

THE DARK MATTER OF FEDERAL INDIAN LAW – THE DUTY OF PROTECTION

FLETCHER

IMAGES GENERATED BY
DALL-E SO IT MIGHT GET A
LITTLE WEEEEEIRD.

The background of the entire page is a dark, atmospheric image of a rocky, mountainous terrain. Two bright, glowing yellow circles, resembling moons or distant stars, are positioned in the upper left quadrant of the image. The overall color palette is dominated by dark blues, purples, and greys, with the bright yellow of the lights providing a strong contrast.

WHAT IS DARK MATTER?

DARK MATTER IS A VERY LARGE CHUNK OF THE TOTAL MATTER OF THE UNIVERSE, BUT IT CANNOT YET BE DETECTED BY SCIENTISTS.

THE DARK MATTER OF INDIAN LAW

INDIAN TREATIES AND SIMILAR ARRANGEMENTS ARE BARGAINED-FOR EXCHANGES BETWEEN THE FEDERAL AND TRIBAL SOVEREIGNS. TRIBAL NATIONS GAVE UP LANDS, RESOURCES, EXTERNAL SOVEREIGNTY — RECEIVED CASH, SMALLER HOMELANDS, SPECIFIED RIGHTS, AND . . . THE DUTY OF PROTECTION.



WHAT IS THE DUTY OF PROTECTION? IT'S EVERYTHING IMPLIED IN THE TREATY, FOR EXAMPLE, THE TRIBAL POWER OF SELF-GOVERNMENT AND THE FEDERAL GOVERNMENT'S GENERAL TRUST RESPONSIBILITY.



THE ACCEPTED LAW OF THE DUTY OF PROTECTION

***CONGRESS HAS
THE POWER TO
REGULATE ALL
ASPECTS OF INDIAN
AFFAIRS**

***WHEN CONGRESS DOES ACT
IN INDIAN AFFAIRS, THOSE
CHOICES ARE ENTITLED TO
DEFERENCE SIMILAR TO THAT
OF FOREIGN AFFAIRS**

***ACTS OF CONGRESS IN
INDIAN AFFAIRS DO NOT
CREATE RACIAL
CLASSIFICATIONS**

***STATES CAN
AFFIRMATIVELY
ACT IN ACCORD
WITH THE DUTY
OF PROTECTION**

THE IMPORT OF INDIAN LAW'S DARK MATTER

EVERYTHING CONGRESS HAS ENACTED IN TO FULFILL THE DUTY OF PROTECTION — 638 CONTRACTING, HEALTH CARE, HOUSING, BUSINESS OPPORTUNITIES, SELF-GOVERNMENT, LAW ENFORCEMENT, AND SO ON — IS THE TANGIBLE MANIFESTATION OF THE DUTY OF PROTECTION.

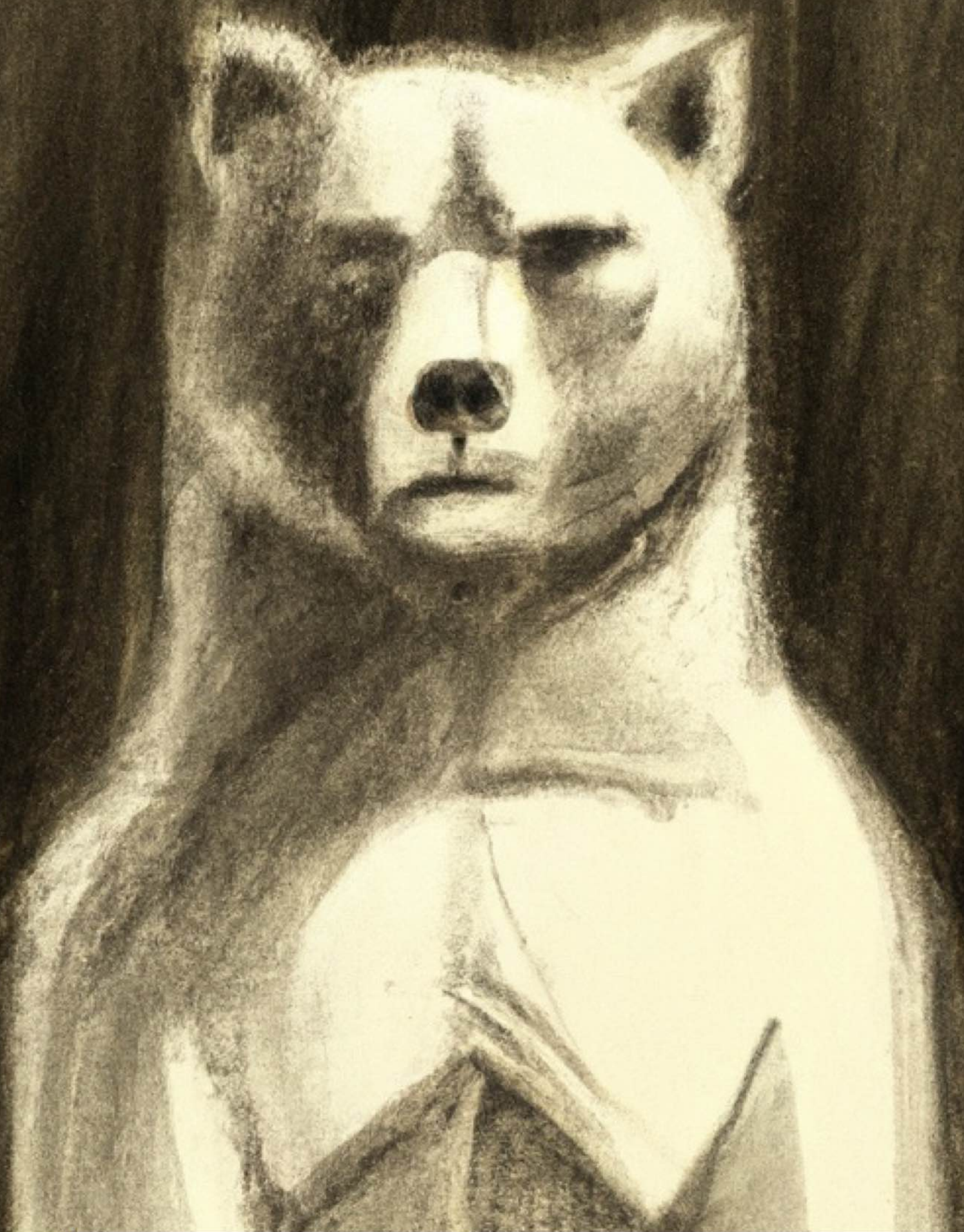
EVERYTHING THE UNITED STATES PROMISED TO DO BUT DIDN'T IMPLEMENT FULLY OR COMPETENTLY IS THE DARK MATTER.

EVERYTHING THE UNITED STATES TOOK OR RUINED IN VIOLATION OF ANY REASONABLE INTERPRETATION OF THE DUTY OF PROTECTION IS ALSO DARK MATTER.



THE VALUE OF THIS "DARK MATTER"

INDIAN TRIBES CEDED LANDS AND RESOURCES THAT LITERALLY MADE THE UNITED STATES THE WEALTHIEST NATION IN THE WORLD (WELL, THAT AND SLAVERY).



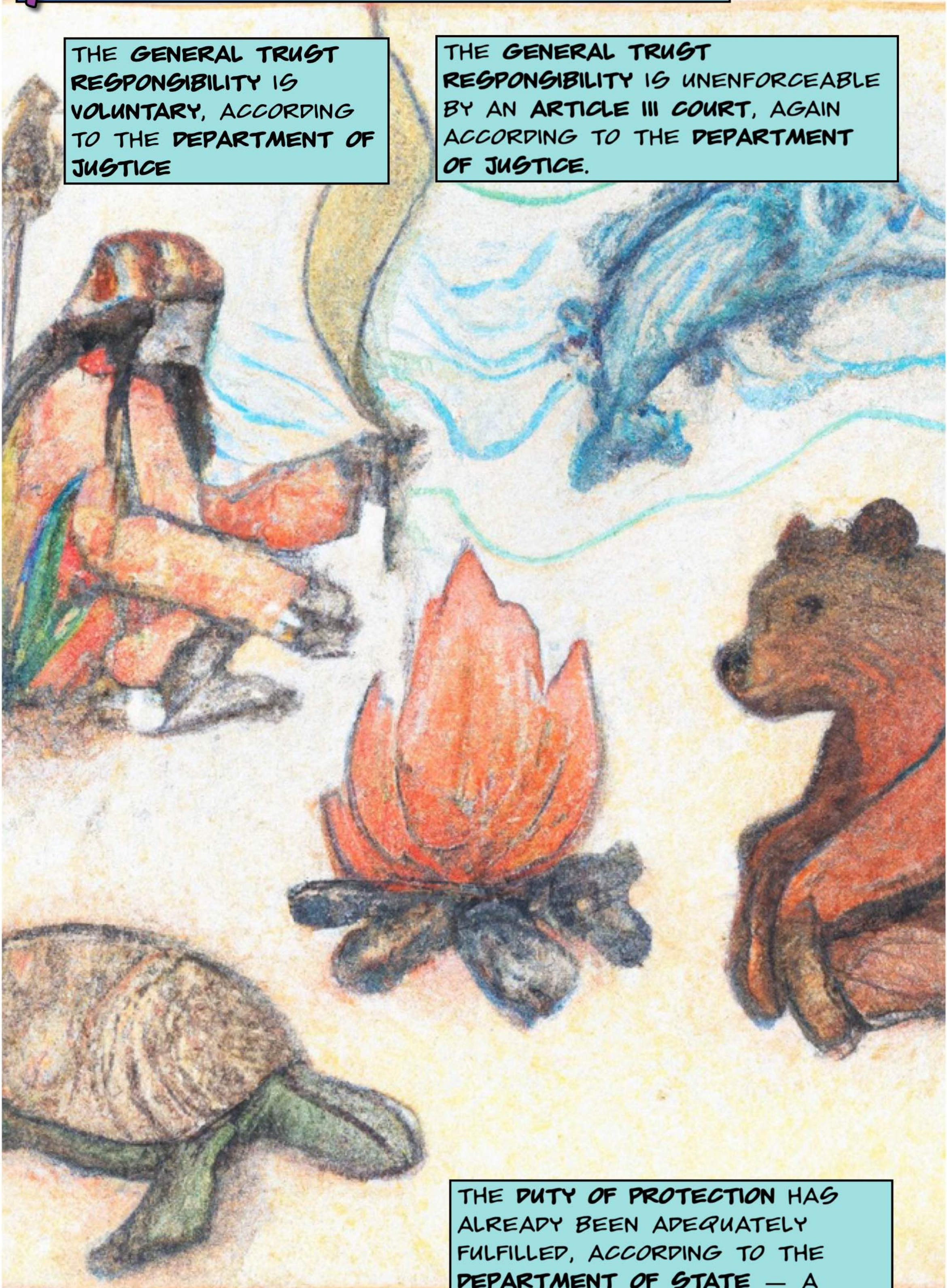
THE MINISCULE AND/OR DIMINISHED LAND BASE OF MOST TRIBAL NATIONS PLUS HUNTING, FISHING, GATHERING, AND WATER RIGHTS PLUS UNDERFUNDED AND INCOMPETENTLY ADMINISTERED FEDERAL SERVICES ARE TINY IN COMPARISON TO THE VALUE RECEIVED BY THE UNITED STATES.

THE LAW OF THE UNFULFILLED DUTY OF PROTECTION

THE GENERAL TRUST RESPONSIBILITY IS VOLUNTARY, ACCORDING TO THE DEPARTMENT OF JUSTICE

THE GENERAL TRUST RESPONSIBILITY IS UNENFORCEABLE BY AN ARTICLE III COURT, AGAIN ACCORDING TO THE DEPARTMENT OF JUSTICE.

THE DUTY OF PROTECTION HAS ALREADY BEEN ADEQUATELY FULFILLED, ACCORDING TO THE DEPARTMENT OF STATE — A LITTLE FORSHADOWING THERE. . . .



WHAT'S AN ARTICLE III JUDGE TO DO????



ENFORCE THE U.N. DECLARATION!!



THE U.N. DECLARATION IS ALREADY LAW

THE UNDRIP IS A
MANIFESTATION OF
CONTEMPORARY
INTERNATIONAL
CUSTOMARY LAW.

MUCH OF FEDERAL INDIAN LAW DERIVES
FROM INTERNATIONAL CUSTOMARY LAW:

- * DOCTRINE OF DISCOVERY
- * TRIBAL SOVEREIGN IMMUNITY
- * DEFAULT INTERPRETATIVE RULES,
E.G., CANONS OF CONSTRUCTION
- * INHERENT TRIBAL POWERS

UNLESS A TRIBAL NATION AND
THE UNITED STATES AGREE
TO DEVIATE, UNDRIP IS THE
CURRENT UNDERSTANDING OF
THE DUTY OF PROTECTION
OWED BY SETTLER-COLONIAL
NATIONS TO INDIGENOUS
PEOPLES AND TRIBAL NATIONS.

UNDRIP CAN BE APPLIED AS
COMMON LAW TO FILL GAPS
IN STATUTORY OR TREATY
LANGUAGE.

UNDRIP HAS BEEN
APPROVED BY THE
UNITED STATES.



WHAT OF THE GOVERNMENT'S DEFENSES?

POLITICAL QUESTION DOCTRINE???

IN THE EVENT CONGRESS REFUSES TO COMPLY WITH AN ARTICLE III COURT ORDER REQUIRING THE GOVERNMENT TO FULFILL THE DUTY OF PROTECTION, THE COURT ORDER THE PAYMENT MONEY DAMAGES, OR PERHAPS EVEN REFORM THE CONTRACT BETWEEN A TRIBAL NATION AND THE UNITED STATES.

FEDERAL SOVEREIGN IMMUNITY???

THE FIFTH AMENDMENT ABROGATES FEDERAL IMMUNITY TO CLAIMS FOR JUST COMPENSATION FOR THE TAKING OF VESTED PROPERTY INTERESTS.

LISTEN TO THE SALMON. . . .

PRACTICAL IMPACTS

ACCESS TO
IMPARTIAL
JUSTICE

WATER RIGHTS
SETTLEMENTS

FREE, PRIOR,
AND INFORMED
CONSENT

HOUSING

HEALTH CARE

LAW ENFORCEMENT

SACRED SITES
AND CULTURAL
APPROPRIATION

