

11-1-2019

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Recommended Citation

Medina, Nestor "The Doctrine of Discovery, LatinXo Theoethics, and Human Rights," *Journal of Hispanic / Latino Theology*. Vol. 21 : No. 2 , Article 4. (2019) :157-173
Available at: <https://repository.usfca.edu/jhlt/vol21/iss2/4>

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The Doctrine of Discovery, LatinaXo Theoethics, and Human Rights

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Introduction

1992 marked the quincentenary of the violent clash between Spanish Europeans and Indigenous and originary peoples of what we know today as the Americas. In 2015 the Indian Residential Schools Truth and Reconciliation Commission (TRC) published the report of the long-standing history of human rights abuses in the Canadian residential school system. The Canadian report is the most recent documented record of the long history of violations of human rights in the Americas following a long list of reports from similar commissions in Latin America including Argentina (1983), Bolivia (1982), Chile (1990), El Salvador (1992), Guatemala (1994), Honduras (2009), Panama (2000), and Uruguay (1985, 2003). In highlighting and documenting human rights abuses, each of these national commissions outlines how life itself lost its value. The moral imperative of the sacredness of life and the notion of inalienable human rights had no meaning, particularly when it came to the protection of life and the preservation of cultures among Indigenous peoples, African descendants, and *el campesinado* in the Americas.

In this paper, I have taken the time to explore how the Doctrine of Discovery and the understanding of *terra nullius* have developed over time because I believe they continue to shape and inform international and geopolitical affairs as well as internal-domestic sociopolitical dynamics. These two ideas influence notions of national borders and sovereignty and the understanding of human rights, ethnoracial and intercultural relations, and the participation of

countries in the present geopolitical globalizing capitalist apparatus. They also contribute to establishing a rift between humans and nature. These areas, I insist, are deeply connected to LatinaXo¹ Theoethics.²

Redefining the Terms of the Conversation

Unique to the Canadian TRC is its Call to Action 46.ii, which calls for the “repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius* ...”³ What are *terra nullius* and the Doctrine of

1. The search for appropriate labels to speak about these diverse communities has become an intellectual minefield. For some time, many scholars have appropriated “LatinX” in an attempt to include members of the LGBTQAI+ communities. While I agree that the function of any label must be as inclusive as possible, here I concur with Nicole Trujillo-Pagán, who demonstrates that the use of “LatinX” undermines the inherent diversity of Latina communities. More specifically for women, she claims that “LatinX” neutralizes claims of sexism by giving the appearance of gender neutrality. See Nicole Trujillo-Pagán, “Crossed Out by LatinX: Gender Neutrality and Genderblind Sexism,” *Latino Studies* 16, no. 3 (Oct. 2018): 396–406, <https://doi.org/10.1057/s41276-018-0138-7>. It is for this reason that I adopt the variation “LatinaXo” because it preserves the internal diversity of these communities even while attempting to include and account for members of the LGBTQAI+ who have ancestral connections with Latin America or who are Latina/o/x. I am adopting this variation as Jeremy Cruz, Neomi DeAnda and I articulated it in “Respondiendo a las demandas históricas: Analyses of the Transformative Legacy of Samuel Ruiz García of Chiapas,” *Journal of Hispanic/Latino Theology* 19, no. 1 (2013): 2–8, ed. Néstor Medina, Neomi De Anda, and Jeremy Cruz. For further details of this variation, see also Neomi De Anda, “Jesus the Christ,” in *The Wiley Blackwell Companion to Latino/a Theology*, ed. Orlando Espín (West Sussex, UK and Malden, MA: Wiley Blackwell, 2015), 169.

2. I use the term “theoethics” to highlight the interrelationship between ethics and theology as expressed by LatinaXo scholars. In contrast to traditional approaches that seek to preserve the disciplinary boundaries between theology and ethics, LatinaXos do not write theology and ethics separately. Simply stated, speaking of LatinaXo theology and ethics simply will not do justice to what LatinaXo scholars do. Implicit in LatinaXo “theological” perspectives are ethical implications and principles. Similarly, implicit in LatinaXo “ethics” are theological insights, affirmations, and principles. These two, theology and ethics, are not understood as being separate. In fact, they are viewed as corresponding and mutually informing. Hence my use of “theoethics.” Moreover, I speak of “theoethics” because LatinaXo communities do not live life in academic silos. Rather, their deep-seated religious devotions, practices, and beliefs (theology) carry with them the necessary material by which their morality is defined and in which their actions for justice are rooted.

3. *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Canada: Truth and Reconciliation Commission of

Discovery? How have these two terms been instrumental historically? Why are they relevant to LatinaXo theology and ethics?

Historically, the term *terra nullius* comes from Roman law and refers specifically to those lands for which no rights of ownership can be determined. Cicero's treatise *On Duties* is the earliest source discussing ways by which ownership of land can be determined: by occupation, victory, law, or lot (*sorte*). According to Cicero, the private possession of a piece of land was deemed legally impossible. Almost a century later, Gaius, in his two books of the *Institutes of Roman Law*, once again emphasized the Roman notion of *res nullius*, which corresponds to the legal determination of "things that were deemed to be nobody's." To the concept of *res nullius* and *terra nullius* we can add the term *thesauri inventio* (discovery of treasures), which referred to instances when a person discovered a treasure but for which no "traceable" owner could be determined. Thus the treasure was considered unowned and is claimed by the finder. Roman jurists thought that the discovery of treasures was a natural form of acquisition of ownership and was justified according to the "law of nations" (*ius gentium*).⁴

Canada, 2015), 326,

http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf.

4. In Roman Law, two other forms of acquisition of ownership can be mentioned: *usucapio*, which referred to the taking of possession and assuming ownership (*dominium*) of something temporarily, and *res derelictae*, which corresponded to property that had been neglected and abandoned, and which was determined to be unowned (*res nullius*). See Lauren Benton and Benjamin Straumann, "Acquiring Empire by Law: From Roman Doctrine to Early Modern European Practice," *Law and History Review* 28, no. 1 (Feb. 2010): 14–16. The "law of nations" was a concept within the ancient Roman legal system that pointed to the laws of nature as being generally acknowledged and adopted by all "civilized" nations. It came to be understood as the law that natural reason had established among all humans, and which was assumed to be observed by all nations, that is, as being a law which all nations followed. By the middle of the eighteenth century, it included a system of rights and justice "which ought to prevail between nations or sovereign states" (Emer de Vattel [Monsieur de Vattel], *The Law of Nations; or Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns.*, trans. Joseph Chitty [Philadelphia, PA: T & J. W. Johnson, Law Booksellers, 1797], vi).

Finally, another crucial principle in Roman Law was *ferae bestiae* (on wild animals), which referred on the ownership of wild animals according to their first capturer.⁵ The general understanding was that ownership by occupation, victory, law, lot, or first capture were regulated by civil law.

DOD in the Context of Empire

As is known, the marriage of the Christian faith with Empire and the resulting translation rhetorics of and justification for imperialism contributed to ideas of a divine entitlement to invade, reclaim, or occupy land inhabited by infidels (Muslims) and other non-Christians, as evident in the parameters of the First Crusade put in place by Pope Urban II (Council of Clermont, 1095). Christians could lay claim to any land occupied by non-Christians, as it was effectively considered *terra nullius* (nobody's land—owned by no-one). The drive for the expansion of Christianity and its move to defend itself against Muslims and other unbelievers were woven together. For instance, in 1240, Pope Innocent IV reflected on whether it was permissible to invade the lands of infidels or lands which “belonged to them.”⁶ Although he concluded that Christians were not permitted to invade lands owned by infidels, he still insisted that war fought for the defense of Christianity and for the “reconquest” of Christian lands was justified.

The notions of *terra nullius* and expropriation by “discovery” started to gain ground during the earlier part of the 15th century, when King Duarte of Portugal drew on Innocent IV's

5. Néstor Medina, *On the Doctrine of Discovery* (Toronto, ON: Canadian Council of Churches, 2017), 10, n. 13.

6. Cited in Michael J. Kelly, “Response: The Catholic Intellectual Tradition in the Context of the Legal Academy,” *Journal of Religion and Society* Supplement 6 (2011): 827.

teachings to obtain that pope's blessing to invade the Canary Islands in 1436. Not long after, Pope Nicholas V promulgated *Dum Diversas* (1452), in which he gave King Afonso V of Portugal full and free permission "to invade, search out, capture, and subjugate the Saracenes" and "any other unbeliever and enemies of Christ ... and to reduce [them] into perpetual servitude."⁷ I note the emphasis on the taking possession of people's lands, realms, and any other dominion, including their agency as human beings.⁸ It was common practice to enslave those people who were captured or conquered in a just war.

By the time Columbus and his band of ruffians arrived in the lands that today we call the Americas, in 1492, all the pieces, with the exception of the notion of discovery, were in place. Ideas of entitlement to ownership due to "discovery" were added the following year (1493) as Pope Alexander VI penned his *Inter Caetera* (1493), through which he effectively divided today's continental Latin America between Portugal and Spain. The text definitively grants the kings of Castile and Leon the possession and dominion of all of the islands and mainlands, with the proviso that none of those lands "found and to be found, discovered and to be discovered ... be in the actual possession of any Christian king or prince" as far back as the birth of Christ.⁹

The events that followed after 1492 saw the coming together of distinct notions that until that point had remained unconnected. "Discovery" became the catalyst for several ideas: the principle that lands occupied by non-Christians were considered unowned, nobody's lands (*terra*

7. Nicholas V, *Dum Diversas [Encyclical Letter]*, trans. Jim Morgan (2019), <https://jimmorgan.wordpress.com/2012/06/07/the-text-of-dum-diversas/> (accessed March 14, 2019).

8. Nicholas V, *Dum Diversas*.

9. Alexander VI, *Inter Caetera [Encyclical on the Division of the Undiscovered World Between Spain and Portugal]* (1493), <http://www.papalencyclicals.net/alex06/alex06inter.htm> (accessed March 14, 2019).

nullius); divine entitlement (notions of superiority); the justifiable impetus toward reclaiming or expropriating “Christian” lands through war (just war theory); and the zeal to expand European expressions of Christianity by all means necessary, including military action (conquest and invasion). These ideas converged in the European colonization and invasion of the Americas. Under the aegis of “discovery,” any claim to ownership of their lands by the Indigenous peoples of the Americas was discounted. This entire development and confluence of ideas and value systems during the European colonization and invasion of the Americas has become known as the Doctrine of Discovery.

One of the most insidious aspects of the Doctrine of Discovery was its inscription into law. The founding ideas of the Doctrine of Discovery were inspired by Roman jurisprudence and papal bulls, which ensured that its “legal” character would remain intact. Spain sought to reinforce this juridical approach by determining ways to establish sovereignty over Indigenous lands and peoples through “legal” means such as the *encomienda* (starting in 1503), the laws of Burgos (1512), *el requerimiento* (1513), and later *Las nuevas leyes de España* (1542). These laws enshrined systems to keep Indigenous peoples indentured or enslaved and took away their “rights” by ensuring that they did not have sovereignty over their own lands.

The debate between Francisco de Vitoria and Juan de Sepúlveda in Valladolid (1550) dealt precisely with the entitlement of the Spanish Crown to the lands and the peoples of the Americas. Vitoria articulated his condemnation of Spanish claims of ownership on the basis of the Roman law of *ferae bestiae*, or the principle of the first taker, and the law of nations, which I have already mentioned. Vitoria evaluated the ownership of the lands and sovereignty of the Indigenous communities based on the fact that those communities were there before the Spaniards arrived. For Vitoria, whether by having possession of the land first or by inhabiting it

prior to the arrival of the Europeans, the land was not empty or *nullius*; it had been Indigenous property. The Spaniards did not “discover” the land. It was already populated by the Indigenous who were “sovereign” and, by law, were not compelled to submit or to acknowledge the claims of the Spanish Crown.¹⁰ For his part, Sepúlveda bolstered his support for the Spanish invasion and enslaving of Indigenous peoples on the basis of ethical grounds, drawing on Aristotelian ideas of natural hierarchies among human beings. Sepúlveda thought that the Spanish grounds for claiming the lands and the peoples of the Americas rested on the Spanish divine mandate to spread the Gospel, to save the Indigenous from eternal damnation, and to elevate them to a higher level of “civilization.” Spain had “just” cause(s) for invading the lands of Indigenous and reducing their people to subjects of the Spanish Crown. The countless deaths of Indigenous people were but collateral damage. In essence, the Spanish were fulfilling their divine mandate and calling to convert the “infidels,” reign over them, and occupy the lands on which they lived.¹¹

Note the shift that took place along the way. Prior to 1492, papal encyclicals seemed concerned with the religious grounds for engaging in war. But with the colonization of the Americas, post-1492, Europeans successfully added the ideas of a self-referential superiority—cultural, religious, ethnoracial, and military. More to the point, the debate at Valladolid took place on the level of “legal” rights, which were not granted to the Indigenous because Spain deemed Indigenous people to be in an infantile human state of development: they could not be

10. Francisco de Vitoria, “On The American Indians (De Indis),” in *Political Writings*, ed. Anthony Padgen and Jeremy Lawrance (New York: Cambridge University Press, 1991), 231–92.

11. Juan Ginés de Sepúlveda, *Demócrates Segundo: De las justas causas de la guerra contra los Indios*, ed. and trans. Angel Losada (Madrid: Consejo Superior de Investigaciones Científicas: Instituto Francisco de Vitoria, 1951).

trusted with their own lives because of the lesser cultural achievements they displayed, the diabolical religious practices in which they engaged, and their inferior military ability to reject foreign invasions.¹² The entire European colonial project is predicated on these very notions of superiority embedded in the Doctrine of Discovery and *terra nullius*.

The debate between the opposing sides, Sepúlveda and Vitoria, crystallized the sense of superiority of the Spanish over the Indigenous. Though Bartolomé de Las Casas, like Vitoria, advocated for the “humane” treatment of the Indigenous,¹³ neither he nor Vitoria challenged Sepúlveda’s deployment of the Aristotelian idea that some people were born to servitude, the lot that fell on the Indigenous. The Spanish self-referential sense of superiority over the Indigenous remained unchallenged and came to be part of the prior European sense of superiority over the Africans and their descendants before 1492.¹⁴

These same attitudes are evident in the U.S. as the emerging new kid on the block of imperial power at the end of the 19th century. Though deployed using a different nomenclature (i.e., Manifest Destiny [1812], the Monroe Doctrine [1823],¹⁵ “life, liberty and the pursuit of happiness”), the Doctrine of Discovery and *terra nullius* and all their accompanying underpinnings of social, cultural, racial, religious and, now, economic superiority, are the ideas

12. Ginés de Sepúlveda, *Demócrates Segundo*.

13. Bartolomé de Las Casas, *Del único modo de atraer a todos los pueblos a la verdadera religión*, Preface by Agustín Millares Carlo, introd. by Lewis Hanké (México, D. F.: Fondo de Cultura Económica, 1992).

14. For example, as early as 1435, Pope Eugene IV *Sicut Dudum* bemoaned how the Portuguese enslaved the (African) inhabitants from the places they invaded. See Eugene IV, *Sicut Dudum [Encyclical Letter Against the Enslaving of Black Natives from the Canary Islands]* (1435), [Http://www.papalencyclicals.net/eugene04/eugene04sicut.htm](http://www.papalencyclicals.net/eugene04/eugene04sicut.htm).

15. The Monroe Doctrine refers to the United States of America warning to European nations that it will not tolerate further colonization or intervention in the Americas.

that undergirded the building of the empire that is the USA today. It was these ideas that informed the country's ideas and impetus for expansionism and the invasion of Mexico in 1846, for the U.S.'s claiming of Puerto Rico as territory, and for its documented adamant interventionism all over Latin America, including Cuba.

DOD and Its Relevance

The Doctrine of Discovery and *terra nullius* are not simply part of an ideological framework describing European self-perceived superiority. They also constitute a wide range of racialized values, ideas, and attitudes about other peoples in the world, their forms of knowledge, their religious traditions, and their cultural and intellectual capacity, as well as values, ideas, and attitudes about the relation between humans and nature. From the perspective of the colonizer, the “discovered” lands and the peoples encountered by the “discoverers” were *terra nullius*—land of nobody, there to be taken, exploited, enslaved, commodified, or turned into disposable goods. Such a description of first encounters between Europeans and other peoples sounds eerily similar to many situations in the present world configuration.

For the remainder of this paper, I focus on national sovereignty and human rights as two intertwined ingredients of the larger puzzle of the ongoing colonizing power of the present globalizing neoliberal capitalist calculus. I choose these two because I believe they are of particular relevance to LatinaXo theoethics. These two issues were also encapsulated in the debate between Sepúlveda and Vitoria. First, imperial sovereignty was thought to be guaranteed by divine entitlement and was assumed to be itself the sole arbiter of the activities of European

imperial subjects across the seas. Second, legal rights were granted, affirmed, and guaranteed by the sovereign Crown.¹⁶

In Sepúlveda and Vitoria's society, the rights of individuals were understood as fitting into the generally accepted hierarchy. Rights were viewed as being bestowed upon imperial subjects much like the feudal social structures in which the imperial lords were responsible for the protection of their subjects. Those who did not have the coverage or protection of a "sovereign" or were not "subjects" of an empire had no rights. There were some, like the Indigenous peoples and African descendants who had some rights, but those could be, and in fact were, suspended.

Today, human rights are understood to be bestowed upon citizens by nation-states and people's rights are protected by the country of which they are citizens. But here is where the limitations of the notion of human rights begin to appear and the idea of human rights can function as an empty gesture. Notions of human rights are still informed and shaped by inherited colonizing relations that established hierarchies between nations, hierarchies between human beings, hierarchies between humans and nature, hierarchies of sovereignty, and hierarchies of cultural and intellectual traditions.

For instance, Giorgio Agamben describes the inhuman, but legal, configuration of "sovereignty" among European nations along the following lines: immigrants—primarily from North African countries, who are citizens of those countries—by physically crossing the border, enter into a vulnerable biopolitical no-place. In this no-place, they are reduced to *homo sacer* and

16. We know today that Vitoria is viewed as the precursor, if not the father, of international law.

get killed, while the killer does not get punished.¹⁷ Agamben further describes a no-space in which people inhabit the threshold between life and death. He draws on the Jewish experience of concentration camps in his analysis, specifically focusing on the *Muselmann*. He depicts the *Muselmänner* as those in the Jewish population in the concentration camps who, due to malnutrition or sickness, could not function any more in their allotted labor tasks. Though they remained alive, their fellow Jews treated them, for all intents and purposes, as dead.¹⁸

Through these examples, Agamben elucidates the insidious biopolitical implications of the letter of law when it is used to suspend people's rights. At the same time, he makes a major jump from Rome to the contemporary European geopolitical context and focuses almost exclusively on the immediate political boundaries of European nation-states. Agamben does not critically engage the larger colonizing geopolitical dynamics at play in the suspension of human rights. The same countries he critiques are part of the longer genealogy of colonialism and exported the practice of the suspension of human rights to other nations as a concrete expression of the formerly imperial (sometimes still current imperial) "sovereignty."

The colonial legacy must be understood as encompassing those inherited legal systems which turn people, whose human rights can be suspended, into disposable biomaterial. These systems are designed for death. When people are deemed to be part of the biological excess that subsidizes life in the richer nations, they can be killed at the border without any legal accountability (*homo sacer*), or in many instances they become walking corpses existing in the

17. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (California: Stanford University Press, 1995).

18. Giorgio Agamben, *Remnants of Auschwitz: The Witness and the Archive*, trans. Daniel Heller-Roazen (New York, NY: Zone Books, 1999).

threshold between life and death (*Muselmänner*): the refugees, the displaced, the asylum seekers.¹⁹ Their rights are effectively suspended at the border between consumption and survival, abundance of capital and scarcity, and extreme private property and absolute displacement.

This understanding can be traced back to the (il)legal application of the Doctrine of Discovery and *terra nullius*. What Agamben calls the “state of exception”²⁰ is not just about the suspension of human rights but entails the violation of human bodies (*corporis nullius*) and all of nature (*naturae nullius*), and an attack on life itself (*vita nullius*). It is so widespread that it can hardly be called an “exception.” This attack on life itself, which includes as an essential element the suspension of human rights, has its roots not in today’s jurisprudence but in the historical imperial and colonizing attitudes toward non-Europeans that emerged post-1492, when Europeans saw the world as *terra nullius* waiting to be “discovered” or conquered. As Enrique Dussel comments, the Cartesian *ego cogito* (1644) was the result of and made possible by the *ego conquiro* (1492).

Such an attack on life begins for people in their own countries, where they cannot purchase the vegetables they grow on their farms; where they cannot wear the clothing they make; where they cannot sow their seeds or use the methods of agriculture they inherited from their ancestors; where they cannot enjoy their cultural traditions or speak their ancestral

19. According to the United Nations Refugee Agency (UNHCR) there are 25.4 million people who are refugees, 40 million internally displaced from their lands, and 3.1 million asylum-seekers. Moreover, by the end of 2017, 68 million individuals had been forcibly displaced because of persecution, armed conflict, and violation of human rights. See “Refugee Statistics,” UNHCR, <https://www.unrefugees.org/refugee-facts/statistics/>.

20. Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: The University of Chicago Press, 2005).

languages because they are expected to “integrate” into society. Stated differently, the lives and rights of people have already been suspended even before they think of migrating to another country. It almost goes without saying that at the border it is not “rights” that people seek; they are looking for a chance to live. To die in their migratory journey or at the border is but a testimony to the fact that they have been stripped of all rights, that the legal international apparatus has chosen to re-enforce the doctrine of discovery. We are facing the most extreme concrete consequences of the forces that brought about the Doctrine of Discovery and *terra nullius*.

For these reasons, I argue that the UN’s Universal Declaration of Human Rights is an empty gesture if we do not challenge the fact that the Declaration is defined within the framing of nation-states, with priority given to those countries that are part of the imperial lineage, countries that have historically been and continue to be complicit in the exploitation of entire sectors of the globe and that engage in explicit violation of international law and human rights.²¹

21. One of the important things worth remembering is that the UN Universal Declaration of Human Rights is a post-World War II development. It was the Allied forces that affirmed what they called “the four freedoms”: freedom of speech, freedom of religion, freedom from fear, and freedom from want. The United Nations affirmed fundamental human rights and the dignity and worth of the human person. All nations committed to universal respect and observance of human rights and fundamental freedoms without distinction of race, sex, language, or religion. The articles spell out these rights as if they exist independent from inter-national exchanges, economic calculations, and foreign interests and maneuverings.

Articles 1–2 established the basic concepts of dignity, liberty, equality, and brotherhood.

Articles 3–5 established other individual rights, such as the right to life and the prohibition of slavery and torture.

Articles 6–11 refer to the fundamental legality of human rights with specific remedies cited for their defense when violated.

Articles 12–17 established the rights of the individual towards the community (including such things as freedom of movement).

Articles 18–21 sanctioned the so-called “constitutional liberties”, and with spiritual, public, and political freedoms, such as freedom of thought, opinion, religion and conscience, word, and peaceful association of the individual.

Articles 22–27 sanctioned an individual's economic, social and cultural rights, including healthcare. Article 25 states: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical

The affirmation of the “inalienable rights” of the individual is an empty gesture if we do not challenge the history of colonization; notions like Doctrine of Discovery and *terra nullius*; the present ethos of ethnoracial and cultural hierarchies inherited from colonization; and the colonizing hubris and hypocrisy that do not respect the sovereignty of other nations but exercise power through international neoliberal capitalist, political, and military maneuvering.

LatinaXo Theoethics

Thinking specifically about Latinaxo theoethics, we can ask three questions. What does LatinaXo theology have to offer to this conversation? Is it possible to think theology and ethics beyond the Doctrine of Discovery or *terra nullius*? In light of our present context across the U.S. (and of course Canada and the rest of the world) is it possible to conceive that we live in a post-Doctrine of Discovery or post-*terra nullius* era?

Since 1858, LatinaXos in the USA have found themselves in the unique position of inhabiting the liminal spaces of having rights, on the one hand, sometimes even benefiting from the goods of empire, and yet on the other hand, running the risk that those rights will be suspended at any moment, both outside or inside their—our—country of citizenship. Many of us carry in our bodies, our facial features, and our ways of speaking the conditions for which we are excluded and for which our identities and citizenship are interrogated. The denigration and trauma of our existence are present in part because the notion of *terra nullius* began after 1492 has re-occurred several times in the history of this nation. The lack of support and aid by the U.S. administration to Puerto Rico in the wake of Hurricane María is one of the most recent examples of this. Translated into today’s reality, the borderscape—*la rajada abierta*—has remained intact and has even expanded, both ideologically and culturally. These are the effects of the

care and necessary social services." It also makes additional accommodations for security in case of physical debilitation or disability and makes special mention of care given to those in motherhood or childhood.[6]

Articles 28–30 established the general ways of using these rights, the areas in which these rights of the individual can not be applied, and that they can not be overcome against the individual.

Doctrine of Discovery! In the same way, we inhabit an ideological and sometimes very real *terra nullius*—nobody’s land—where we remain under the surveilling gaze of empire, at the risk of being made redundant and disposed.

In a very real sense, though, many LatinaXos are also among those enforcing the political borders and ensuring that the imperial and military might of the U.S. remains unchallenged. Some are so convinced by the present rhetoric that depicts Latin American immigrants as criminals that they want the border to be “taller and longer.”²² I am sure those U.S. LatinaXos see themselves as “Americans,” yet they may find their own rights suspended at any given moment. This complex reality obfuscates what we can say about LatinaXos and how they reconcile their own identities. Still, insofar as the rights of fellow LatinaXos can be suspended, LatinaXos live in *terra nullius*, defined by those outside of our communities. Drawing on Homi Bhabha’s concept of mimicry, LatinaXos inhabit that existential non-space under the gaze of the colonizer as being “white” but not “quite,”²³ as being (U.S.) “American” or “Canadian,” but not quite.

Taking Garcilazo de la Vega²⁴ and Octavio Paz²⁵ into consideration, some LatinaXos have internalized ideologies of “white” European superiority and in so doing hidden their Indigenous and African ancestry. These LatinaXos who evidently pass as white sometimes share “white” supremacist views.²⁶ Such an

22. See Tony Lee, “CNN Stunned to Find Pro-Trump Latinos: We Want ‘Longer and Taller’ Wall,” *Breitbart* March 19, 2019, <https://www.breitbart.com/politics/2019/03/19/cnn-stunned-to-find-pro-trump-latinos-we-want-longer-and-taller-wall/>.

23. Homi K. Bhabha, *The Location of Culture* (New York, NY: Routledge, 1994).

24. Néstor Medina, “The Religious Psychology of *Mestizaje*: Gómez Suárez de Figueroa or Garcilaso de la Vega,” *Pastoral Psychology* 57 (September 2008): 115–24.

25. Octavio Paz, “The Labyrinth of Solitude,” trans. Lysander Kemp, in *The Labyrinth of Solitude and Other Writings* (New York, NY: Grove Press, Inc., 1985), 7–212.

26. In the words of a Latino “white” caller to a radio station defending the natural tendencies to colonize by “white” people: “It’s in the nature of whites to conquest, It’s natural ... we do exploit, we do travel the world, you know, we see land, we take it, that is just in our DNA” (“Latino White Supremacist Defends White Supremacy,” *YouTube*, <https://www.youtube.com/watch?v=veT19aXsXFY>).

internal conflict replicates Domingo Sarmiento's project of wanting to become what he could never be, a European "white."²⁷ The effects of affirming one's "whiteness" at the expense of the other strands of our identities is capitulating to internalized racism. Passing as "white" goes back to the times of colonial Latin America when people saw that being "white" came with additional social privileges; many could even purchase their whiteness.²⁸ A contemporary parallel is Ancestry DNA or 23andMe, which some LatinaXos are purchasing to *finally* demonstrate they are "white." The operating idea has been to neutralize the perceived "contamination" effected by African or Indigenous ancestry: this epitomizes an internal self-abhorrence, as Garcilaso would describe it at the turn of the 17th century.²⁹

The effects of the Doctrine of Discovery and *terra nullius* encompass ideological dynamics that continue to allow others to define who we are or allow us to define ourselves using the racialized value system of the colonizer. We are at a historical juncture in which LatinaXos must convert to our own people by naming and exposing our idols of internalized racism, put in place through the adoption of the value system of the colonizer. We must decolonize our own ethics and theology, our theoethics, by going beyond identifying the manner in which the dominant culture explicitly and implicitly oppresses and discriminate against people in our communities. Our goal must be to also challenge the remains of the Doctrine of Discovery inside our communities and among ourselves. We must interrogate the manner in which racialized, national, and cultural hierarchies are perpetuated and celebrated among LatinaXos drawing on the same value system that came with the Doctrine of Discovery. In the words of Raúl Fonet-Betancourt, our call is to begin to see our communities with new eyes,

27. Leopoldo Zea, "El proyecto de Sarmiento y su vigencia," in *De Colón a Martí: Discurso y Cultura en América Latina*, ed. Olmedo España Calderón, Colección Fundamentos (Ciudad de Guatemala: Editorial Óscar de León Palacios, 1999), 169–81.

28. Ann Twinam, *Purchasing Whiteness: Pardos, Mulattos, and the Quest for Social Mobility in the Spanish Indies* (Stanford, CA: Stanford University Press, 2015).

29. Medina, "The Religious Psychology of *Mestizaje*."

...ver con los ojos del otro: Ahora es necesario cambiarse de “piel,” tener nuevos “ojos”. No son ya la piel y los ojos del ego conquiro que culminará en el ego cogito o en la “Voluntad-de-poder”. No son ya manos que empuñan armas de hierro, y ojos que ven desde las carabelas ... Tenemos que tener la piel que sufrirá tantas penurias en la encomienda y el repartimiento, que se pudrirá en las pestes de los extraños, que será lastimada hasta los huesos en la columna donde se azotaba a los esclavos ... Tenemos que tener los ojos del Otro, de otro ego, de un ego del que debemos re-construir el proyecto de formación (como la “otra cara” de la Modernidad).³⁰

This hierarchy of values and attitudes toward other ethnoracial and cultural communities is also found in our academic endeavors because Afro-LatinaXo, Latin American, Afro-Latin American, and Indigenous scholars rarely appear in the canon of our scholarship. In order for LatinaXo theoethics to speak *from the heart of our people*, it will have to unhinge itself from the European intellectual tradition and abandon well-worn categories from the Eurocentric theoethical edifice such as authority, peace, morality, common good, human rights, equality, and hospitality, to name a few, and replace them with notions that emerge from our communities, like *buen vivir*, communality, radical mutuality, *sentipensar*, as we struggle to build *un mundo donde quepan muchos mundos*. LatinaXo theoethics has been doing this radical rethinking for quite some time, creatively reconceiving theoethical categories with concepts like *en conjunto*, *lo cotidiano*, *acompañamiento*, and more. I think that in great measure many of the implications and dynamics of the Doctrine of Discovery and *terra nullius* have been assumed and countered. Yet I wonder, what would change in LatinaXo theoethics if it explicitly responded to the Doctrine of Discovery and all its implications? *¡La lucha continúa!*

30. Raúl Fonet-Betancourt, *Crítica intercultural de la filosofía latinoamericana actual*, Raúl Fonet-Betancourt, Colección Estructoras y Procesos: Serie Filosofía (Madrid. España: Editorial Trotta, 2004), 46.