

## THE DOCTRINE OF MANIFEST DESTINY AND IT'S REFLECTION IN THE AMERICAN LEGAL SYSTEM

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### ABSTRACT

*In our modern age the concept of manifest destiny may seem primitive and outdated. The idea that any nation is chosen by God and ordained to enact genocides in order to further any cause is antithetical to Christian values and modern social sensibilities. Even if the doctrine itself is no longer consciously enacted, it still has a lingering shadow over the military and international policy of the United States of America.*

**KEYWORDS:** American military, constitutional law, congressional power, manifest destiny, genocide, American-Mexican war, the American occupation of Haiti, presidential power.

### INTRODUCTION

The concept of `manifest destiny` is an old doctrine by which the American colonies have fully and whole-heartedly believed in the divine cause of conquering all the land of the American continent.

The doctrine in itself has led to the massacre of the Indigenous American population and led to various military operations against states like Haiti and Mexico. Even if the operations themselves had mixed results it was all justified by the notion of manifest destiny

The ideological rigidity of such early doctrines has seeped into the minds of lawmakers and important state apparatuses. There is not a single day in the life of the Iraqi civilian, the Haitian citizen or the average human in which the American war machine has not shaped in some form or shape.

This article sets to scratch the surface of this malignant and pestilent thought pattern that has led to countless deaths and the destabilisation of numerous countries and will attempt to offer a holistic answer as to why such atrocities may occur and to who's benefit they serve.

### 1.The origin of the doctrine

In the words of philosopher Slavoj Žižek “True, Slobodan Milošević “manipulated” nationalist passions — but it was the poets who delivered him the stuff that lent itself to manipulation. They — the sincere poets, not the corrupted politicians — were at the origin of it all, when, back in the seventies and early eighties, they started to sow the seeds of aggressive nationalism not only in Serbia, but also in other ex-Yugoslav republics.”<sup>1</sup>

Further in the article, psychoanalytical concepts are used in order to describe the close link between art and ultra-nationalistic zeal in order to justify atrocities. To this element

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<sup>1</sup><https://www.poetryfoundation.org/poetrymagazine/articles/70096/the-poetic-torture-house-of-language>.

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religion must be added as an elemental catalyst to any genocidal event of history. A cursory look at the Massacre of St. Bartholomew's Day<sup>2</sup>, even if there were clear political reasons behind the killing of Huguenots the religious divide was used as a motor for slaughter. Another aspect of the massacre was the permission granted by political leaders, in our specific case Catherine de 'Medici wanted to assert power and help her son, Charles IX, maintain his position both as a catholic leader and as the king of France.

Looking at the aforementioned anecdotes we can observe 3 common elements of any genocidal event in history, the political interest of people who wish to obtain or maintain power, the religious zeal as motor to move the people and the art in order to present what most would call an atrocity as a divine occurrence by which men only enact a divine will, as it was written before even time itself.

When analysing the concept of manifest destiny, we must not only skim through the facts and occurrences in a cold measured way. The context and results of all the factors leading up to the colonisation of the entire continent and the eradication of Native Americans must be taken into consideration in order to grasp not only the final results but also the aftereffect which we experience still. The aforementioned "Litmus test" will be applied in context in order to determine in a decisive manner if the doctrine of manifest destiny was a call to genocide against Indigenous American populations.

### 1.1. *"The origins of the Manifest Destiny"*

The term itself was coined by journalist **John Louis O'Sullivan** who wrote that "our manifest destiny to overspread and to possess the whole of the continent which Providence has given us for the development of the great experiment of liberty and federated self-government entrusted to us."<sup>3</sup> This is regularly coined by historians as the moment where the previously nebulous, and until the 1830's sporadic but constant conflicts with American Natives, has received a clear name with a clear statement of intention. Prior to the article written by O'Sullivan there were stewing ideological components that have contributed to the final form, primarily, the sermon as given by **John Winthrop**, a group leader aboard the ship *Arabella*, in which he stated that the "For wee must consider that we shall be as a city upon a hill. The eyes of all people are upon us."<sup>4</sup> and that the English puritans that were traveling to colonise America have to "Be fruitful, and multiply, and replenish the earth, and subdue it."<sup>5</sup>

In geopolitical terms, after the American revolution the newly formed American government had to solve the issue of the Indians "occupying" land that could be used by the Americans. As formerly stated, the moto the American colonizers have come to the continent with the explicit intention to create a new society. Before the presidency of Andrew Jackson, he was a general that led military campaigns against Indian tribes, most notably against the Creek Indian Tribe. The result of the battle was ultimately a treaty by which the Creek were

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<sup>2</sup><https://www.britannica.com/event/Massacre-of-Saint-Bartholomews-Day>.

<sup>3</sup> John O'Sullivan, "Annexation," *The United States Magazine and Democratic Review*, Volume 17 (New York: 1845), 5-6, 9-10.

<sup>4</sup>[https://americanexperience.si.edu/wp-content/uploads/2014/08/Manifest-Destiny-and-U.S-Westward-Expansion\\_.pdf](https://americanexperience.si.edu/wp-content/uploads/2014/08/Manifest-Destiny-and-U.S-Westward-Expansion_.pdf)

<sup>5</sup>[https://americanexperience.si.edu/wp-content/uploads/2014/08/Manifest-Destiny-and-U.S-Westward-Expansion\\_.pdf](https://americanexperience.si.edu/wp-content/uploads/2014/08/Manifest-Destiny-and-U.S-Westward-Expansion_.pdf)

forced to surrender 20 million acres of land towards America<sup>6</sup>. This was not an insular occurrence, it was one of 11 major treaties in which Indians have renounced ancestral land.

We can perceive that even before manifest destiny there was a clear interest and intention to create a new nation and that the cost of lives was not taken into consideration when the purpose was being chased.

Even if there were violent conflicts between Indians and the American government the early governmental apparatus was not keen to fully engage in an all-out war against all the tribes. The initial solution was to offer sums of money to the tribes in order for them to relocate, to that sum of money the promise of “American protection”<sup>7</sup>.

After it’s incubation, the doctrine in itself in a clearly defined ideal and *modus operandi* incapsulating clear purposes, social support, laws that enforce any necessary action, artistry and journalism to embolden and romanticise any actions taken.

### 1.2. *The political drive:*

There is as aforementioned a clear political goal for the removal of the Indians, primarily, to obtain land for the colonisers to inhabit. This initial clear and almost reasonable demand was met with aggression but to a lesser extent. There were wars between the various Indian tribes both before and after the American revolution. After the election of Andrew Jackson as the 7<sup>th</sup> American president in the year 1829 he championed the eradication of Indians both through legal means that have manifested in the Indian Removal Act of 1830<sup>8</sup> and through fully infringing the law as it suited the American government<sup>9</sup>.

Both types of antithetical actions can be observed in the treatment of the Cherokee tribe, they were displaced based on the law and received a “reimbursement”. In their fight to remain on the land that they have called home for generations they have made an appeal to the legal system which was initially met with disapproval. In the case of Cherokee Nation v. Georgia from 1831 the Supreme Court of the state of Georgia has denied the sovereign status of the Cherokee nation. Ulterior to that, the decision in the case of Worcester v. Georgia from 1832 the US Supreme Court has decided that the Cherokee tribe is a sovereign and independent nation, hence, no state or federal government does not have the right to infringe upon its territory.

### 1.3. *The religious drive:*

The religious element was present since long before the actual start of the colonisation. The puritans, as the first American settlers were called, had a clear purpose. To build a new nation that can allow them to live a life that is pious as they saw fit according to

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<sup>6</sup><https://history.state.gov/milestones/1830-1860/indian-treaties>

<sup>7</sup><https://history.state.gov/milestones/1830-1860/indian-treaties> „From a legal standpoint, the United States Constitution empowered Congress to “regulate commerce with foreign nations, and among the several States, and with the Indian tribes.” In early treaties negotiated between the federal government and the Indian tribes, the latter typically acknowledged themselves “to be under the protection of the United States of America, and of no other sovereign whosoever.”

<sup>8</sup><https://www.britannica.com/topic/Indian-Removal-Act>. Due to the Indian Removal Act the infamous trail of tears occurred, a journey of the Cherokee to their new, chosen by the coloniser, land. During the journey a fourth of the Cherokee tribe has died.

<sup>9</sup><https://www.oregon.gov/ode/students-and-family/equity/NativeAmericanEducation/Documents/SB13%20Curriculum/SC%20Summary%207%20Cherokee%20Nation%20v%20Georgia.pdf>

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protestant values. The propaganda promoted by the earliest American settlers has engrained the narrative of Indians being uncivilised and savage used only as pawns in political games<sup>10</sup>.

The religious antagonism has slowly subsided but it still has effects. It took the American government until 1934 to fully instruct the Bureau of Indian Affairs<sup>11</sup> to not mingle with the religious freedom of the Indian tribes. Even if in a post-independence war America the constitution grants all people that are citizens the freedom to exercise any religious practices<sup>12</sup> the US government did interfere in the religious practices of Indians and used the differences between the Christian majority and the mischaracterised Indian population.

### 1.4. The crimson brush

The last element to this veritable Molotov cocktail is the art, is the propaganda previously presented. By the way of the brush and the pen the genocide is finally no longer an atrocity but a divine call. In the realm of art, we can mainly observe the paintings and sketches of the period, from the divinity invoked by paintings such as *American Progress* by John Gast or *The Apotheosis of Washington* by Constantino Brumidi sitting next to the malicious and propagandistic paintings of N. Currier or John Vanderlyn, who both painted the murder of Jane McCrea by Indians at almost half a century from each other.

Such profound declarations in a form of art that is directly influencing to any consumer of it contributes to the creation of a subconscious bias against every person identified as an American Indian.

After this analysis we can satisfyingly conclude that the doctrine of *manifest destiny* is a genocidal call to action. It's an evil and primitive history that fulfils the criteria we have presented: the political interest, the religious zeal and the artistic protection.

## 2. The direct influence of the doctrine in the adoption of laws.

### 2.1. The procedural question regarding the powers to start an armed conflict

Now that we have defined what drives a genocidal event and can conclusively declare that the doctrine of *manifest destiny* fits the bill to a sinister perfection, we are left to observe how such a horrendous doctrine can mould the legislator's mind and spirit in such manner that it remains alive in some form or another even after more than 2 centuries.

The closest event that is directly linked to the doctrine of the manifest destiny, except for the wars that have led to the extension of many Indians, was the American-Mexican war that happened from 1846 to 1848. The war itself was directly linked to the doctrine as it was a part of the American expansion<sup>13</sup>.

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<sup>10</sup> Cole Smith "Anti-Indian Propaganda's Role in Uniting the Thirteen Colonies and Laying the Groundwork for American Identity Formation" 2022- Digital Release for Minds, University of Wisconsin, page 17

<sup>11</sup><https://pluralism.org/religious-freedom-for-native-americans>

<sup>12</sup> According to the first article of the American Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

<sup>13</sup><https://www.britannica.com/event/Mexican-American-War>

The war itself happened due to the annexation of Texas by the United States. Then president James K. Polk has declared war after failed negotiations in regards to the Texan territory and, congress passed a resolution of war<sup>14</sup> in order for the fighting to start.

Here we find one of the long-standing legal conundrum of our journey, the actual state institution that has the power to declare war. Even if the constitution is clear in regards to congress having the power to declare war and to declare resolutions, but, historically from Andrew Jackson to Richard Nixon and George Bush Jr. the president was the person that led the beginning of any such proceedings. It reached to the point where the American Congress had to pass the War Powers Resolution in the year 1973. The act itself states that “Requires that the President shall in every possible instance consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement is clearly indicated by the circumstances.”.

This is quite a clear-cut statement which in theory should have offered a direct solution to an issue that resided in the legal system since the inception of the US. However, reality can be a cruel mistress, the act in itself has not stopped all the presidents that led the nation after the year 1937 to start or stop any military action.

This issue in itself is unclear in the eyes of constitutional scholars<sup>15</sup>, even if most scholars agree with the originalist perspective of the constitution some tend to disagree and history itself may agree with the later. Even if the status of the president as the Chief in Command of the US military forces grants him some level of military power it does not, technically, grant him free hand to start a war by its own volition. In the infamous case of *Rasul v. Bush* from 2004 the Supreme Court had to decide the limits of such powers<sup>16</sup>. The response of the presidency as an institution was to permit the formation of military tribunals in order for such cases to be solved.

Even if the court has decided that they do have the power to offer habeas relief in the aforementioned case and in the subsequent case of *Hamdan v. Rumsfeld*<sup>17</sup> decided that even the solution offered by the presidency is not a fully valid or even functional in a strictly procedural manner the *Detainee Treatment Act* of 2008 was passed. By power of this act no court in the US has the power to accept a writ of habeas corpus from an inmate detained in Guantanamo Bay.

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<sup>14</sup> Article I, Section 8, Clause 11 of the U.S. Constitution

<sup>15</sup> <https://constitutioncenter.org/the-constitution/articles/article-i/clauses/753>

<sup>16</sup> *RASUL et al. v. BUSH, PRESIDENT OF THE UNITED STATES, et al.* This specific case was brought before the Supreme Court in order for it to solve the issue of *habeas corpus*, more specifically, the issue of detainees from the Afghan region detained in Guantanamo Bay Prison in Cuba. The supreme court overruled the decision taken by the Court of Appeal, deciding that the courts are entitled to solve issues of habeas relief in the case of foreign prisoners.

<sup>17</sup> *HAMDAN v. RUMSFELD* (No. 05-184) was yet another case regarding the legality of the detentions that occurred in the Guantanamo Bay Prison. The Supreme Court of the United States has decided that the presidency does not have the power to impose the formation of military tribunals in order to resolve issues of human rights or *habeas corpus*. The Court held that it would be virtually impossible and outside of the decisional power of either institution to solve such situations. In his opinion Judge Stevens pointed out the fact that a client could not, for example, be properly represented by the lawyer since it is a military court with specific information that it's not allowed to disclose to civilians.

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In the case of *Boumediene v. Bush*<sup>18</sup> decided in 2008 right after the adoption of the aforementioned act the Supreme Court has still kept the previously expressed position, the prisoners detained in Guantanamo Bay have the right to question the legality of their detainment as they are ultimately under the jurisdiction of the American Constitution.

Again, history has the tendency to repeat itself. Just as Andrew Jackson refused to listen to the Supreme Court, so did George W. Bush. Neither presidents allowed the law to follow its natural reason and chose to go over rules in order to achieve a purpose.

Ultimately, the question of who can start and end a war in the United States administrative apparatus is fundamentally a moot question. Even if the American constitution has a clear answer the point itself was respected by no president. To some degree all presidents that have started a war have in some way, shape or form ignored the power of congress or the decisions of the Supreme Court in order to carry out military actions.

We cannot offer a fully satisfying answer in regards to the power to declare war, no reading of the constitution can offer a solution that both satisfies the written law and the reality as presented by history.

### *2.2 American expansionism*

This is a particularly tricky topic as it is easy to fall into anti-American sentiments and yet it's the logical step forward regarding the manifestation of destiny. Returning to the American-Mexican war from 1846-1848, the result of that war was the exchange of a vast territory in exchange for the sum of 15 million dollars<sup>19</sup>. The war was called "one of the most unjust ever waged by a stronger against a weaker nation" by general Ulysses S. Grant<sup>20</sup>. By the year 1898 the US has mostly settled regarding its territory, all of the American continent was conquered except Canada<sup>21</sup> and Mexico<sup>22</sup>, those countries have managed to resist invasion attempts.

Since the territory of America has settled and is now relatively stable the doctrine of manifest destiny should have slowly fizzled out as it served its purpose but in an insidious manner it kept howling as a wolf on its quest to feed. A notable instance where the doctrine has appeared is the American occupation of Haiti. The occupation itself lasted from the year 1915 until 1934<sup>23</sup>. The occupation was justified as a drive to maintain stability and democracy to the nation, realistically it was a matter of geo-political interest. Haiti has gained independence in the year 1804 and since then all major political power had either economic interests or wanted to outright invade the territory<sup>24</sup>.

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<sup>18</sup> *Boumediene v. Bush*, 553 U.S. 723 (2008) was the case in which SCOTUS maintained the position that the detainees of Guantanamo Bay have the right to come forward to the US courts in order to question the legality of their detainment

<sup>19</sup> <https://coha.org/175-years-of-border-invasions-the-anniversary-of-the-u-s-war-on-mexico-and-the-roots-of-northward-migration/>

<sup>20</sup> <https://www.britannica.com/event/Mexican-American-War/Invasion-and-war>

<sup>21</sup> Canada fought the US during the 1812 war

<sup>22</sup> As previously stated, the American-Mexican war was brutal and according to historical estimates led to Mexico renouncing almost half of all its territory.

<sup>23</sup> <https://history.state.gov/milestones/1914-1920/haiti>

<sup>24</sup> <https://www.nytimes.com/2022/05/20/world/americas/haiti-history-colonized-france.html>



The American Navy took 500.000 dollars from the Haitian National Bank and imposed the creation of the Haitian Gendarmerie<sup>25</sup> as an institution to keep a level of control and involvement. In 1917 the Gendarmerie. The national assembly of Haiti was uncooperative in regards to allowing foreign nationals to purchase or obtain land, this was a precaution passed in the constitution of 1805<sup>26</sup> in order to forbid any foreign invader from claiming the land that Haitians had fought for. What the US Navy has done is virtually dissolve the Haitian Parliament in order to allow foreigners to purchase land and intrude on the business of other countries, in the same year the occupation was prolonged for 20 years by modifying the treaty.

The occupation ended in the year 1934 and yet there is a question left, why would the US involve itself in a foreign nation without any express legal basis? The reality is that the doctrine of manifest destiny has mutated from the genocidal, religious quest to eradicate an indigenous population for the settlers to have new land to a purely economic and political action in order to bring a benefit for the US. There was never the intention to eliminate the people of Haiti, but there was a clear interest in economically exploiting the population. Even by the analysis of the Library of Congress the occupation itself failed in implementing democracy<sup>27</sup>, it did succeed in stopping other international forces imposing an occupation.

The current poverty plaguing Haiti at the moment can be directly linked to the French involvement in the financial affairs of the country and the American occupation<sup>28</sup>. In the case of the occupation, the effects can be seen by the lack of direction and interest in the native population. Going back to the CBS report on the occupation we observe that even if the US has built infrastructure it did not offer any resources regarding the self-governance or independent organisation of the Haitians. The primary goal was to obtain profit and deter other countries from trying to do the same. After the US Navy became the de facto ruler of Haiti the interest in imposing democratic elections dissipated as any democratic election would have been clearly anti-American<sup>29</sup>.

## **CONCLUSIONS**

After analysing the origin, the direct effect and the aftershock of the doctrine of manifest destiny we can observe that what started as a truly genocidal drive has evolved into a drive to expand economic and political influence to all corners of the earth. The article itself stops its analysis at the occupation of Haiti, but, the expansionist drive has continued in a similar fashion. The American expansion is today seen in the recent wars in Afghanistan and Iraq which had similar drives as the occupation of Haiti, in the military bases almost ominously present in many countries and in the eternal justification of bringing or protecting democracy on earth.

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<sup>25</sup> “CRS Report for Congress, The U.S. Occupation of Haiti, 1915-1934”-Richard A. Best, Jr. published in 1994 through the Library of Congress. Page 2

<sup>26</sup> Article 12 of the Haitian Constitution stated that “No whiteman of whatever nation he may be, shall put his foot on this territory with the title of master or proprietor, neither shall he in future acquire any property therein.”

<sup>27</sup> “CRS Report for Congress, The U.S. Occupation of Haiti, 1915-1934”-Richard A. Best, Jr. published in 1994 through the Library of Congress. Page 5

<sup>28</sup> <https://www.nytimes.com/2022/05/20/world/americas/haiti-history-colonized-france.html>

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In the words of president Dwight D. Eisenhower: “This conjunction of an immense military establishment and a large arms industry is new in the American experience. . . .Yet we must not fail to comprehend its grave implications. . . . In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist<sup>30</sup>.” The military industrial complex was the child of the manifest destiny doctrine, it was the direct result of the expansionist urge of the early settlers that never has been addressed by the US citizens in a collective capacity, and never fully abandoned the American subconscious.

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