TOWARD THE "RIGHTS OF THE POOR"
Human Rights in Liberation Theology

Mark Engler

ABSTRACT

In this article, the author traces the response of liberation theologians to human rights initiatives through three distinct stages over the past thirty years: from an initial avoidance of the concept, to an early critique, and then to a nuanced theological appropriation. He contends that liberation theology brings a thoroughgoing concern for the poor and an innovative methodology of historicization to the discussion of human rights. In clarifying the treatment of human rights within a specific religious movement, the author also addresses larger questions about the specific role of human rights language. To this end, the article shows how liberation theologians have grappled concretely with the divisions among different "generations" of rights, various rights discourses, and diverse options for rights advocacy.

KEY WORDS: historicization, human rights, liberation theology, rights discourse, rights of the poor

WITH THE REFORMS OF THE SECOND VATICAN COUNCIL and the release of the encyclical Pacem in terris, the Roman Catholic church began a profound embrace of human rights. Although this moral language grew increasingly important to the social mission of Roman Catholicism during the 1960s and 1970s, it garnered only minimal attention in the emerging theology of liberation that was to transform the Latin American Catholic church in these times. While many expected the radical theologians, engaged priests, and activist laypeople associated with the "liberationist" Christianity to be at the forefront of the new human rights crusade, their abstention from use of this discourse was marked. When Latin American liberation theologians finally did approach the subject, beginning in the late 1970s, they surprised even more people: José Comblin, for example, has argued that "the mission of defending human rights has run out of steam" (Comblin 1992, 435), and Juan Luis Segundo stated, more severely, that the concept constituted an "ideological trap" for those struggling in the developing world (Segundo 1978/1993, 64). Even in their more recent, more conciliatory adoption of human rights, liberationists insistently contrasted the ostensible "universalization" of
these ideals with the daily violation lived by the poor. They demanded that rights theory be reformulated to focus on the experience of society’s most economically and politically oppressed.

In this article, I trace how a Latin American liberationist position on human rights has emerged in several distinct stages over the past thirty years, developing from an initial avoidance of the concept, to an early critique, and then to a nuanced theological appropriation. I contend that liberation theology, in the end, brings a thoroughgoing concern for the poor to human rights and demands that this moral discourse be accountable to historical praxis. My argument counters those who assume that liberationist views have been derived, without substantial alteration, from earlier schools of rights theory. This article also challenges analyses that address the interaction between liberation theology and human rights without reference to historical shifts, or that consider it only in the final “rights of the poor” adaptation.

While my purpose is to clarify the position of human rights within a specific Christian religious movement in a particular geographical region, my examination of the liberationists’ outlook is necessarily immersed in larger questions about the role of human rights language. Because these theologians simultaneously drew on the philosophical and programmatic frameworks of liberal, Marxist, and Catholic thinkers, they were distinctively situated to evaluate the relevance of human rights in the world: they considered carefully what unique contributions this discourse might bring to, and what limits it might impose upon, their political and theoretical work. As scholars and activists, they grappled concretely with the divisions among different “generations” of rights, among various proposed declarations, and among diverse options for rights advocacy.

The changes in the liberationist attitude toward human rights, I argue, reflected not only the contours of theological debate but also important political and historical shifts affecting the climate for this discourse in Latin America. Thus, I attempt to connect the intellectual history of human rights within liberation theology with major stances taken by actors outside the movement—those advanced by insurgent socialist groups of the late 1960s and early 1970s, by the Carter administration in the United States in the late 1970s, and by burgeoning human rights organizations in the 1980s. But ultimately this article aims to describe liberation theologians’ distinctive criticisms, adaptations, and applications of the concept and language of human rights—for their approaches have influenced the wider Christian understanding of this discourse, have helped to shape political movements in Latin America, and continue to provide compelling challenges to those working for human rights today.
1. The Early Avoidance of Rights Discourse

The first major works of liberation theology did not take up human rights as a theological theme.¹ Gustavo Gutiérrez’s A Theology of Liberation mentioned human rights very few times.² The work’s index offered no entry for the concept, an absence made conspicuous by the fact that it was first published in 1971, eight years after the Catholic church endorsed human rights with Pacem in terris, an encyclical in which Pope John XXIII gave theological justification to a long list of rights that virtually mirrors those set forth in 1948 in the United Nations Universal Declaration of Human Rights. I would argue that this neglect was not simple oversight, for a distinctive theme in these early liberation theology texts was an 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.

A sense of hope and of transformative potential permeated A Theology of Liberation, in which Gutiérrez proposed liberative praxis as the means to a “new society” of emancipated human beings (Gutiérrez 1971/1988, 56). Theologically, he fortified this vision by constructing an eschatology that focused on the importance of historical action in the construction of a utopian Kingdom of God. Gutiérrez remarkably included himself and his audience in the company of Ernesto “Che” Guevara, who argued that “We revolutionaries often lack the knowledge and intellectual audacity to face the task of the development of a new human being by methods different from the conventional ones, and the conventional methods suffer from the influence of the society that created them.”³

The language of building a “new humanity” reflected the historical moment from which early liberation texts arose. The 1960s and early 1970s saw a resurgence in the prominence of the radical Left in Latin America, a trend most visibly demonstrated by the persistence of the Cuban revolution and the rise of Salvador Allende in Chile. Socialist

¹ To document my generalizations in this section about early thought in liberation theology, I will rely primarily on Gustavo Gutiérrez’s A Theology of Liberation, which is now most often cited as the central text of the liberation canon. Similar use could be made of Assmann 1973/1975, Miguez Bonino 1975, or Segundo 1976.

² Contrary to common belief, even in this early text Gutiérrez did not entirely avoid using “rights” or “human rights.” In fact, he used this language in the important capacity of describing who was to be included among the “poor,” pointing to those “struggling for the most basic rights,” and also in describing activities that generate hope (Gutiérrez 1971/1988, 64, 97, 111, 125, 159, 173).

³ Guevara 1968, 396, as quoted in Gutiérrez 1971/1988, 56 (emphasis added); also see 1971/1988, 202 n. 47, where Gutiérrez further cites the theological vision of a “new man” advanced by Bolivian Néstor Paz.
movements provided vocal and seemingly viable opposition to many Latin American regimes. A sizable group of theologians felt it necessary to contribute their unique perspective to these vibrant movements in order to articulate a role for Christians in the development of a new society. In this context, forming a theology of liberation was not a methodical or patiently wrought academic affair, but rather a most urgent project. The early liberationist engagement with Marxism was intellectual as well as practical; the use of Marxist terminology and conceptual categories (class struggle, alienation, ideology, praxis, revolution) abounded in their dialogue, and a very substantial number of early texts were partially or wholly devoted to advancing a Christian-Marxist dialogue (Miguez Bonino 1976; Miranda 1974; Miranda 1980).

Many Marxists fashioned an opposition to human rights language from the theory of dialectical materialism. In his “Critique of the Gotha Program” (1891), Karl Marx argued that “right can never be higher than the economic structure of society and its cultural development which this determines” (Marx 1994, 321). Human rights, from this point of view, were to be understood in superstructural terms, as ideas arising from a particular set of alienating economic arrangements. As instruments of critique, these ideas were thought to be limited by an inability to conceptualize the role played by economic factors in human exploitation. Ideologically, they were considered both to conceal the particular interests of the bourgeoisie and to expose the limits of this class’s liberal revolution (Marx 1994; Haughey 1982, 102–41). Once a new society, based upon the people’s control of the economic means of production, was established, the apparatus of rights, which functioned primarily to justify bourgeois possession of private property, would become unnecessary.

Though subsequent socialist movements developed varied positions on the potentials and dangers of human rights, the spirit of Marx’s historicist insight lived to influence the discussion among Latin American revolutionaries in the early 1970s. Here, too, there was widespread agreement that human rights continue to “suffer” from their origins in elite first-world liberalism and that a “new humanity” would have to transcend the limited visionary possibilities that this tradition had offered. In liberationists’ early grappling with Marxist thought and in Gutiérrez’s dramatic use of Che Guevara, one sees in secularized, inchoate form several of the ideas that will mature with the subsequent theologial critique and later appropriation of human rights language: There is the unmasking of “universal” human rights to reveal “the society that created them,” the society whose ideological biases they contain; there

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4 Marx was specifically referring to a section of the Gotha Program of the German Workers Party that asserted the “equal right” of all members of society to “the proceeds of labor.”
is the sense of intellectual challenge, a drive to create not only new concepts, but also a new "method"; and there is the vibrant emphasis on agency, on the formation of a "we" that is poised to demand its rightful place in the making of history.

2. Emerging Criticism: Human Rights and the Logic of Imperialism

It was not until a full decade after the foundational Medellín conference that human rights emerged as a major theme in liberationist dialogue. The new attention to human rights, like the previous avoidance, had much to do with historical circumstances. The end of the 1970s saw the rise of human rights discourse in the foreign policy of the United States under President Jimmy Carter. Liberation theologians, however, were not convinced that the behavior of the United States had truly changed. They saw themselves in a continuing struggle against neo-imperialism in the form of exploitative first-world economic policies. For this reason, Latin American liberationists were drawn into debate about the theory and practice of human rights: the new rhetoric of morality being used by the United States demanded explicit response. This response soon came—in the form of Hugo Assmann's Carter y la lógica del imperialismo (1978). This broad, two-volume work collected over fifty essays from prominent theologians and secular analysts, integrating diverse sources into a powerful explanation of the political situation that liberationists faced.

2.1 Criticism of the United States

The collection was most centrally concerned with issuing a direct critique of the Carter administration's newly defined foreign policy; contributing authors sought to uncover the practical meaning and consequence of "trilateralism," "national security," and "new democracy." Carter's use of human rights was described by the liberationists in hostile terms, as an "ideological trap" (Segundo 1978/1993, 64) or, alternately, as a "specific ideological weapon" of imperialism (Petras 1977, 43). Liberation theologians argued that the "new morality" was not new at all, but merely the most recent of the duplicitous attempts by which the United States government sought to put a human face on its...
domination of the third world. Similarly, the "new democracy" being promoted through the U.S. State Department, they explained, was new only in that it abandoned all but the pretense of the universal ideals of democracy and liberalism (Hinkelammert 1977/1986, 116–19). The essays in the Assmann volumes together formed a detailed defense of these rhetorical claims, documenting the arguments with ample historical observation and acute analysis.6

Though Carter y la lógica del imperialismo focused on the specifics of U.S. foreign policy, a substantial number of the essays were devoted to the broader discussion of human rights. In fact, we find, here, the first concerted reflection on the concept to be found in the corpus of liberation theology. Most powerfully expressed in Segundo’s "Human Rights, Evangelization, and Ideology," a deep suspicion about human rights language appeared in several of the essays, as well as in other liberationist texts of this period. Though the Assmann volumes did not represent a single, unified position on human rights, a cogent commentary can be compiled from the collection as a whole. I would like to draw out this position with some care for two reasons: first, because it has been largely forgotten by contemporary advocates of human rights (first-world analyses of liberation appropriations of the concept are especially prone to ignore it)7 and, second, because the points articulated in this critique will ground my examination of later responses to human rights language. My goal will be to present as clear and cohesive an argument as possible, given the diverse sources; I will, however, interject critical comments that will point to ambiguities in the discussion and highlight problems that will become relevant later.

2.2 Criticism of the notion of universal human rights

The critique of human rights that emerges in the Carter period is based on an interrogation of the "universal" nature of human rights. The liberationist argument rests on a twofold premise, that rights are effectively limited to political and civil spheres and that respect for different

6 Noam Chomsky and Edward Herman, whose work was included in Assmann's collection, meticulously evidenced the trends that "should be obvious to any student of recent third world history" (Chomsky and Herman 1977, 29–31). Both before and during Carter's presidency, the distressingly persistent results of United States involvement were an increase in the numbers of human rights abuses and of political prisoners. These increases, furthermore, had a suspicious correspondence with the development of a more "favorable climate" for business investment. Liberationists charged that the United States maintained its repressive activities in Latin America during Carter's administration but masked them with the language of human rights.

7 One notable exception (which is very perceptive, if cursory) is Berryman 1987, 111–24; also notable is the earlier substantial analysis in Berryman 1984, 320–30.
rights is prioritized on the basis of foreign concerns. As a consequence of these two conditions, the interests of the Latin American poor have, in fact, been frustrated by use of the concept, even though guarantees of human rights ostensibly apply to the poor.

To begin, liberationists argue that human rights, loyal to their liberal origins, fail to extend beyond the protections of first-generation rights. Segundo argues this point on juridical grounds. Human rights as "rights," he explains, rely on a legal apparatus of enforcement. Courts, however, are only equipped to adjudicate cases involving a certain type of rights, the civil and political rights of an individual. These same institutions have a profound inability to enforce rights relating to basic survival. With few exceptions, "no court, national or international, will entertain a complaint of hunger" (Segundo 1978/1993, 61).

Not surprisingly, the juridical limits of human rights closely coincide with the concerns of elites. When some of the varied "inviolable" rights of individuals come into conflict with one another, especially in the third world, those valued by the ruling classes and foreign interests are given priority. Franz Hinkelammert points to the fact that one of the few economic rights actually respected in liberal capitalist societies, the "unconditional recognition of the right to private property," makes the guarantee of the right to work a relative one. Indeed, maintaining an absolute right to private property deprioritizes virtually all social rights, creating conditions of massive poverty, in which the rights "to satisfy basic needs in food, shelter, medical attention, education, and social security" are inaccessible for the majority of human beings (Hinkelammert 1977/1986, 120). Here, the liberationists propose, one sees human rights "suffering" from the legacy of their liberal conception.

Given these juridical limits and this ideological prioritization, it cannot be said that human rights are extended with impartiality to all persons; rather, they are accorded in a manner that shows deference to certain groups of people. Clearly, since basic social human rights are not genuinely respected, those who face constant violation of these rights can take little solace in the pretentious language of universality. This is especially true if they compare themselves with those who benefit from the rights that are actually enforced, those who have substantial private

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8 Now widely used, the concept of rights evolving in successive "generations" can be attributed to Vasak 1982. Civil and political claims constitute a first generation of human rights; social and economic entitlements, a second; and cultural or "solidarity" rights, a third.

9 It is worth noting that Segundo himself points to a separate role of human rights as "human ideals," paralleling a traditional distinction in rights theory between moral rights, which are the just claims of a person or group, and legal rights, which are actualized by the force of law. We are, therefore, left to speculate about other uses of rights that would transcend a limited legalistic program.
property in need of protection. It is with this argument that the charge of "ideology" acquires a more precise meaning; liberationists echo the Marxist insight that, in the succinct words of Peter Railton, "dominant ideas . . . not only reflect the experience of the dominant class," in this case including both elite and bourgeois elements, "but also serve its interests" (Railton 1995). The juridical enforcement of human rights is ideological in this sense.

Liberation theologians, thus, begin to interrogate human rights in ways that on the surface seem paradoxical. Defying the assumption that human rights are universal they ask, with José Míguez Bonino, "Whose Human Rights?" (Míguez Bonino 1977, 222). Not only do the biases of human rights have a theoretical basis, liberationists emphasize, they have a long operative history. This is a history that pinpoints the particular social group from which liberalism emerged and to which the liberal conception of rights is traditionally partial, a history whose pernicious legacy lives in entrenched structures of racism, patriarchy, and imperialism.

2.3 Four dangers

Working from this general critique of the universality of human rights, I would like to draw out four important practical dangers that liberationists attribute to the use of human rights language. The warnings about this discourse are closely intertwined, but each brings into view a slightly different emphasis, and each adds a distinctive nuance to our understanding of human rights.

The first danger revealed by the liberationist critique is that human rights, on their own, lack a systemic vision. Segundo passionately indicts the limits of rights discourse as he affirms the ethical mandate not to "lose sight of the great proportion of human beings who lead a subhuman life and to whom no one pays any attention, let alone affords the juridical instruments . . . to mount an effective attempt to claim their rights" (Segundo 1978/1993, 64). Human rights language does not provide the conceptual tools with which one could even understand oppression in institutional, rather than individual, terms. The very structure of a "violation" that can be isolated and acted upon presumes the existence of a basically orderly politico-economic system in which such an event would be an aberration. By focusing on the occasional, ugly, individually directed assault on human dignity, human rights theory prescribes a myopic practice that is blind to the basic needs of two-thirds of humanity. Hinkelammert observes that in Latin America the "guarantee" of human rights is replaced with a "campaign" for such rights;

10 Marx originally developed the concept in The German Ideology (Marx 1994, 102–56).
the fundamental injustice of capitalism is ignored, and only its most abusive excesses are regulated (Hinkelammert 1977/1986, 120). These moves are particularly important because, by calling into question the lexicon of human rights discourse, liberation theologians raise two important questions about the relationship between theory and practice: To what extent do the terms attached to human rights prescribe a particular (and perhaps dubious) practice? What is the significance of a theoretical "guarantee" if such a guarantee is neither absolute nor universal?11

Some liberation theologians take this argument a step further and opt for an even stronger criticism: not only does human rights discourse lack a systemic vision, it actually condones methodical violation of human dignity by legitimating the societies and systems responsible for making the fulfillment of basic human needs inaccessible to the majority of the people. This is the second danger that liberationists attribute to human rights discourse, and it reflects the practical limits on the scope of human rights. Human rights discourse makes the capitalist first world into a model of global citizenship, absolving it of the guilt of the oppression it perpetrates. Hinkelammert explains that "criticizing human rights violations becomes a way of praising the Trilateral countries, even though they are at the source of those violations. They seem to be islands of respect for human rights that can offer their example to others, when in reality they are the centers of a worldwide empire in which the violation of human rights is the rule" (Hinkelammert 1977/1986, 124). In turn, through what Segundo identifies as the most "inhumane and anti-evangelical element in the defense of human rights," the third world is depicted as a savage, morally undeveloped land (Segundo 1978/1993, 65). Latin America is seen as a set of countries whose leaders do not grasp the enlightened virtue of universal human rights and who have the unfortunate tendency of sponsoring military dictatorships that violate these rights. All too often, institutional churches in Latin America accept their predetermined roles in this scheme, pleading guilty in the face of international rebuke and adopting an abstract ministry of universal human rights that is far removed from the reality of the majority.12 This may involve advocating the formal restoration of democratic rights—the creation of procedural

11 See Huber 1979 for an outline of the different "guarantee procedures" that separate first-generation and second-generation rights.
12 The Chilean Catholic church is held up as the clearest example of an institution that follows this pattern, and it is repeatedly condemned in Assmann's collection. In Segundo's words, "paradoxically, but also symptomatically, the very Chilean episcopate that had been the most explicit and incisive in refusing the historical option [for the poor], is now perhaps the most committed to the defense of human rights" (Segundo 1978/1993, 65).
or “restricted democracies”—while ignoring economic systems of exploitation (see Gutiérrez 1983, 87).

The third danger revealed in unmasking the implicit prioritization of human rights is the way in which rights language is used to condemn genuine attempts to guarantee the fulfillment of the basic human needs that are supposedly protected under second-generation rights provisions. Those who fail to respect the individual rights valued by elites, “even if they do so only in order to protect people from greater evils, or to attain more effectively the ideals contained in rights,” are morally detested and legally punished as violators of human rights (Segundo 1978/1993, 65). The right to unlimited private property is central to this paradox; although it is at the root of many systemic violations, it cannot be challenged because of its privileged, inviolable status. Thus, if the Latin American Catholic church is to avoid a position that would be divisive or conflictual, it must defend property rights over those rights that are more central to the well-being of its impoverished people whenever these different rights come into conflict, which they inevitably do.

Liberation theologians have long recognized the trap that is inherent in this compromise, and they have identified the avoidance of conflict as an outward sign of “ghetto-like withdrawal” from the church’s true obligations (Assmann 1973/1975, 65). Enrique Dussel, in his Philosophy of Liberation, contends that liberationist action, if it truly favors the poor and oppressed, will necessarily be condemned by the powerful few who benefit from the world’s inequality; “if it criticizes the system, then this system must criticize it, persecute it” (Dussel 1980/1985, 180). The oppressed who effectively claim their human dignity are named the violators of human rights; in the minds of elites, the view of the third world as a bastion of human rights violators is reinforced with these condemnations. Associating this danger with the use of human rights language, liberation theologians raise crucial questions about who has authority over this discourse. They ask, Who is allowed to make claims against human rights, and who adjudicates their claims? Not only do these questions become important to the later appropriation of human rights by liberation theologians, but they also point to the fourth danger that liberation theologians see arising from the false universality of these concepts.

The final danger risked in the use of human rights language concerns the denial of the agency of the poor. Liberation theologians argue that a concept of human rights that reflects the experience of the bourgeoisie necessarily relies on the action of this class for its realization. The defense of human rights tends to be managed by government bureaucrats,

13 Agency is invoked here in the sense of who will be the agents of social change and philosophical production. Thus, this discussion of agency should not be confused with the examination of agency in the work of philosopher Alan Gewirth or “will theorists” of
by humanitarian groups, and by those who have access to the legal system. In this context, as Hugo Villela explains, “the popular classes do not have the character of actors, but of secondary beneficiaries” (Villela 1978, 2:403). Brazilian Bishop Helmut Frenz warns that by taking up the banner of traditional, liberally formulated human rights, the institutional church loses its ability, necessary for liberation, to be an institution with the poor, rather than for them. The invocation of human rights further erodes the agency of those struggling for intellectual self-determination in the third world insofar as these thinkers are denied the opportunity to conceive their own vision of justice, one appropriate to their experience. They are instead expected to adopt the ideal of universal human rights and to accept the legitimacy of its liberal sources. There is some sense in Latin American liberation theology of the need for indigenous and non-European voices in the dialogue about the nature of human rights; interestingly, however, one generally does not find, here, the charges of cultural relativism that are more common in Asian contexts.\(^\text{14}\)

Carefully drawing this multifaceted argument from the various contributors to Assmann’s collection, one sees clearly the foundations of a skepticism that has been important to liberationist thought about human rights. Most basically, liberation theologians charge both that human rights are structured so as to protect only political and civil rights and that rights are implicitly prioritized in accordance with elite interests. More specifically, they fault human rights advocates for lacking systemic vision and for excluding the poor as potential agents of change; they point to the ways in which human rights have been invoked in order to legitimate first-world governments and to condemn attempts at resistance.

It is important to note that their critique of human rights discourse in Carter’s foreign policy functions at two levels. First, there is an immanent practical critique. Here, liberation theologians accept the validity of human rights as an ideal or concept, and they prophetically decry the United States government’s hypocritical violation of these rights. However, there is also a second, more theoretical level of criticism. Segundo, Hinkelammert, and Assmann, in particular, contend that there may be something flawed and dangerous about human rights themselves—that the received conception of universal human rights may contain

\(^{14}\) Indeed, the most forceful liberationist statement on the cultural issues involved in the international use of human rights discourse comes from one working to develop an Asian theology of liberation; see Pieris 1989.
too many of the problematic biases of liberalism and capitalism to be reclaimed fruitfully by those working for liberation. Human rights discourse may serve to mask and implicitly justify the systems of oppression that deprive the poor of the most basic means of subsistence. Failing to place second- and third-generation rights in a context of systemic oppression may effectively limit attempts to realize the ideals that stand behind the conception of such rights.

Liberation theologians themselves do not clearly distinguish these two levels, and this often muddles their analysis. I would argue, however, that this lack of distinction is not wholly unintentional, but reveals an important theoretical predisposition. In concluding this article, I will suggest that by focusing on praxis, liberation theologians force a re-examination of the connections between the two levels of critique that I have just outlined. Before turning to that, however, I wish to examine and evaluate the approach to human rights that liberation theologians have developed on the basis of the "rights of the poor."

3. The Shift to Appropriation

Despite this initial avoidance and early critique, liberation theology has now begun to appropriate human rights discourse; indeed, an approach focusing on the "rights of the poor" has risen to prominence and now holds a dominant place in liberationist discourse on the subject. This is clearly evidenced by the 1989 publication of a volume entitled Derechos humanos, derechos de los pobres in the influential Theology and Liberation series (Aldunate 1989/1993). Naturally, this shift invites questions: What brought the "rights of the poor" to such prominence? What are the theoretical merits and shortcomings of this position, especially in comparison with the prior critique?

Just as early liberationist criticisms of human rights were rooted in historical trends, so, too, I would contend, is this more recent appropriation. Although the causes of the shift in liberation theology away from both a dialogue with Marxism and an emphasis on a "new humanity" are complex and contested, I want to outline a few factors that have undoubtedly been important. By the close of the 1970s, the influence of Marxist groups was waning in many parts of Latin America, a trend correlated, not surprisingly, with the rise of repressive "national security" regimes supported by the United States.\footnote{During the 1980s there remained a number of notable exceptions, including movements in Nicaragua and El Salvador. However, this trend continued and was strongly confirmed during the following decade, especially with the end of Soviet communism and the fall of the Eastern bloc.} Increasingly, Christian groups defined their independence from these movements. Meanwhile,
the strength of liberal, predominantly first-world, and internationally focused human rights organizations increased greatly. An engagement with the likes of Human Rights Watch and Amnesty International, as well as with United Nations commissions, became a matter of great importance for groups struggling in Latin America, especially when they were faced with the many military regimes that rose during this period—regimes whose “national security” ideology led to massive violations of civil and political rights. While stressing this practical motivation for the liberationist adoption of human rights language, Salvadoran theologian Jon Sobrino has insisted that the move was not merely “pragmatic” in the pejorative, opportunistic sense of the term; instead, many of those reckoning with the daily struggle of the poor saw appeals to human rights as a potentially effective means of saving lives (Sobrino 1998). In this way, the shift reflected the continued urgency and relevance of the liberationist endeavor.

Liberation theologians were influenced not only by political changes but also by ecclesial and theological considerations. Several first-world theologians and human rights advocates, such as Jürgen Moltmann, admonished liberation theologians to look for the good in philosophical liberalism. They charged those who were unwilling to do so with throwing the baby of human rights out with the bathwater of imperialism. Within the Latin American Catholic church, furthermore, conservative elements (notably Alfonso López Trujillo, a Colombian bishop and chief of the Latin American Episcopal Council) organized resistance to liberation theology, which put leftist theologians on the defensive. Papal criticisms paralleled this resistance (which focused largely on the Marxist overtones of liberation theology) and were expressed in the papal “instructions” of 1984 and 1986 (Congregation 1984, 1986). For all of these reasons, the period between the mid-seventies and late eighties saw liberation theology move from a revolutionary moment to a more conciliatory one.

As Sobrino stressed in his defense of “pragmatism,” one of the most important factors in the liberationist appropriation of human rights was the early recognition of the usefulness of the concept in religious ministry. It is important to note that the various themes in the liberationist discussion of human rights did not follow one another in an easy chronology. Though the rights of the poor achieved theological prominence only later, it had a strong precedent. An appropriation of human rights discourse was, early on, an important pastoral theme, appearing in bishops’ statements and local documents throughout the 1960s and 1970s. Most prominent among these were the documents produced at

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16 For an excellent analysis of the changing power dynamics within the Latin American Catholic church, see Smith 1991.
the two General Conferences of Latin American Bishops, organized by the Latin American Episcopal Council (CELAM) in 1968 and 1979; the Medellin documents spoke of the church's role in defending the "rights of the poor and the oppressed"; those from Puebla also referred to this idea several times.  

The legacy of the Carter administration presented a dual challenge to liberation theologians: at the same time that liberationists sought to unmask the ideological dangers of human rights language, they also felt compelled to use this critical awareness to "find the proper roots of a Christian defense of human rights" (Míguez Bonino 1977, 222). This second undertaking was especially important to those who felt that the increased attention to human rights demanded a uniquely Latin American expression of the concept. Even as early as the Assmann collection, a number of theologians had offered such a reformulation, Míguez Bonino being perhaps the most prominent among them. Moreover, Assmann's collection concluded with the "Universal Declaration of the Rights of Peoples [Pueblos]," a third-generation document drafted by representatives from countries recently freed from colonialism, as well as representatives of various socialist parties. 

Finally, it is important to note that later theological reflections on the rights of the poor did not emerge in direct engagement with the critique of human rights that I have already examined, a fact that often works to their detriment. For example, in the work of Leonardo Boff, a leading advocate of rights of the poor, one can often see a failure to recognize the complex dangers associated with human rights discourse (Boff 1985, 22–46). For this reason, examining this appropriation in explicit comparison with the earlier critique remains a promising task—one to which I now turn.

4. Appraising the Rights of the Poor

It is not surprising that the "preferential option for the poor," perhaps liberation theology's key tenet, would eventually come to guide a liberationist approach to human rights. As I will now argue, one can consider

17 Medellín 1968/1990, par. 22, 27; see also Assmann 1994, 72; Puebla 1979, par. 1217; Boff 1988, 63–64 and references, par. 320, 324, 711, and 1119.

18 Boff's thought on rights has evolved considerably. Although his essay "Rights of the Poor: Rights of God" showed little appreciation of earlier critiques, his more recent "El Dios defensor de los derechos del pobre" offers a more thorough review of potential pitfalls (Boff 1988; Boff 1989/1993). It is also important to note the diversity within expressions of the rights of the poor, and appropriations range from the explicitly Marxist "Derechos de los Pueblos" document (Assmann [ed.] 1978, 2:471–75) to the more conservative affirmations written at Puebla.

19 This particular formulation of liberation theology's consistent solidarity with the poor achieved prominence when adopted as part of the official document produced at
the rights of the poor to be an application of the preferential option, one that allowed liberation theologians to bring the principle of "partiality" to bear on the claims to "universality" that they previously found so problematic in human rights. But before comparing rights-of-the-poor language with Carter-era liberationist criticisms of human rights discourse, I want to emphasize the extent to which both the early criticisms and the later appropriations constitute theological arguments.

In section 2, I presented the liberationist critique of human rights in secular, social-scientific terms, but this criticism had a theological dimension as well. Liberation theologians asked whether human rights, even as noble concepts, could be truly connected with the good news of God's reign as it manifests itself in history. Here, they used the theological language of idolatry in a way similar to the way they used the secular language of ideology. First, liberationists drew on a Catholic grounding of human rights in the belief that people are made in the image of God. Then, just as they had asked questions about whose interests were ideologically represented in various articulations of human rights, liberation theologians interrogated the conception of God that would be latent in these different theories. Taking this idea to its ethical conclusion, liberation theologians condemned as idolatrous those systems that held private property or the laws of the market to be sacred and inviolable. These systems, they argued, represented the false god of consumer capitalism, and their worshippers were sinful. Thus, theological language helped make explicit the normative, moral force of early liberationist criticisms of human rights.

With the emergence of the positive project of formulating a liberative Christian expression of human rights, concern with the theological grounding of these rights has become still more pronounced. In general, as the Catholic church has embraced human rights, it has been very concerned that its adoption reflect core religious principles and not be a mere concession to secular values. As Alois Müller and Norbert Greinacher have explained, "The Church's contribution must be genuinely her own. She must produce concrete proposals from the heart of the Gospel" (Müller and Greinacher 1979, x, emphasis in original). Thus, as liberation theologians began to adopt human rights, it was logical that they, too, would return to their core religious principles in creating a distinctive stance. Since the preferential option for the poor, "a

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Puebla in 1979. For significant primary articles on the preferential option for the poor, see Gutiérrez 1993; Boff and Elizondo 1986.

20 Indeed, liberation theologians have especially developed the theme of idolatry in terms of the marketplace. Assmann's recent thought on human rights evaluates the relevance of the "cry of the poor" to an idolized economic god that is deaf to this cry (Assmann 1994).
prophetic and comradely commitment to the life, cause, and struggle of these millions of debased and marginalized human beings” (Boff and Boff 1987, 3), had guided so much liberationist reflection on theological systematics, it naturally became a critical point of departure for appropriating human rights.

4.1 Partiality for the poor

Most basically, the preferential option arises from a concrete, lived encounter with the injustice inflicted upon “the poor”—an encounter that serves as the very foundation of liberation theology. Not surprisingly, a large body of liberationist work explores the extent, nature, and moral significance of poverty. To convey a sense of the profound deprivation that exists in the developing world, many texts employ statistics such as those provided by the United Nations Development Programme. This agency reported in 1998 that “of the 4.4 billion people in developing countries, nearly three-fifths lack access to safe sewers, a third have no access to clean water, a quarter do not have adequate housing, and a fifth have no access to modern health services of any kind” (Crossette 1998). Moreover, 1.3 billion people live on incomes of less than one dollar a day (UNDP 1999).

These are the people to whom liberation theologians refer when they speak of “the poor.” However, liberationists also define the category in more general terms. Leonardo Boff and Clodovis Boff, for example, explain that

[b]ly “poor” . . . we mean a collective poor, the “popular classes,” which is a much wider category than the “proletariat” singled out by Karl Marx. . . . The poor are also the workers exploited by the capitalist system; the underemployed, those pushed aside by the production process—a reserve army always at hand to take the place of the employed; they are the laborers of the countryside, and migrant workers with only seasonal work [Boff and Boff 1987, 3–4].

As this passage suggests, liberation theologians understand the poor as a social class, a group whose destitute circumstances are the product, not of chance misfortune, but of systematic exploitation. Using a combination of social-scientific analysis, religious reflection, and practical activity, liberationists attempt to fully understand this oppression, to appreciate the structural causes of poverty as well as the power of the poor to transform the situation (see McGovern 1989, 30–46, 105–94). They argue that in a world that presents such stark inequality—in a system of winners and losers—one is ethically obligated to struggle on the side of the losers, to assert a “preference” for the poor. Putting this in religious terms, Boff and Boff write, “How are we to be Christians in a
world of destitution and injustice? There can be only one answer: we can be followers of Jesus and true Christians only by making common cause with the poor and working out the gospel of liberation” (Boff and Boff 1987, 7).

Looking more closely at the preferential option for the poor, one finds that this idea can readily be applied in the realm of human rights theory. Ultimately, human rights presented liberationists with a dilemma very similar to one they had already tackled in conventional theology: How can a “universal” value also have a “partial” character? To a large extent, the preferential option is an argument about why God’s universal love should necessarily translate into a partiality for the poor. North American theologian Stephen Pope describes the threefold reasoning behind this position: Morally, Christians are called to the side of the poor not because of any special ability this group may have, but because of the special need for liberation that accompanies tremendous poverty. Religiously, biblical exegesis reveals a God who affirms a love for all human beings through attentive care for those who are most dehumanized. Cognitively, Christians are called to acknowledge “a ‘perspectivism’ rooted in the sociology of knowledge, i.e. a recognition that social location profoundly influences our sensibilities, attitudes, priorities, moral commitments, etc.” (Pope 1993, 247). Acknowledging that all thought reflects the experience of a particular group, liberation theologians explicitly advance the situated viewpoint of the poor as the most appropriate for a Christian approach to God and to worldly action.

Pope’s differentiation of moral, religious, and cognitive dimensions of partiality is helpful in understanding how the liberationists’ adherence to a preferential option for the poor structures their transformation of conventional human rights theory. Cognitively, the option for the poor leads liberation theologians to a hermeneutical suspicion of any human rights theology that goes only so far as to assert the universal endowment of these rights to all humans—that is, of any theology that stops with stressing that all of humanity is created in God’s image and thus fails to recognize that this broad proposition itself grows from a particular social location. The religious partiality that comes from the preferential option leads liberationists to contend that human rights, if indeed God-given, must contain an explicit concern for the downtrodden. Here, biblical exegetes like Leonardo Boff reveal a “God of Life” that “takes the part of the poor and oppressed, whose lives are threatened” (Boff 1988, 61).21 He argues that “the rights spoken of in the Bible belong to the orphan, the widow, the pauper, the immigrant, and the alien. There is

21 Though I focus on the theologically conceived option here, Boff elsewhere chronicles the “christological, eschatological, apostolic, and ecclesiological” foundations of a preference (see Boff and Boff 1987, 44–46).
no sidestepping that fact that biblical rights, especially in the Prophets, the Wisdom literature, and the New Testament, are the rights of the oppressed” (Boff 1988, 59). Finally, expressing a moral partiality, liberationists prioritize the basic needs of the poor over the liberties of the rich, and in doing so, they affirm foremost the foundational right to life. Since the rights and dignity of the rich and powerful have always been respected, an emphasis on universal human rights for their benefit makes no sense. Rather, as Comblin makes clear, it is in defense of the poor, who are in need and whose rights have never been respected as such, that a language of human rights gains meaning: “The defense of human rights consists in publicly asserting that laws are valid for the poor, too, that the poor, too, have rights” (Comblin 1990, 57). Here, Comblin argues that the language of human rights requires a preference, because it is unnecessary to defend the rights of those whose rights are not at risk. As liberationists assert the wider validity of the rights that only elites currently enjoy, these rights truly become human rights, rather than merely some particularized type of moral rights. Thus, universality is affirmed as these rights are extended beyond the exclusive possession of a privileged class.

4.2 The four dangers reconsidered

With the preferential option guiding their emphasis on the rights of the poor, liberationists can effectively address the concerns raised in the earlier critique, which expressed skepticism about the “universal-ity” of human rights. Indeed, their previous unmasking of the elite bias built into human rights as they have traditionally been conceived allows liberation theologians to consciously place themselves as advocates of a different group, the poor and oppressed. This shift represents a radical challenge to traditional rights theory, as it demands that theorists reevaluate their views about rights from the perspective of those whom human rights practice has, so far, largely failed—those who have not been afforded the protections of the social contract, those who make up the “greatest number” but have never received their part of the “greatest good,” and those whose “God-given” nature has not appeared self-evident to many oppressors. Liberationists who have appropriated human rights discourse do not regard commitment to the protection of human rights as the social status quo which governments must be pressed to maintain and to which agents of the state must be held accountable. From their perspective, such protection has yet to be achieved. Assertions of these rights become, instead, urgent demands for social transformation. In religious terms, the rights of the poor are a theodicy, an attempt to show God working on the side of those who have
seen the reality of evil. It is through their realization that God will be shown to be the liberator of the poor rather than their betrayer.\textsuperscript{22}

The focus on the rights of the poor also allows liberationists to reckon with each of the dangers that are associated with the more conventional liberal formulation of human rights: the lack of systemic vision, the moral absolution of the first world, the condemnation of conflict, and the dependence on bourgeois conceptions of agency. I will now re-examine these in turn, exploring the resources that an emphasis on the rights of the poor might bring to the discussion of each, but I will also explore the extent to which these four concerns might continue to confound liberationists who employ human rights language.

Centralizing the rights of the poor addresses the systematic violation of human rights in several ways. First, it enables theologians to frame human rights as a set of "claims in conflict." David Hollenbach explains how this liberationist insight has influenced a wider Catholic understanding of human rights: "(1) the needs of the poor take priority over the wants of the rich. (2) The freedom of the dominated takes priority over the liberty of the powerful. (3) The participation of marginalized groups takes priority over the liberty of the powerful" (Hollenbach 1979, 204–7, quoted in Hennelly 1989, 99). Not only do these guidelines force consideration of how some claims to rights may be validated more fully than others, but they also allow theorists to revalue rights that fit poorly within traditional individualistic forms of liberal rights theory. Liberation theologians, thus, highlight rights of the poor that force people to interrogate systems—rights such as the right to work, the right to participate in political and economic systems, and the right to transform society, as well as the right to equality. Furthermore, liberation theologians stress the importance of using this discussion to break down the established dichotomies of rights discourse: the rights of the poor are both in personam, as poor individuals are able to demand relief from specific abuses, and in rem, as society must create structures that can provide this relief more generally. They are both concrete, a set of actual substantive entitlements that the poor can demand, and abstract, providing ethical norms to guide public discourse (Aldunate 1989/1993, 106–12).

Although the assertion of a broad range of system-oriented, second- and third-generation rights is an innovative strategy for challenging the limits of traditional liberal conceptions of human rights, it remains uncertain whether the category of "rights" can bear the burden of this

\textsuperscript{22}See Gutiérrez 1987, 101–3, for a prominent liberationist attempt to reckon with the question of theodicy, asserting "a right to complain and protest" for "those who suffer unjustly" and identifying denunciation of abuses as a crucial Christian prerogative. See Sobrino 1985 for a more explicit discussion of the power of human rights language to reveal the character of God.
move. Many of the rights that liberation theologians affirm remain theoretically underdeveloped. A key example of this is the "right to equality." Joaquin Undurraga argues that the poor can claim not only equality of right, "equality before God or before the law," but also equality of hecho (act) (Undurraga 1989/1993). It is very unclear, however, what this second form of the right to equality entails—Undurraga's article refers variously to a right to equal opportunity to command scarce resources, to equal distribution of such resources, and (most awkwardly) to equal access to one of the different unalienating means by which to subsist economically and culturally. Moreover, the Derechos de los pobres volume never questions the extent to which "equality" constitutes a category of entitlement, or liberty, to which a "right" could viably refer. Thus, the question remains as to what practical impact second- and third-generation rights can have, given their theoretical indeterminacy.

In connection with the next two dangers associated with use of human rights language, the rights of the poor provide an important tool for challenging both first-world claims to moral purity and first-world condemnations of resistance. Situating oneself with the poor forces one to examine the systems of dependency and inequality that the first world perpetuates. From this perspective, one inevitably asks whose rights are being affirmed by the ostensibly universally minded policies of the United States and whose rights are being denied. Furthermore, a liberationist view of rights as "claims in conflict" is innovative in two ways. First, it affirms the necessity of conflict among the different moral demands made in the name of rights. Second, it helps reshape the lexicon of rights language to preclude facile condemnations of those defending the rights of the poor; since conflicting claims necessarily mean that not all rights will be equally honored at a given time, individual "violations" must be put in a larger social context. This new conceptualization of human rights discourse does not presume a egalitarian system that is functioning well; rather, it keeps the real misery of so much of humanity at the center of discussion. As Gutiérrez explains, adopting the rights of the poor "is not merely a matter of words. This alternative language represents a critical approach to the laissez-faire, liberal doctrine to the effect that our society enjoys an equality that in fact does not exist" (Gutiérrez 1983, 87).

Finally, while affirming the importance of the juridical and legislative function of human rights, a focus on the rights of the poor also draws attention to other uses of "rights" that better allow the poor to become agents in the making of history. Human rights can function as utopian norms at the root of a vision of just relations and as a set of demands that mandate immediate historical action by many persons and groups working with the poor for a better society. They are variously recommended as
tools for political consensus building and for base community consciousness raising. Perhaps most importantly, human rights, in their liberationist formulation, become a strong reason for Christian churches to take the side of the poor and to make their moral and material resources available to engaged parishioners.

5. Historicizing Ethical Analysis

A conception of human rights that focuses on the rights of the poor is now firmly established in the corpus of liberation theology, and it has been variously employed in different countries over the past two decades. Nevertheless, some remain skeptical about the use of human rights, and several of the critical insights from the Carter era remain trenchant. Having examined the rights of the poor in light of the earlier liberationist critique of human rights, one can ask which of the original concerns may still be relevant today. Can the language of universal human rights be successfully co-opted or appropriated by liberation theologians? Can economic and social ideals truly be accommodated as rights? Will the definition and defense of human rights remain the prerogative of legal officials, policymakers, and monitoring specialists, or will the force of popular movements give this work a new context, a new direction, and a new meaning? Can human rights discourse be a force for progressive change today, or will it rather serve as a rationalization for complacency?

Liberation theologians hold that these questions cannot be resolved through abstracted contemplation. In their analysis of human rights, as in their theoretical work more generally, liberationists advance a strong methodological contention: they stress that intellectual analysis should be informed by an active engagement with the poor, by a practical commitment to challenging the systems of oppression at work in our world today. They see their academic work not as removed and speculative, but instead as “critical reflection on praxis” (Gutiérrez 1983, 87)—an activity designed not just to understand the world, but to change it. Thus, to effectively address questions about the philosophical validity of human rights claims, we must know how these questions have previously been answered in historical struggle, and we must try to discern what potential there may be for changes in the use of human rights in the future.

Advancing this position, Salvadoran liberationist Ignacio Ellacuría calls for a “historicization” of ethical analysis. As John Hassett and Hugh Lacey explain:

Central to Ellacuría's methodology is the view that the meanings of such key terms of moral theory as "property," "democracy," "human rights," and
“violence” cannot be comprehended abstractly or dissociated from their uses in concrete historical circumstances and what they apply to within different socio-economic structures. Their meanings are variable, and they are shaped and refined . . . in response to actual events [Hassett and Lacey 1991, 10].

Ellacuria further stresses the gap that can exist between the principles that are rhetorically affirmed in the abstract and the practical use made of this rhetoric. The irony of human rights, he states, is that “as abstract and universal, everyone assents to them and they stand for realities which, as they operate in history, are however the negation of what they claim to be” (Ellacuria 1991, 109).

In their political thought, liberation theologians argue that any process of reform is dangerous when the changes it effects are merely announced and accepted in theory, without the necessarily conflictive engagement that accompanies real change. Along these lines, Assmann denounces “changes [that] are evoked in proclamation, ‘believed’ in utopian and ideological fashion, not won in the fight”; such reforms, he proposes, are “justifications for leaving things as they are” as often as they are genuinely emancipatory acts (Assmann 1973/1975, 99). The widespread adoption of human rights language risks being such a pseudoreform. A “human rights revolution,” liberationists suggest, cannot come about simply through deliberation in the diplomatic proceedings of the United Nations or in philosophical journals; such a revolution, instead, must be lived by the majority in our world whose human rights are constantly violated and by those who would deprive them of these rights. Ellacuria’s challenge to historicization not only echoes Assmann’s warning but also offers a way for scholars to reckon with it; he demands that ethicists study concepts like human rights in a new way, one that involves “demonstrating [their] impact . . . within a particular context” (Ellacuria 1991, 109).

In their insistence both on historicizing human rights and on grounding intellectual work in practical struggle, liberation theologians point to the analytical limits inherent in this article’s traditional theoretical inquiry. But even while a survey of liberationist approaches to human rights cannot be an end unto itself, such analysis nevertheless gives insight into the perennial questions that surround the very notion of human rights, allowing for deeper understanding and strategic thinking about these ideals. Especially for those committed to developing a full vision of human rights in their work for a more just society, the distinctive understanding that emerges from liberation theology can provide an important guide. Focusing on the rights of the poor is a way of making explicit the perspectives, concerns, and values that inform liberationist work. It calls into question the latent prioritizations of human rights that so often make their enforcement coincide with elite interests.
It also proposes a manner in which human rights can take effect in the world in a new way, showing explicit partiality toward the most oppressed members of our society.

Ultimately, liberation theologians force us to recognize that human rights are not established and intransigent ideals. Rather, they are concepts continually being shaped and defined in historical struggle. The argument for the rights-of-the-poor appropriation is not that human rights are inherently positive and their acceptance uncontroversial. The argument, instead, is that human rights have conceptual value and practical usefulness, and that, in a world of persistent injustice, the emergent meaning and mandate of these rights may greatly influence the course of social development for the better. The argument, in short, is that the idea of human rights is an idea worth fighting for.

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