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Beyond Universality and Particularity: The Problem of the Human Rights Language in Liberation Theology

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Abstract
This comment demonstrates the changes of attitude among liberation theologians toward human rights language, from avoidance, through critical confrontation, to appropriation. The reluctance appears as a natural consequence of the idea of partiality and preferentiality held by liberationists, which has always been critical of any claim of universality such as human right. The comment also argues that the latest phase of appropriation is made possible after liberationists employ the ecclesial idea of the ‘preferential option for the poor.’ However, the acceptance of human rights language can only be possible if we see the poor as concrete universal and understand the idea of the ‘preferential option for the poor’ as a middle axiom.

Keywords
liberation theology; human rights; universality; particularity; preferential option for the poor; Latin America; middle axiom

I. Introduction
In 1993, twenty years after his monumental A Theology of Liberation, Gustavo Gutiérrez claims that “[t]o be righteous or just means to acknowledge the rights of others.”¹ Jon Sobrino shares this conviction by declaring, “For anyone who believes in God, the struggle for human rights is an inescapable imperative.”² Similar references of such a rights language can be found widely throughout liberationists’ writings, especially since the late eighties.³ This appropriation, however, did not emerge easily. There were many struggles in the earlier years of the emergence of liberationists, when their criticism of the theory of human rights was very evident. Their gradual recognition of human rights language

³ The focus of this comment is on the liberation theologies in America Latin, although the similar problem is evident in other regions such as Asia. See Aloysius Pieris, ‘Human Rights Language and Liberation Theory’, in Marc H. Ellis and Otto Maduro (eds.), The Future of Liberation Theology: Essays in Honor of Gustavo Gutiérrez (Maryknoll, NY: Orbis Books, 1989), pp. 229–310.
follows the dynamics of social change they theologically reflected on. “The story of the gradual spread of the flame of liberation,” claims Daniel M. Bell, Jr., “is the story of the gradual recognition of the basic rights of humankind.”

The twofold aim of this comment is as follows: first, I trace and analyze the several phases of the response of liberation theology to human rights language in its critical encounter with its historical circumstances; secondly, I place this analysis within the dialectic tension between universality and particularity. I will reflect specifically on the notion of the ‘preferential option for the poor’ and show how this can best be seen as the ‘strategic solution’ to this complex problem.

II. From Avoidance to Appropriation: A Historical Survey

In his profound article, “Toward the ‘Rights of the Poor,’” Mark Engler surveys three distinct phases in how Latin American liberationists viewed human rights over the past thirty years.

A. The First Phase: Avoidance

In the first phase (the early 1970s), liberationists avoid the rights discourse because, in their view, it is connected with Western liberal, individualistic notions of human beings. David Hollenbach expresses his surprise at the absence of any entry on ‘human rights’ or ‘human dignity’ in the index of Gutiérrez’s *A Theology of Liberation*. Engler argues that this neglect shows the “implicit critique of human rights… By focusing on the development of a ‘new humanity’ or ‘new society,’ liberation theologians avoided investing themselves in a conventional liberal anthropology of human rights.”

This idealism for building a ‘new humanity’ or ‘new society’ is to be understood from two perspectives. Theologically, they focus their vision on the eschatological Kingdom of God that should be anticipated by empowering the poor. In Gutiérrez’s own words, liberation theology attempts:

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6 David Hollenbach, *Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition* (New York: Paulist Press, 1979), p. 179; Pieris, *supra* note 3, p. 304. It does not mean that Gutiérrez mentions no rights language in his book. Otherwise, as Engler observes correctly, he uses this language to describe the “poor” who struggle for the most basic rights. Gutiérrez, *supra* note 1, pp. 64, 97, 111, 25, 59, 73; Engler, *supra* note 5, p. 341. However, it is true that his attention is too small for such an appealing concept.

7 Engler, *supra* note 5, p. 341.
to reflect on the experience and meaning of the faith based on the commitment to abolish injustice and to build a new society; this theology must be verified by the practice of that commitment, by active, effective participation in the struggle... Liberation from every form of exploitation, the possibility of a more human and dignified life, the creation of a new humankind—all pass through this struggle.8

Politically, the ideal of a ‘new humanity’ is to be understood as a part of the prominence of the radical Left in Latin America in the 1960s and 1970s. In this phase, the movements utilize the neo-Marxist’s tools of social analysis in order to struggle against injustice.

B. The Second Phase: Critical Confrontation

The shift to the second phase (the late 1970s and early 1980s) is triggered by the rise of human rights discourse in the foreign policy of the United States under President Jimmy Carter. In fact, there is an ‘alliance’ of the ideal of human rights with typical slogans such as ‘national security’ and ‘new democracy’, used as cover for human rights abuses throughout the Latin American countries.9 The American responses to the bitter facts, nevertheless, were highly inconsistent. Hugh Lacey rightly argues, “US policy supports governments and movements which both say they promote individual rights and violate them most, and opposes governments and movements which subscribe to the balancing of socioeconomic and individual rights and violate rights least.”10

Therefore, human rights language, which logically should be good news for the Latin American people, now becomes an “ideological trap” or “ideological weapon.”11 This situation undoubtedly becomes the reason for why liberationists confront the theory of human rights. “The new rhetoric of morality being used by the United States demanded explicit response.”12

It is important to inquire what liberationists’ precise objections to human rights language are. “Not recognizing a person’s full human rights,” Gutiérrez

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8 Gutiérrez, supra note 1, p. 174; emphasis mine.
12 Engler, supra note 5, p. 343.
asserts, “is one way to kill a person.”13 According to the liberationists, the lack of fullness is obvious in Latin America, for human rights are structured only to serve first generation rights (civil and political claims), without guaranteeing second and third generation rights such as socio-economic justice and cultural solidarity.14 Arguably, those rights are prioritized in order to preserve elite interests.

The courts that are supposed to enforce those rights are so weak that they adjudicate only certain kinds of cases and for certain people. “With the exception of only a few countries,” Segundo rightly points out, “no court, national or international, will entertain a complaint of hunger.”15 He also acknowledges that “those who shape and control the defense of human rights . . . are the same persons who make that defense impossible on three-quarters of the planet.”16

C. The Third Phase: Creative Appropriation

Mark Engler suggests that the third phase, which has continued since the mid 1980s, the appropriation of human rights language reveals the transition of liberationists “from a revolutionary moment to a more conciliatory one.”17 Several factors force this move: (i) the emergence of international non-governmental human rights organizations such as Human Rights Watch and Amnesty International; (ii) Vatican “instructions” of 1984 and 1986 that show wider resistance to Liberation Theology within the Catholic Church.

While José Míquez Bonino in 1977 still tried to “find the proper roots of a Christian defense of human rights,”18 in the third phase, his colleague Jon Sobrino has come to suggest that “God and the struggle for human rights stand in correlation.”19 He argued:

> The struggle for human rights is not only a categorical ethical demand incumbent on each and every individual, or merely a crucial part of the mission of the church and the praxis of Christians, but a demand and a mission with a divine dimension, an aspect that is theologal.20

However, for liberationists to import the rights language into their theological system is a difficult task. On the one hand, the liberationists face the fact of

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15 Segundo and Hennelly, supra note 11, p. 61.
16 Ibid., p. 62.
17 Engler, supra note 5, p. 351.
19 Sobrino, supra note 2, p. 103.
20 Ibid. The term ‘theologal’ is not a typographical error. While ‘theological’ refers to the study of theology, ‘theologal’ means ‘related to God.’ An analogy with ‘sociology’ and ‘social’ might help.
massive violations of human rights; on the other hand, they begin to recognize “the usefulness of the concept in religious ministry.”\textsuperscript{21} More deeply, the question is whether they can harmonize the ‘rights’ language and the ‘justice’ language. Here we arrive at the dialectical tension between the universality of the rights theory and the particularity of the liberation struggle of the poor in Latin America.

The liberationists’ proposal for including both poles is embodied by the notion of “the preferential option for the poor” or “the rights of the poor.”\textsuperscript{22} By doing so, on the one hand they can keep taking the side of the oppressed, but on the other hand this concept allows them to use the rights language. “The adjustment,” claims Gutiérrez, “is not merely a matter of words.”\textsuperscript{23} Moreover, he confirms:

This alternative language represents a critical approach to the laissez-faire, liberal doctrine... This new formulation likewise seeks constantly to remind us of what is really at stake in the defense of human rights: the misery and spoliation of the poorest of the poor, the conflictive character of Latin American life and society, and the biblical roots of the defense of the poor... Only from within the poor classes of Latin American society will it be possible to grasp the true meaning of the biblical cry for the defense of human rights.\textsuperscript{24}

### III. The Issue of Partiality: A Theological Reflection

It is important to understand that liberationists perceive human rights language as an ideal concept. What they criticize is that such a language is so universal that it masks and justifies the implicit domination and injustice behind it. When liberationists finally take the preferential option for the poor as their solution for the dialectical tension between universality and particularity, it is obvious that they do not intend this notion merely as an effort to universalize their struggle for justice.\textsuperscript{25} On the contrary, given the fact that they idealize the fullness of human rights, they shift the discourse from the question of what is the content of human rights to the question of whose rights should be protected. In short, while the

\textsuperscript{21} Engler, supra note 5, p. 351.


\textsuperscript{23} Gutiérrez, supra note 22, p. 87.

\textsuperscript{24} Ibid.

ideal and full, yet abstract, concept of human rights is presupposed, the concrete poor are to be recognized as the subject of human rights.

One may find a problem in this notion, “How can a ‘universal’ value also have a ‘partial’ character?”26 While the human rights theologians put the universal “imago Dei” (Gen. 1) as their biblical basis—which is undoubtedly only a reinforcement to their natural law grounding—liberationists put the story of God’s preference for Cain over Abel (Gen. 4) as their biblical foundation. “God is partisan; the Incarnation was a partisan act—God took on poor flesh. Divine intervention and judgment are a matter of protecting the weak, the poor, the widow, the orphan.”27 The partiality of the rights of the poor, nevertheless, is not to be separated from the universality of human rights. Gutiérrez rightly claims:

We cannot forget that the universality of... the love of God, is an essential part of the evangelical message. The question is this: How can we avoid the danger of emphasizing universality alone? We can easily take a very abstract view. On the other hand, to keep only preferential can lead to a sectarian position. The real challenge is to link both demands together: universality (no one is outside the love of God) and preferential option for the poor. To bind the two demands together is very difficult, but I think the gospel requires it.28

The task “to bind the two demands together” is absolutely the task of theologizing in the context of the particularity of poverty and the global awareness of humanity. Partiality, therefore, is justifiable as long as it contributes to inclusiveness and extends to all of humanity, or, famously formulated, “preferential but not exclusive.”29 This inclusive preference, I believe, is compatible within the Catholic doctrine of common good; its ultimate purpose is to empower the poor to participate actively in the life of the wider society.

IV. Beyond Universality and Particularity: Two Models

This last section examines the preferential option for the poor from an epistemological perspective, focusing on the dialectical tension between universality and particularity. The purpose of this concept is to avoid both abstract universalism and sheer particularism. For this purpose, two proposals will be examined.

26 Engler, supra note 5, p. 355.
27 Daniel M. Bell, supra note 4, p. 123.
A. The Poor as Concrete Universal

The first proposal is suggested by Anselm Kyongsuk Min. Having been influenced by Hegel’s philosophy of history, Min tries to reconcile the traditional dichotomy between transcendence and particular history, infinite and finite. Min claims that history is:

a history of liberation, with a twofold meaning: in its historical content, it is political, but in its absolute finality it is also religious and transcendent, and the one cannot exist without the other. The political content is meaningful only as the historically particular concretization of the absolute finality, as the absolute is absolute, not another particular finite, only by virtue of its power to concretize itself through such historical particularity without losing the power to transcend such particularity in its historical limitation.30

Min expresses this position with a unique term: a “concrete universal” or “concrete totality.”31

In terms of Liberation Theology, specifically its preferential option for the poor, Min starts with answering the doubts of those who worry about the “scandal of particularism.” What gives the oppressed an epistemological privilege and makes their perspective a norm for theologians? In answering this question, Min claims, “Insofar as all human perspectives are necessarily concretized in a particular group, the perspective we are seeking must be particular. Insofar, however, as that perspective embodies the essential human crisis of the time in which all groups are involved, it is also universal... it must be concretely universal.”32 By stating this, Min tries to solve the dialectic between particularity and universality, without being trapped within either one.

This perspective, therefore, can help liberationists to keep their preferential option for the poor and find in it a universal dimension. The never-ending spiral of the universalization of the concrete and the concretization of the universal is also obvious in liberationists’ writings. For instance, the first move is similar to the liberating process toward the utopian Kingdom of God in Gutiérrez. We find the “historicization of common good and human rights,” proposed by Ingnacio Ellacuria, as a different name for the second move.33

Viewing human rights and the common good as abstract concepts, Ellacuria argues that without historicizing both concepts, “it is impossible either to overcome

31 Sociologically speaking, this concept is parallel to Robert Robertson’s process of glocalization. This neologism is used to show “the globalization of the local and the localization of the global.” See Roland Robertson, Globalization: Social Theory and Global Culture (London: Sage, 1992).
32 Min, supra note 30, pp. 70–71 (emphasis added).
their abstract, mystifying formality or to define their truth or falsity.”34 It is only by doing this historicization, through the preferential option for the poor, that the authentic common good and truly universal human rights will be achieved. While the process of historicization assures the preferentiality of this concept, the human rights and common good languages maintain its universality.

B. Preferential Option for the Poor as a Middle Axiom

While Min uses the Hegelian point of view to understand the preferential option for the poor as the epistemological solution to the dialectical tension between particularism and universalism, Dennis P. McCann holds the Middle Axiom approach as his key concept. This approach, originally outlined by J.H. Oldham and developed later by John C. Bennett, can be summarized as attempts to define the directions for Christians to express their faith. I believe that it is promising as a mediating principle between the universal and the particular. In Bennett’s words, “A ‘middle axiom’ is more concrete than a universal ethical principle and less specific than a program that includes legislation and political strategy.”35 It is Dennis P. McCann, however, who uses the Middle Axiom approach to analyze the preferential option for the poor.36

In the previous part of this comment, two tensions are implied in the discussion. The first, in terms of content or concept, is a tension between the universal human rights (Universal-1) and justice for the poor (Particular-1). The second, regarding the subject, is a tension between the whole or global society (Universal-2) and the specific community (Particular-2). Here, the classic Middle Axiom can be reinterpreted and broadened to include both dialectics (Fig. 1).

As a mediating position between those two polarizations, the preferential option for the poor can be understood as being against both tyranny and anarchy—here I use these terms loosely. On the one hand, it keeps the universal of human rights from being tyrannical by facilitating the concretization of abstract concepts. On the other hand, it also keeps the notion of the rights of the poor from being anarchic by placing them in a broader context, that is, the common good or universal human rights.37

34 Ellacuria, supra note 33, p. 59.
37 Using Habermas’ theory of the ‘generalizable interest’, McCann argues that without intentionality to the common good, the middle axiom will fail to be a mediating principle. Ibid., p. 43.
Fig. 1.