

Fighting for a Culture of Humanity: Our Christian Duty to Trans Immigrant Women

DAVID E. PATIÑO*

*Hasta que la dignidad se vuelva costumbre!*¹

Less than two weeks after first being detained by U.S. Immigration and Customs Enforcement (ICE), Roxana Hernández, a thirty-three-year-old Honduran woman seeking asylum with a migrant caravan, passed away in a New Mexico hospital.² On May 25th, the same day as Roxana's death, I toured the Port Isabel Deportation ("Processing") Center as part of a two-part summer class through my seminary.³

ICE claimed that Roxana died from pneumonia, cardiac arrest, and other complications related to HIV, attempting to blame and shame the victim by using her HIV status to shift responsibility away from itself. However, an independent investigation and autopsy conducted by the Transgender Law Center revealed a much different truth. Senators Kamala Harris, Martin Heinrich, and Tom Udall denounced her death in a letter to the directors of ICE, stating that Roxana died after enduring freezing temperatures and being "denied adequate food, water, and medical care. During her transport between facilities by ICE, she vomited to the extent other detainees begged

* David E. Patiño, from Medellín, Colombia, is a second-year master of arts student at Union Theological Seminary and a graduate of Stanford University, with a BA in comparative government and a minor in Latin American Literature. David identifies as a first-generation, low-income, queer and transLatinx immigrant.

¹ Diversidad Sin Fronteras, "Statement by Pueblo Sin Fronteras, Al Otro Lado and Diversidad Sin Fronteras," Facebook post, May 30, 2018, <https://www.facebook.com/diversidadsinfronteraz/posts/statement-by-pueblo-sin-fronteras-al-otro-lado-and-diversidad-sin-fronterasonthe/378858885957426/>.

² Opheli Garcia Lawler, "What Happened to Roxana Hernández, the Trans Woman Who Died in ICE Custody?," the Cut, December 5, 2018, <https://www.thecut.com/2018/12/roxana-hernandez-a-transgender-woman-died-in-ice-custody.html>.

³ The trip is part of a Union Theological Seminary two-part Borderlands class with Dr. Daisy Machado. You can read more about it here: "Latinx Theology in Xenophobic Times: An Interview with Professor Machado," January 8, 2019, <https://utsnyc.edu/latinx-theology-in-xenophobic-times-an-interview-with-professor-machado/>.

authorities to provide her with water and proper medical care.”⁴ Even so, it was not until the next day that Roxana was admitted to the hospital, where she was transferred to an intensive care unit.

Other news sources stated,

Forensic pathologist Kris Sperry released a report stating that said Rodriguez had visible marks on her body that showed she had been abused, including “deep bruising on her rib cage and deep contusions on her back, which were ‘indicative of blows, and/or kicks, and possible strikes with a blunt object’” [such as a baton or similar object].⁵ . . . According to observations of other detainees who were with Ms. Hernández Rodriguez, the diarrhea and vomiting episodes persisted over multiple days with no medical evaluation or treatment, until she was gravely ill. . . . Sperry also concluded that Hernandez had “thin bruises” on her back and sides, and “extensive hemorrhaging” on both her wrists. He said these markings are “typical of handcuff injuries.”⁶

Thus, although it is true that Roxana died from “severe complications of dehydration on top of an H.I.V. infection,” as was originally stated, it has since been revealed that ICE’s actions and inaction disregarded the life and safety of the person for whom they had made themselves responsible when they detained her.⁷

We must ask what is ethical in the case of ICE and the immigrant refugee crisis in the United States. The violence involved with immigration to the United States is not just an issue for those crossing

⁴ Kamala Harris, Martin Heinrich, and Tom Udall, “US Senators Kamala Harris, Martin Heinrich, and Tom Udall to I.C.E Acting Direction Vitiello and C.B.P. Commissioner McAleenam regarding Roxana Rodriguez,” Washington, DC, December 5, 2018, <https://www.harris.senate.gov/imo/media/doc/12.05.18%20Roxana%20Hernandez%20letter%5b1%5d.pdf>.

⁵ Harris, Heinrich, and Udall letter.

⁶ Araceli Cruz, “Autopsy Report Shows Roxsana Hernández Rodriguez Was Physically Abused during ICE Detention before She Died,” Fierce Mitú, November 27, 2018, <https://fierce.wearemitu.com/things-that-matter/autopsy-report-shows-roxsana-hernandez-rodriguez-was-physically-abused-during-ice-detention-before-she-died/>. The article quotes Eli Rosenberg, “Transgender Asylum Seeker Was Beaten before Her Death, according to New Autopsy,” *Washington Post*, November 26, 2018, https://www.washingtonpost.com/nation/2018/11/27/transgender-asylum-seeker-was-beaten-before-her-death-according-new-autopsy/?utm_term=.f1e26f49219b.

⁷ Harris, Heinrich, and Udall letter.

the border; it concerns all of us, and it convicts Christians in particular to intervene and to demand an end to the incarceration of undocumented immigrants, particularly of transgender women, who are often the most invisible and the most vulnerable.

The plight of transgender women migrating to the United States highlights the inhumanity and violence that spurs them to migrate, and the ways US immigration policy, border patrol, detention centers, judges, and citizens are involved in perpetuating a culture that devalues their humanity. This dehumanization of immigrants increases society's (and individuals') capacity to carry out violence and be indifferent to human suffering and death. Immigrant transwomen's survival stories highlight the inhumanity of US immigration policies and exacerbate the need to clearly define what humane treatment looks like. What is the burden placed on the US government in the cases in which it detains vulnerable people and takes away their right to seek medical and psychological attention, gather evidence for their asylum case, find safe shelter, and seek the means to support themselves financially?

Transgender women fleeing to the United States are fleeing gender violence. According to a Human Rights Report, from 2007 to 2012 there were 164 reported assassinations of transgender women in Mexico⁸—but this statistic does not include hate crimes that did not end in death or unreported crimes, as “it is estimated that almost 90% of crimes in Mexico go unreported.”⁹ Nor does this report include the violence in other Central and South American, African, Middle Eastern, Eastern European, and Asian countries. Transwomen worldwide are often fleeing not just violence in their communities but also state-sanctioned violence—police and military officers who routinely arrest, extort, and abuse them. “According to Victor Clark, professor at San Diego State University and the director of the Binational Center for Human Rights in Tijuana, Mexico, the police and military are the ‘primary predators’ targeting transgender women.”¹⁰ Moreover, much like many ciswomen who emigrated to the US, transgender women

⁸ Transgender Law Center and Cornell University Law School LGBT Clinic, “Report on Human Rights Conditions of Transgender Women in Mexico” May 2016, 16. <https://transgenderlawcenter.org/resources/immigration/human-rights-mexico>.

⁹ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 15.

¹⁰ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 18.

are kidnapped, extorted, raped, beaten, and trafficked by cartels on their journey into the United States.

Once in the US, when transwomen are detained, they face even more violence. According to the “Report on Human Rights Conditions of Transgender Women in Mexico” by the Transgender Law Center and Cornell University Law School LGBT Clinic, “Although transgender women only account for 1 out of 500 detained immigrants, one out of every five confirmed cases of sexual assault in ICE facilities involved transgender survivors.”¹¹ Women report having been forced to shower with men, being denied medical attention, being sexually harassed, humiliated, beaten, and raped by detainees and guards alike. When the women report the abuse, they are accused of soliciting sex from others or threatened to be put in solitary confinement for their own protection.¹² Human Rights Watch’s “Abuse against Transgender Women in US Immigration Detention” reports that guards and staff members of federal and private detention centers have themselves been the problem—thus rendering this “protective” measure ineffective. Women reported being held in isolation for up to “23 hours a day, often without access to library resources, telephones, outdoor recreation, religious services, or legal services that are otherwise available to other people”¹³ for up to six months at a time, sometimes even longer. In 2007, Victoria Arellano, another HIV-positive transgender woman, died while being held in a men’s detention facility after authorities refused to provide her with medical attention or her medication.¹⁴ The side effects of such solitary confinement include “hyper-sensitivity to external stimuli, hallucinations, panic attacks, obsessive thoughts, and paranoia as well as self-harm” and lingering PTSD.¹⁵ In fact, given the reported torture, mistreatment, sexual assault, medical neglect, and solitary confinement of transgender people, “the U.N. Special Rapporteur on torture and other cruel, inhuman or degrading treatment

¹¹ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 30.

¹² Human Rights Watch, “‘Do You See How Much I’m Suffering Here?’ Abuse against Transgender Women in US Immigration Detention,” March 2016, 24. https://www.hrw.org/sites/default/files/report_pdf/us0316_web.pdf.

¹³ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 29.

¹⁴ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 29.

¹⁵ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 29.

or punishment declared that the treatment of LGBT immigrants in U.S. detention facilities was a violation of the Convention Against Torture.”¹⁶ This is not surprising to the incarcerated American cisgender women in state prisons that I have spoken to in the past. When the subject is broached, they tell me of at least one occurrence they have recently witnessed, or experienced, that resulted in the hospitalization of inmates in intensive care units, or in deaths from similar prolonged medical neglect.

Various organizations have made demands and proposed reforms to address the inhumanity of immigration policy, ICE regulations, and day-to-day operations at detention centers. However, for transwomen in particular it is clear that the state cannot safely detain them. Advocates have called for an end to the detention of transgender people, proposing instead that ICE should contact service organizations that will help transgender women find housing, legal representation, and other services. In response to allegations of abuse and pressure from advocates, from 2012 to 2017 ICE maintained a unit specifically for LGBT individuals at a local jail in Santa Ana, California. This facility was meant to serve as a model of a humane, LGBT-safe facility under the Obama administration. However, Human Rights Watch found that transgender women held there continued to face (physically and sexually) abusive and humiliating treatment by guards, including:

- Invasive strip searches conducted by male guards;
- Frequent “lockdowns” for mostly minor disciplinary infractions, involving being confined to their cells for 22 to 24 hours per day; and
- Severely inadequate medical and mental health services to address their unique needs and particular vulnerabilities.¹⁷

With major advocacy from various organizations including Familia TQLM (Trans Queer Liberation Movement), DeColores Queer Orange County, and Transgender Law Center, the facility was closed down in 2017.¹⁸ The LGBT pod was moved to the Cibola County

¹⁶ Transgender Law Center and Cornell, “Report on Human Rights Conditions,” 28.

¹⁷ Human Rights Watch, “Do You See How Much I’m Suffering Here?,” 13.

¹⁸ Transgender Law Center, “Action: Trans and Queer Immigrants in Santa Ana Proclaim ‘Liberation, Not Deportation,’” May 29, 2014. <https://transgenderlawcenter.org/archives/10357>.

Correctional Center (a men's facility) in a small New Mexico village.¹⁹ It was at this center that Roxana Hernández was held before she passed away on May 25th.

After this tragedy, Diversidad Sin Fronteras, Al Otro Lado, and Pueblo Sin Fronteras wrote a joint statement on "The Institutional Murder of Roxana Hernandez." The final sentence read, "Hasta que la dignidad se vuelva costumbre!" ("Until dignity becomes habit!"). What is ethical, they claim, is human dignity. As Christians, we must see this as part of our duty as well.

Aristotle writes that "moral virtue" is a habit, "acquired by repetition of the corresponding acts"²⁰—an *ethike*, from the word *ethos*, or habit. And "it is from the same causes and by the same means that every virtue is both produced and destroyed. . . . This, then, is the case with virtues also; by doing the acts that we do in our transactions with other [people] we become just or unjust."²¹ Moral virtue is gained by the exercising of it. Immorality, likewise, is brought on by the repeated actions of injustice. Similarly, St. Thomas Aquinas speaks of virtue (morality) as the perfection of power. Virtue is the perfection of one's continuous actions—one's habits. For Aquinas, moral virtue is formed from the habitual "good use of free-will."²² Moral virtues are a perfection of the power of how we choose to act. How we *act* habitually defines *who* we are. The institutional murder of Roxana Hernández by the ICE raises several ethical questions about the institutional habits that are in place that systematically dehumanize vulnerable people to the point that institutional murder can *and* does occur.

Procedure was a key word we heard during our tour of the Port Isabel detention center. Procedure is used to systematize

¹⁹ Jorge Rivas, "How Trans ICE Detainees Ended Up in a Men's Detention Center in the Middle of New Mexico," Splinter, July 24, 2017. <https://splinternews.com/how-trans-ice-detainees-ended-up-in-a-men-s-detention-c-1795818417>.

²⁰ Aristotle, *The Nicomachean Ethics*, trans. David Ross (New York: Oxford University Press, 2009), 23.

²¹ Aristotle, *The Nicomachean Ethics*, 23–24.

²² Exact quote: "Virtue denotes a certain perfection of a power. Now a thing's perfection is considered chiefly in regard to its end. But the end of power is act. Wherefore power is said to be perfect, according as it is determinate to its act. . . . Now there are some powers which of themselves are determinate to their acts. . . . And therefore these natural powers are in themselves called virtues. But the rational powers, which are proper to man, are not determinate to one particular action, but are inclined indifferently to many: and they are determinate to acts by means of habits. . . . Therefore human virtues are habits." Thomas Aquinas, *Summa Theologiae* III q. 55 a. 1, <http://www.newadvent.org/summa/2055.htm>.

dehumanization. The guard in charge of escorting us at Port Isabel freely admitted that Trump's administration is preferred by the detention center because everything has become procedural, and while some staff seemed genuinely invested in answering my question about the treatment of transgender women, most became annoyed or smirked, and answered as if quoting a manual: "Everything is done based on the policies in place—and the policy created the mechanisms such that transgender persons are kept safe." Yet, on that very same day, Roxana Hernández died in ICE custody. The reality/truth is that ICE has carefully created a concentration camp structure to dehumanize the "other"—political prisoners and refugees—by attempting to take away their identity, contact with family, and freedom. This carceral system is such that the guard can dissociate from their prisoners. As long as he feels that he followed procedure, our tour guide would not be held responsible for what happens to the person during or after incarceration. For our guard, and the other five to six Latinx workers who escorted us and answered our questions, these procedures help justify their helping to run these inhumane systems. Although the guard who showed us around admitted sympathy for some of the incarcerated immigrants, he held strong to his belief that these procedures *must* exist in order that MS13 gangs and Mexican drug cartels do not descend upon innocent Americans.

These assumptions are largely irrational, but given the history of the United States, not rare. History has been altered to make white European Americans the founders, builders, and sustainers of the United States. White supremacy versions of history falsely depict nonwhite Americans and new immigrants as stealing part of the white inheritance—something not owed to them, because nonwhite immigrants allegedly did not help build this country or contribute to its economic prosperity. Post-9/11, this rhetoric expanded to include public health concerns about disease, drugs, and national security (terrorism, gangs, murderers, and rapists). Immigrants are equated with illegality and criminality, and once labeled as criminals, treatment of these people as humans is somehow not as important. Immigrants are seen as having little value to "American" society. In turn, this allows for the creation of procedures and policies that reduce human beings to "bodies" and transwomen to disposable beings.

After 9/11, ICE became an arm of the Department of Homeland Security (DHS). It is tasked not just with immigration, but also with the security of the US border and the security of US citizens

from outsiders, from the “other.” ICE officers and detention center officers are systematically trained to see immigrants as “bodies.”²³ If guards are trained to see people as bodies, transgender people’s bodies themselves become a wrinkle in the system: problems. In the case of transgender women, it’s not just xenophobia, it is transphobia. Transgender people are *already* “other”—even outside of detention centers. Indeed, in the eyes of ICE officers, transgender women such as Roxana can represent a threat to the security of US citizens and are thus treated as enemies of the state. Transgender women defy dehumanization by insisting on honoring their gender identities. They flee violence, willfully disrupting colonial laws that prohibit them from moving, from being free of violence, from seeking dignity. Transgender people and their advocates (allies) challenge the world to accept them as people and to respect their dignity despite their difference. Transphobic, homophobic incarceration culture is one in which only certain people are valuable. Transgender people navigate mannerisms, medicine, clothing, and relationships prohibited to them by society. We *are* rule breakers, border crossers, dissenters. Under our current policies, laws, and culture it is exactly “these/those” people who must be punished, who deserve less, or whose lives and happiness can be sacrificed for that of more productive, complying, and desirable members of US society. The habitual humiliation, dehumanization, and neglect expose the belief system and attitudes of the department of ICE and its officers towards these “others.”

Morality is about our habitual commitment to the dignity of each person. The United States has to create refugee and immigration policies that consider the happiness, freedom, safety, and humanity of each person, regardless of whether they are US citizens or not. The fight for justice for Roxana and the work of #Not1More call into question the immorality of seeing humans as commodities with market values. By stating, “Hasta que la dignidad se vuelva costumbre!” (“Until dignity becomes habit!”), Diversidad Sin Fronteras, Al Otro Lado, and Pueblo Sin Fronteras are asking for an end to the immoral incarceration of vulnerable people whom ICE, DHS, and the United States have proven over and over again to be incapable of keeping safe. Instead, these agencies implement habitual injustice

²³ Such was the term that our Port Isabel Processing Center used to refer to incarcerated persons in the facility. It is a standard term used by law enforcement in reference to detained persons.

and immorality in the form of state-sanctioned murder and impunity. Detention centers are in fact concentration camps: they hold political prisoners and vulnerable refugees who have no rights and cannot hold the United States accountable for its violence. As Christians, we must join in holding the US government accountable to an ethical high standard, which is the recognition and respect for human dignity.

In the Gospel of Mark, when asked which commandment is the greatest of all, Jesus exclaims, “You shall love the Lord your God with all your heart, and with all your soul, and with all your mind, and with all your strength.’ The second is this, ‘You shall love your neighbor as yourself.’ There is no other commandment greater than these” (Mark 12:29–31 NRSV). Ethicist Immanuel Kant names this our *practical* imperative to moral duty: “Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only.”²⁴ Jesus (and Kant) calls us to value each person’s inherent worth by the simple fact of their existence. ICE and the Department of Homeland Security close entry to the United States, particularly in the safest areas, hold children and adults in freezing temperatures, separate children from their parents, submit transgender women to solitary confinement, habitually permit transwomen to be physically abused, and throw tear gas at unarmed civilians with children miles away from the US border. If we examine these actions, it is evident that the United States seeks to make the point that it is not safe to enter. The United States wants to communicate to immigrants and refugees that they *will* be dehumanized and confronted with violence should they choose to enter (or approach) the border. Through the existence of these concentration camps, detainment tactics, and hate rhetoric, the US government blatantly violates moral law. It considers only its citizens as valuable. Immigrants and refugees are seen as disposable bodies upon which enacting violence is acceptable. In contrast, Kant proposes that we consider every person’s dignity:

In the realm of ends everything has either a *price* or a *dignity*. Whatever has a price can be replaced by something else as its equivalent; on the other hand, whatever is above all price, and therefore admits of no equivalent, has a dignity. . . . Thus morality and humanity, so far as it is capable of

²⁴ Immanuel Kant, *Foundations of the Metaphysics of Morals and What Is Enlightenment?*, trans. Lewis White Beck (Indianapolis: Bobbs-Merrill, 1959), 39.

morality, alone have dignity. Skill and diligence in work have a market value; wit, lively imagination, and humor have an affective price, but fidelity in promises and benevolence on principle (not from instinct) have intrinsic worth.²⁵

Whatever productive, monetary, or social value US citizens have, Kant would propose, is irrelevant. I invite you to reflect not just on Kant's words, but also on those of our own tradition:

What do you think? If a shepherd has a hundred sheep, and one of them has gone astray, does he not leave the ninety-nine on the mountains and go in search of the one that went astray? And if he finds it, truly I tell you, he rejoices over it more than over the ninety-nine that never went astray. So it is not the will of your Father in heaven that one of these little ones should be lost. (Matt. 18:12–14 NRSV)

The gospel, and Kant, teach us that no person can be replaced, no person's life has an equivalent. Thus, each person's life is invaluable, and every person has dignity.

An anonymous transgender woman in Mexico stated, "To society, I am not a person. To society, I am trash—do you understand?"²⁶ while the Deputy Director of the Transgender Law Center wrote, "Paired with the abuse we know transgender people regularly suffer in ICE detention, the death of Ms. Hernández sends the message that transgender people are disposable and do not deserve dignity, safety, or even life."²⁷ Roxana Hernández's death means that each of us should be worried about how much our lives are valued based on warped views of who we are, how history is distorted against us for financial and political gain, how the media chooses to tell our story or ignore it, how religious congregations choose to condemn these inhumanities or stay silent, and how individuals decide to say and do nothing on our behalf.

²⁵ Kant, *Foundations of the Metaphysics*, 53.

²⁶ Transgender Law Center and Cornell, "Report on Human Rights Conditions," 21.

²⁷ Transgender Law Center, "Death of Trans Woman in ICE Detention Highlights Need for Action," May 29, 2018. <https://transgenderlawcenter.org/archives/14287>.

A particularly important aspect of Roxana's case is that her family has spoken out against her death. Many immigrants are lost, never to be heard from again by their family members. In our journey to the border this past summer, my class encountered medical students who were digging up bodies of undocumented immigrants in mass graves for identification and proper burial. Their instructor explained that sometimes they would find bodies of hospital patients with IV or other medical tubing still in place, the hospital staff not having found it worth the effort to remove those things prior to burial. Through the efforts of such medical organizations, some immigrants' bodies are being identified. Yet their undocumented families in the US and families south of the border dare not speak out for fear of their own safety and freedom. Roxana's family members have spoken of her dreams, of their love for her, and the hurt of losing their sister. No one can ever replace her; Roxana has no price, she has dignity. Kant alerts us to the danger of creating a society in which we commodify humanity. Human life *has no price*. We have to care about every person's dignity even if we do not instinctively want to, even if it does not monetarily benefit us, or even if we do not think them worthy. Jesus teaches us that every human being is worthy. Roxana might have not meant anything to the guards who allowed her to die, yet she was irreplaceable to many other people—she was irreplaceable to God.

The death, violence, and inhumanity involved in US immigration policy and ICE detention centers is a grave and urgent problem in our society. It affects each of us as Christians. Allowing for some human lives to be sacrificed due to lies, historical contortions, and economic gain is corroding our humanity. The narrative that the gospel offers us in Mark 12:29–31, quoted earlier, is an imperative question. What is the role of Christians in reversing these inhumane policies and in restoring a culture of humanity? How do we activate every one of our church communities in support of our immigrant neighbors? In 1 Corinthians 12:7–10, Paul asks us to consider what our spiritual gifts are and how they contribute to our Christian community. What if we also activated our gifts to advocate for our immigrant neighbors, and for the restoration of their humanity? We *must* speak out against this inhumanity to our neighbors, to our family members, to our congregations, to our policy makers, to our politicians. We must restore our own virtue, morality, and humanity through the habit of standing against that which is inhumane. We must constantly correct lies and distortions and reverse false narratives against immigrants. And

we must also use our gifts in concrete actions—sign petitions, campaign for policies or politicians, raise funds for immigrant organizations, provide services for immigrants, create documentaries, witness immigration hearings, and so on. And, as Christians, we must pray. We must pray for the clarity, courage, endurance, and humility that it takes to work with vulnerable populations and to fight inhumanity. These may seem like acts too small to be of any substantial service, but they are not. The guard who toured us around Port Isabel had to justify himself, the system, and the policies; he had to answer our questions, confidently be able to show that the detention center was not barbaric—which meant that at least for that day, the places that we visited had to be in certain conditions and had to have certain answers. If each of our churches contributed something, if each church and church member signed petitions against ICE detention of transwomen, that would not be a small feat. It would be an important and significant moral statement to our politicians and our society about what it means to value immigrants' and transwomen's humanity.