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## Document 1504

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# Testament of Queen Isabella of Spain who died in 1504

*Source: AGI Seville: Patronato 1-1-1.*

## The beginning of the Catholic *Patronato* or Protectorate over the Spanish colonies, as established by the following extract from the testament of Queen Isabella

...  
With regard to the time when the apostolic Holy See granted us the islands and mainlands of the Ocean see discovered and to be discovered, our main intention was, at the time we begged Pope Alexander VI of good memory who granted us the said concession, to try and induce and attract their natives, to convert them to our holy Catholic faith and to send to the said islands and mainland prelates, religious and secular priests and other learned God-fearing persons to instruct the people living and residing there in the catholic faith, to teach them and impart good customs to them, and inculcate them with due diligence, in accordance with the more extensive statements contained in the said concession.

Consequently, I beg the King [i.e. Ferdinand], my Lord, very affectionately, and I entrust and order the said princess my daughter [i.e. Juana] and the said prince her husband [i.e. Philip I] that they carry it out and comply with it, and that it be their main purpose and that in it they place much diligence and they do not consent nor accept to have the Indian people living and residing in the said Indies and mainland, that have been won over or to be won over, receive any harm to their persons or property, but give orders so that they be treated well and justly; and if they have received any harm, to remedy it and make provisions so that in no way be exceeded everything that has

been enjoined and mandated to us by the said apostolic statements in the said concession.<sup>1</sup>

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1 Ed. note: It is well to remember that international law at the time gave reasons that could justify what we would today regard as some kind of usurpation of natural law. In the first half of the 16th century, the prevailing notion was that countries occupied by pagans and gentiles belonged to the Christian countries that discovered them first. Governments invoked this notion to justify their taking possession of them and occupying them. Besides, there was no separation of Church and State until after the Reformation, i.e. after the period of conquest of most new territories. In Spain, the legal tradition had been for many centuries based on the *Partidas* or the Code of King Afonso, in which the primacy of the king was recognized as supreme in matters temporal, except for the Pope. To put it simply, the Church decided international law. It was not until the middle part of that century that a Spanish scholar studied this subject of the legitimacy of the right of conquest, e.g. Francis Vitoria's *De Indis et de Jure belli*, 1st ed. Lyon, 1559; 2nd ed. Salamanca, 1564. His first argument had to do with what would be called today the right of migration, as a basic human right, of the European colonists, of course. The second argument quoted by Vitoria was the right to evangelize. The third was the right to expect that civil administration would support this evangelization effort. The fourth argument admitted that native princes and kings could in some cases be deposed to make way for Christian ones. The fifth argument was the right to defend the innocent against the tyrannies of human sacrifices, and other unacceptable native customs. The sixth was the right of election, the faculty of choosing a sovereign... Finally, the above allowed friendly Christian countries to form defensive and offensive alliances, and to join together in just wars and otherwise occupy enemy territories. However, foremost of the above points of view was the perceived need to convert so-called barbarians.