passers-by into a wedding party)	Must keep the spirit of scripture and not just pick and choose morality as you see it. How could God have commanded us to kill pagans to save them from their ignorance? Not heretics.

Making it “Legal”

- The Pope defines “natural law”
 - Doctrine of Discovery
- Two primary legal instruments:
 - *Requerimiento*
 - There must be an opportunity for choice
 - *Encomienda*
 - The Christian objective must not be forgotten