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2008

## "In All Things Love" Immigration, Policy-Making and the Development of Preferential Options for the Poor

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# **“In All Things Love”: Immigration, Policy-Making, and the Development of Preferential Options for the Poor**

Michele R. Pistone and John J. Hoeffner

The invitation to write for this symposium stated that the preferential option for the poor “asks us to define what law and public policy would look like if consideration for the poor was at the heart of our conception of the common good.” Inquiries of this kind are useful and necessary—to a point. They also can become counter-productive. The issue of immigration, which we discuss here to illustrate our larger point about the general appropriateness of claiming that a specific policy prescription is demanded by the preferential option for the poor, presents the complications of the matter in particularly stark relief. Our ultimate conclusion is that, in order to be of practical use, attempts to define the common good in light of the preferential option for the poor must couple a commitment to the poor with humility and, indeed, love. Absent this coupling, the preferential option is reduced to being nothing more than an ineffective phrase.

## **I. The Preferential Option for the Poor**

The preferential option for the poor has been called the most controversial religious term since “Salvation through faith alone.”<sup>1</sup> The controversy has arisen because “the preferential option for the poor” has

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<sup>1</sup> DONAL DORR, *OPTION FOR THE POOR: A HUNDRED YEARS OF VATICAN SOCIAL TEACHING 1* (Orbis Books rev. ed. 1992) (1983). See also JOHN O'BRIEN, *THEOLOGY AND THE OPTION FOR THE POOR 6* (1992) (“It is probably fair to say that the most important as well as the most controversial issue in contemporary Christian theology is what has become known as ‘the option for the poor.’”).

associations with liberation theology, and liberation theology in turn has associations with Marxist thought. The degree to which these associations are warranted is subject to dispute. The associations are not fanciful, for at the very least many of liberation theology's early proponents also embraced Marxist approaches to political, economic and social questions, and expressly utilized Marxist analysis as a tool for determining the content of liberation theology and the preferential option. But it is equally true that since their origins in Latin America three to four decades ago, both terms have come to be embraced by many persons skeptical about or even hostile to Marxism. Thus, for example, while Pope John Paul II noted "the failure of Marxism to contribute to a humane and better society,"<sup>2</sup> he also stated that:

Liberation theology is not only timely but useful and necessary. It should be seen as a new stage, closely connected with earlier ones, in the theological reflection that began with the apostolic tradition and has continued in the great fathers and doctors, the ordinary and extraordinary exercise of the church's teaching office, and, more recently, the rich patrimony of the church's social teaching as set forth in documents from *Rerum Novarum* to *Laborem Exercens*.<sup>3</sup>

The "preferential option" terminology and concepts about it have become even more firmly ensconced in the mainstream of Catholic social thought. Indeed, Gustavo Gutiérrez, the most important liberation theologian—and more or less the originator of the term<sup>4</sup>—has aptly

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<sup>2</sup> POPE JOHN PAUL II, CENTESIMUS ANNUS ¶ 19 (1991). In the same encyclical, John Paul II also criticized Marxism for its atheism, and noted that the inefficiency of the Marxist economic system "is not to be considered simply as a technical problem, but rather as a consequence of the violation of the human rights to private initiative, to ownership of property and to freedom in the economic sector." *Id.* ¶ 24.

<sup>3</sup> GUSTAVO GUTIÉRREZ, A THEOLOGY OF LIBERATION xliiv (Sister Caridad Inda & John Eagleson trans. & eds., 15th anniversary ed. 1988) (quoting Pope John Paul II, *Letter to the Episcopal Conference of Brazil* (April 9, 1986)).

<sup>4</sup> "The specific notion of the 'preferential option for the poor' was coined in a succession of terms linked together by Gutiérrez in 1968." GERALD S. TWOMEY, THE PREFERENTIAL OPTION FOR THE POOR FROM JOHN XXIII TO JOHN PAUL II 15 (2005). See James B. Nickoloff, *Introduction* to GUSTAVO GUTIÉRREZ, GUSTAVO GUTIÉRREZ: ESSENTIAL WRITINGS 14 (James B. Nickoloff ed., 1996) [hereinafter GUTIÉRREZ, ESSENTIAL WRITINGS] (stating that although "the formula [of the preferential option for the poor] itself is correctly associated with the Puebla conference (1979), the fundamental idea, which synthesizes three distinct elements, was already present in germ at Medellín (1968) and, indeed, in Gutiérrez's own thinking as early as 1967"). Significantly, Gutiérrez participated at and heavily influenced both the Medellín and Puebla conferences of Latin American bishops. See *id.* at 3-4 (noting Gutiérrez's active and "indispensable role" at Medellín); Moises Sandoval, *Report from the Conference, in PUEBLA AND BEYOND* 28, 36 (John Eagleson & Philip Scharper eds., 1979) (noting Gutiérrez's influence in an unofficial role at Puebla); Robert McAfee Brown, *The Significance of Puebla for the Protestant*

noted that “the option is now an essential element in the understanding that the church as a whole has of its task in the present world.”<sup>5</sup> Thus, the U.S. Bishops stated that “the preferential option for the poor is the central priority for policy choice.”<sup>6</sup> Similarly, Pope John Paul II noted that “the option, or love of preference for the poor . . . cannot but embrace the immense multitudes of the hungry, the needy, the homeless, those without medical care and, above all, those without hope of a better future.”<sup>7</sup> Further, the Jesuit Philip Land, who played an influential role in the preparation of several Vatican social teaching documents, stated that “[t]he preferential option for the poor is fundamental to the Catholic perspective,” even while he criticized liberation theology for uncritically adopting many Marxist assumptions.<sup>8</sup> Finally, the Church’s official summary of its social thought calls for “*the preferential option for the poor* [to be] reaffirmed in all its force.”<sup>9</sup>

The reason that the preferential option for the poor can at once be regarded as extremely controversial *and* as having gained widespread acceptance is that its meaning is unsettled. While almost everyone can agree with Gutiérrez’s conclusion that “[t]here have certainly been misunderstandings of the preferential option for the poor,”<sup>10</sup> there is much less agreement as to whose interpretations are correct and whose in-

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*Churches in North America, in PUEBLA AND BEYOND* 330, 341 (John Eagleson & Philip Scharper eds., 1979) (referring to the influence of Gutiérrez at Puebla). Accordingly, to the extent that the precise term “the preferential option for the poor” can be credited to any single individual, that individual would be Gutiérrez, notwithstanding Gutiérrez’s modest declaration that “[t]he phrase stems from the experience of the Latin American church.” TWOMEY, *supra* at 15 (citing Daniel Hartnett, *Remembering the Poor: An Interview with Gustavo Gutiérrez*, 188 AMERICA 14 (Feb. 3, 2003)). Incidentally, Gutiérrez also is (more definitively) credited with coining the term “theology of liberation.” James B. Nickoloff, *Introduction*, in GUTIÉRREZ, *ESSENTIAL WRITINGS*, *supra* 5 (as far as is known, “the first time the term ‘theology of liberation’ was used, in Latin America or anywhere else,” was by Gutiérrez, in July 1968, at a presentation in Chimbote, Peru).

<sup>5</sup> GUTIÉRREZ, *A THEOLOGY OF LIBERATION*, *supra* note 3, at xxviii; *see also id.* at xxv (noting that the preferential option “has now been widely accepted in the universal church”).

<sup>6</sup> U.S. CATHOLIC BISHOPS, *ECONOMIC JUSTICE FOR ALL: PASTORAL LETTER ON CATHOLIC SOCIAL TEACHING AND THE U.S. ECONOMY* ¶ 260 (1986) [hereinafter *ECONOMIC JUSTICE FOR ALL*] (*italics deleted*).

<sup>7</sup> POPE JOHN PAUL II, *SOLLICITUDO REI SOCIALIS* ¶ 42 (1987).

<sup>8</sup> PHILIP S. LAND, *CATHOLIC SOCIAL TEACHING AS I HAVE LIVED, LOATHED, AND LOVED IT* 81, 190-95 (1994).

<sup>9</sup> PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH* 79 ¶ 182 (2004).

<sup>10</sup> GUTIÉRREZ, *A THEOLOGY OF LIBERATION*, *supra* note 3, at xxviii.

terpretations are “misunderstandings.” And no authoritative source, no Supreme Court or Council of Nicaea, stands ready and able to impose a definitive meaning. Thus, while one can say with certainty that the term “preferential option for the poor” has gained widespread acceptance, the claim that the principle of the preferential option has gained similar acceptance is on shakier ground—at some point, does not disagreement over the application of a principle suggest more fundamental disagreement over the principle itself, or reveal the de facto existence of two or more principles known by the same name? Moreover, in addition to substantial disagreement concerning the practical implications of the preferential option, consensus also is lacking over some epistemological implications of the principle.<sup>11</sup> A similar level of disagreement exists as to whether and to what degree the preferential option is in conformity with older aspects of the social teaching.<sup>12</sup>

Despite all these disagreements—especially concerning the use of the preferential option to define policy—it is far too early to declare that the preferential option lacks utility. The preferential option, Gutiérrez has stated, “is pregnant with consequences; it is also, we must say, only in

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<sup>11</sup> See Gerald O’Collins, *Foreword to JOHN O’BRIEN, THEOLOGY AND THE OPTION FOR THE POOR 1* (1992) (stating that while it is “relatively easy to make useful generalizations about such matters as . . . the option for the poor . . . [p]roblems set in when one tries to interpret, explain, and apply in detail what those generalizations might entail”). Indeed, as far as disputes about the practical implications of the preferential option are concerned, one of the purposes of the conference at which this paper was presented was to address whether “the concept [of the preferential option is] sufficiently determinate to make a real difference in formulating law and policy.” As to epistemological issues, one stems from the fact that “[w]ithin liberation theology, the preferential option for the poor is closely connected with the epistemological privilege of the poor. While the preferential option . . . demands that all Christians . . . alleviat[e] the suffering of the poor, the epistemological privilege goes further. It insists that the poor have a privilege in knowing . . . God.” Christine E. Gudorf, *Commentary on Octogesima Adveniens: A Call to Action on the Eightieth Anniversary of Rerum Novarum*, in *MODERN CATHOLIC SOCIAL TEACHING: COMMENTARIES AND INTERPRETATIONS* 315, 323 (Kenneth R. Himes ed., 2004). Another epistemological issue that is sometimes raised is whether “the option for the poor den[ies] other persons and aspects that must be considered by the knower.” See CHARLES E. CURRAN, *CATHOLIC SOCIAL TEACHING, 1891-PRESENT: A HISTORICAL, THEOLOGICAL, AND ETHICAL ANALYSIS* 186-87 (2002).

<sup>12</sup> Compare LAND, *supra* note 8, at 81, 190-95 (stating that the “[p]referential option for the poor . . . is a new expression, but the concept has a long tradition in Catholic social teaching”) with Virgil Elizondo & Leonardo Boff, *Editorial: Theology from the Viewpoint of the Poor*, in *OPTION FOR THE POOR: CHALLENGE TO THE RICH COUNTRIES* ix (Leonardo Boff & Virgil Elizondo eds., 1986) (“The preferential option for solidarity with the poor is nothing short of a Copernican revolution for the Church.”).

its beginnings.”<sup>13</sup> There is, in other words, plenty of cause for optimism. On the other hand, it is prudent even during the beginning of a pregnancy to identify troubling complications. In the next section, we note one type of complication that can arise, in a discussion of the preferential option’s application to immigration.

## II. Immigration and the Preferential Option for the Poor

Defining the “poor” is a central problem in applying the preferential option for the poor. Gustavo Gutiérrez himself has recognized the definitional issue and the difficulty of resolving it:

So what do we mean by “poor.” I do not think there is any good definition, but we come close to it by saying that the poor are non-persons, the *in-significant*, those who do not count in society and all too often in Christian churches as well. . . . We do not know the names of the poor; they are anonymous and remain so. They are insignificant in society but not before God.<sup>14</sup>

The definitional problem is at its height when the issue of immigration is considered. Most other issues—health care, bankruptcy, tax, etc.—are largely and often exclusively viewed through a domestic framework. In these cases, in considering U.S. policy and the preferential option, the poor can generally be regarded as the least wealthy people out of the now 300 million Americans. We may say, for example and for the sake of argument, that the American poor are 30 million people, 10% of the total population. But immigration requires a different calculation. Considering the issue from the perspective of the preferential option demands a greatly enlarged perspective; more than two and one half billion people—more than eighty times the number of American poor—live outside the United States on two dollars a day or less.<sup>15</sup>

In this enlarged context, with so many persons living in extreme poverty, are the domestic poor “the poor” anymore? The question becomes more than an academic one if it turns out that, under some circumstances, as a practical matter the interests of the domestic poor are at odds with the interests of poor potential immigrants from around the world.

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<sup>13</sup> GUTIÉRREZ, A THEOLOGY OF LIBERATION, *supra* note 3, at xxviii.

<sup>14</sup> GUTIÉRREZ, ESSENTIAL WRITINGS, *supra* note 4, at 144-45.

<sup>15</sup> WORLD BANK, GLOBAL ECONOMIC PROSPECTS 2007: MANAGING THE NEXT WAVE OF GLOBALIZATION xiii (2006).

Indeed, the conflict is very real. For example, at least to some degree, poor immigrants take jobs and depress wages for low-income non-immigrants.<sup>16</sup> Historically and today, the impact of immigration on African-Americans has been and is particularly severe.<sup>17</sup> Because jobs with good wages are the most indispensable elements of an effective poverty alleviation program, the adverse effects of immigration on the job and wage prospects of the domestic poor create a substantial and fundamental dilemma for those trying to apply the preferential option to help the poor.

Other considerations may intensify the dilemma. For instance, years of research by Harvard political science professor Robert D. Putnam recently produced the unwelcome finding that the greater the ethnic diversity in a community, the lower the levels of trust in it. Indeed, Putnam's research suggests that "the more diverse a community is,

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<sup>16</sup> See JAMES M. JASPER, *RESTLESS NATION: STARTING OVER IN AMERICA 178-79* (2000) (noting that "a fairly clear image emerges from research" on the economic effects of immigration on "the bottom of the job hierarchy," i.e., that immigrants "keep wages low [and] frequently take jobs from the native-born"); WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* 34 (1996) (noting immigration has negatively "affected the wages of poorly educated workers," and citing study attributing "nearly one-third of the decline in earnings for male high school dropouts" to immigration); Andrew Sum, Paul Harrington & Ishwar Khatiwada, *The Impact of New Immigrants on Young Native-Born Workers, 2000-2005* (Sept. 2006) (concluding that "young native-born workers are being displaced in the labor market by the arrival of new immigrants"), available at <http://www.cis.org/articles/2006/back806.pdf>. Cf. Robert Samuelson, *Trickle-Up Economics: Our Growing Inequality Problems*, WASH. POST, Sept. 27, 2006, at A27 (stating that "lax immigration policies . . . deepen U.S. [economic] inequality"). But see Rakesh Kochhar, *Growth in the Foreign-Born Workforce and Employment of the Native Born* i (2006) (finding "[n]o consistent pattern . . . to show that [foreign-born workers affected the employment rates] of native-born workers" from 1990 to 2004).

<sup>17</sup> JASPER, *supra* note 16, at 179 (noting historical conflicts between immigrants and African-Americans, as well as continuing negative impact on African-Americans' employment opportunities in construction, agriculture and other fields); ROY BECK, *THE CASE AGAINST IMMIGRATION* 166 (1996) (noting that the great 19<sup>th</sup> century European migrations "[i]n a cold, economic sense, . . . left the United States—other than southern plantation owners—with little need of the labor of its black citizens"); George J. Borjas, Jeffrey Grogger & Gordon H. Hanson, *Immigration and African-American Employment Opportunities: The Response of Wages, Employment, and Incarceration* 48 (Aug. 2006) (finding "a sizable and statistically significant negative correlation between immigrants and the employment rate of black men"), available at <http://www.ksg.harvard.edu/inequality/Seminar/Papers/Borjas06.pdf>; Andrew Sum, Paul Harrington & Ishwar Khatiwada, *The Impact of New Immigrants on Young Native-Born Workers, 2000-2005* (Sept. 2006) (concluding that "[t]he negative impacts [of immigration in the study period] tended to be larger . . . for native-born black and Hispanic males compared to their white counterparts"), available at <http://www.cis.org/articles/2006/back806.pdf>.

the less likely its inhabitants are to trust anyone—from their next-door neighbor to the mayor,” including neighbors of the same ethnic background.<sup>18</sup>

Putnam’s finding, if true, has implications beyond the neighborhood. It has long been noted, for example, that the welfare state—which we assume is of greatest relative benefit to the poor—is less expansive in the United States than in the ethnic states of Europe.<sup>19</sup> It further has been thought that America’s less expansive welfare state is positively related to America’s greater ethnic diversity. Thus, two years ago, a long opinion piece in the Guardian newspaper in the U.K. brought about a storm of controversy by arguing that the United Kingdom’s liberal immigration policies were at war with the maintenance of the U.K.’s welfare state—the article pointedly offered the U.S. example as proof that large-scale immigration cannot co-exist with a welfare system as generous as those of western Europe.<sup>20</sup> Putnam’s research can be interpreted as confirming this intuition as it relates to both the United States and the United Kingdom.

Moreover, not only has it been suggested that ethnic majorities become more reluctant to favor a welfare state when they fear the benefits are going to people “not like them,” it also has been argued that there

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<sup>18</sup> John Lloyd, *Study Paints Bleak Picture of Ethnic Diversity*, FINANCIAL TIMES, Oct. 8, 2006 (noting Putnam’s discomfort with the strength of his own findings, which findings demonstrate, in Putnam’s words, that “[t]he effect of diversity is worse than had been imagined [as] it’s not just that we don’t trust people who are not like us. In diverse communities, we don’t trust people who do look like us.”).

<sup>19</sup> E.g., Alberto Alesina et al., *Why Doesn’t the US Have a European-Style Welfare State?*, at 3, Harv. Inst. Eco. Research, Discussion Paper No. 1933 (Nov. 2001) (stating that, compared to the welfare state in the U.S., “European social programs are more generous and reach a larger share of citizens”), available at <http://post.economics.harvard.edu/hier/2001papers/HIER1933.pdf>; WILSON, *supra* note 16, at 153 (comparing the U.S.’s welfare system with Europe’s, and noting Europe’s “relatively munificent social safety nets”); JASPER, *supra* note 16, at 173 (stating that as a result of widespread mistrust of government, “government plays less of a role in the lives of American citizens, especially economically, than in the lives of citizens of other industrial countries”). Indeed, Jasper cites figures showing that from 1870 to the eve of World War II, government spending in the United States, as a percentage of gross domestic product, was consistently half that of the average in the industrial world and, even recently, was still nearly about one-third less than the industrial world’s average. *Id.*

<sup>20</sup> David Goodhart, *Discomfort of Strangers*, GUARDIAN (U.K.), Feb. 24, 2004 (stating that “the welfare state has always been weaker in the individualistic, ethnically divided U.S. compared with more homogeneous Europe”). See also Alesina et al., *supra* note 19, at 39 (concluding that it is “quite clear that hostility to welfare comes in part from the fact that welfare spending in the U.S. goes disproportionately to minorities,” and additionally noting that, “indeed, across the world racial cleavages seem to serve as a barrier to redistribution”).

is a self-selection among immigrants, at least to the United States, such that the immigrants who do come are temperamentally opposed to the welfare state in the first place.<sup>21</sup> A recent story in the Los Angeles Times, for example, argued that Mexican men are often unwilling to apply for food stamps even when they are clearly eligible. The story included this quote: “The Mexican man is macho. He doesn’t want to come to this country and beg.”<sup>22</sup> The question may fairly be asked, if and when that macho man gets to vote, what sort of welfare state will he favor?

Finally, there is also some evidence that large-scale immigration makes assimilation less likely, by removing in large part the necessity for it. Even regarding the United States, which is much more successful than most at assimilation, it can be argued that the great waves of 19<sup>th</sup> and early 20<sup>th</sup> century immigrants really started to assimilate only after immigration was drastically reduced by the restrictive immigration laws of the early 1920s.<sup>23</sup> A failure to assimilate highlights the diversity that Putnam says leads to lower levels of trust, which in turn can lead to distrust of the welfare state, which, we shall continue to assume, is to the disadvantage of the poor. In support of this chain of reasoning, we can note that, coincidentally or not, enthusiasm for the welfare state in the United States probably peaked at the onset of the Great Society in the 1960s, after four decades of historically low immigration rates, and just before immigration picked up again in the aftermath of the 1965 Immigration Act.

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<sup>21</sup> See JASPER, *supra* note 16, at xii, 58, 60-61, 149, 180, 181. Jasper argues that immigrants have always had a greater appreciation for markets and economic freedom than their compatriots who stayed home, and that immigrants leave their homelands because they know that they want and can find more of that freedom in the United States. *Id.* at 60-61; *see also id.* at xii, 58, 149, 180-181 (arguing that, in general, immigrants identify with, as well as directly and indirectly cause, the “conservative individualism” prevalent in the U.S.; the individualistic ethic mistrusts government and trusts markets, and is well-suited to appeal to people who came to the United States “to escape legal, cultural, religious, and economic authorities who constrained them,” and “who hoped to establish themselves here as individuals”).

<sup>22</sup> Jennifer Delson, *Food-Stamp Program Finally Speaks Their Language*, L.A. TIMES, Oct. 13, 2006.

<sup>23</sup> Peter H. Schuck, *Alien Ruminations*, 105 YALE L.J. 663, 674-77 (1996) (book review); PETER BRIMELOW, *ALIEN NATION: COMMON SENSE ABOUT AMERICA’S IMMIGRATION DISASTER* 216 (1995); Michele R. Pistone & John J. Hoeffner, *The Acceptance of Immigrants: Lessons from the Past and Questions for the Future*, 10 MEDITERRANEAN J. HUM. RTS. 7, 29 (2006); Roger Lowenstein, *The Immigration Equation*, THE NEW YORK TIMES MAGAZINE, July 9, 2006, 36, 70 (citing Professor George J. Borjas for noting that when “America essentially closed the gate for 40 years” beginning in the 1920s, “[t]he country had time to let assimilation occur”).

All of these considerations combine to create genuine conflict between the interests of the U.S. domestic poor and the interests of the poor of the world. Given such conflict, does the preferential option have any utility in defining specific immigration policy? The next section addresses the question.

### III. An Emerging Option

Catholic social teaching recognizes conflict and complexity, and the necessity for identifying both. Indeed, in *Economic Justice for All*, the U.S. bishops expressly warned against ignoring these matters in the context of discussing how to reconcile the needs of domestic constituencies and the needs of the international poor, as they noted that as between these needs “complexities and trade-offs are real and must be confronted.”<sup>24</sup>

*Economic Justice for All* embodies two characteristic responses of Catholic social teaching to recognized complexity. First, it states that the complications and difficulties of an issue “are not an excuse for inaction. They should not paralyze us.”<sup>25</sup>

The second characteristic response in the face of recognized complexity is a resort to generality. As Father William Byron, the former president of Catholic University, has noted, “[i]n Catholic social teaching,] the question is always general; so is the response. Whatever the question, the answer is usually framed in a few general principles accompanied by several guidelines for programs consistent with the principles.”<sup>26</sup> Father Byron then continues by saying that—and even from the written page you can almost hear the sigh in his voice—“[f]or a universal teaching church, this is the way it has to be, I suppose.”<sup>27</sup>

*Economic Justice for All* contains very little on immigration.<sup>28</sup> At some length, however, it does discuss trade, an analogous issue to im-

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<sup>24</sup> ECONOMIC JUSTICE FOR ALL, *supra* note 6, ¶ 293.

<sup>25</sup> *Id.*

<sup>26</sup> William J. Byron, S.J., *The Future of Catholic Social Thought*, 42 CATH. L. REV. 557, 558 (1993).

<sup>27</sup> *Id.*

<sup>28</sup> Our recent review of *Economic Justice for All* found only two short references to immigration, one of them a passing historical reference to past U.S. success in accommodating immigrants, and the other a one-sentence reference to immigration as one of several “foreign policy decisions” that “have direct and substantial impact on domestic constituencies in the United States.” ECONOMIC JUSTICE FOR ALL, *supra* note 6, ch. 1, ¶ 6, ch. 3, ¶ 257.

migration. Four paragraphs are devoted exclusively to trade.<sup>29</sup> In no specific sense do these paragraphs reveal “what law and public policy would look like if consideration for the poor was at the heart of our conception of the common good.” The first of the four paragraphs states that “[t]he preferential option for the poor does not, by itself, yield a trade policy.” The next paragraph notes that “[t]rade policy illustrates the conflicting pressures that interdependence can generate: claims of injustice from developing countries denied market access are countered by claims of injustice in the domestic economies of industrialized countries when jobs are threatened and incomes fall.” The third paragraph dedicated to trade states that “[w]e need to examine . . . the extent to which success in the U.S. market . . . is derived from exploitative conditions in the exporting country.” And the fourth paragraph recommends that, to the extent U.S. workers and their families are hurt by the operation of the trading system, job training programs should be developed and enhanced.

All of the paragraphs are general enough so that they could be made to apply to immigration with just the slightest tweaking. No more could have been expected if the bishops did write on immigration in *Economic Justice for All*. Indeed, the preferential option for the poor was even more unlikely to be of utility in formulating specific policy for immigration than with trade because the immigration issue presents a more direct clash between the interests of poor from around the world and the interests of the poor in the United States. With trade, negatively affected domestic constituencies are more diverse in terms of wealth—it’s not just relatively poor textile workers, but middle-class and wealthy employees of automobile companies, for instance, who can suffer disproportionately from open trade policies. When immigration policy allows the large-scale entry of poor immigrants, however, it is the domestic poor who suffer disproportionately, certainly not the wealthy or business interests.

In all events, this characteristic generality is founded on serious concerns. The more specific official Catholic social teaching is, the greater the threat that the teaching could create grounds for disunity, harm the Church’s credibility, call into question its authority, and diminish its status. These concerns are at a height when the authority of the universal Church is most strongly implicated, i.e., when the pope or Vat-

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<sup>29</sup> *Id.* ¶¶ 267-70.

ican speaks, but the threat also exists, albeit less acutely, when other levels of the Church's hierarchy communicate their views.<sup>30</sup>

Some tension exists between the two characteristic responses of official Catholic social teaching to complexity and conflict. Action is demanded, but the instruction as to what action to take is often too vague to be of much practical use. By its own standard of demanding action and not suffering paralysis by analysis, Catholic social teaching in general—and its cornerstone teaching of the preferential option in particular—seems to fall short. And if the Church is unable to apply the preferential option “to define what law and public policy would look like if consideration for the poor was at the heart of our conception of the common good,” isn't it time to concede that the application of the preferential option simply does not yield much in the way of detailed policy recommendations?

Our answer is “no,” but we reach this answer, we must forthrightly confess, only by rejecting, in a sense, an article of the faith. The particular article we find objectionable is the article “the.” “The” preferential option is a useful formulation at times—indeed, in official Church teaching it may often be the best choice—but the rest of us would do better by more routinely speaking and thinking in terms of “a” preferential option for the poor.

The choice of article may appear initially a trivial matter, but we think that the overwhelmingly more common use of the definite article exacerbates several serious problems.<sup>31</sup> Consider, for example, what the use of “the” communicates. “The” preferential option suggests a single option, and a single option can be and perhaps is best defined and explained from above. And as something is defined, it becomes confined, too, as we limit our thinking to fit within the contours of the received definition.

Our view here is influenced by recent developments in cognitive science and cognitive linguistics. Developments in these areas have

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<sup>30</sup> Michele R. Pistone, *The Devil in the Details: How Specific Should Catholic Social Teaching Be?*, 1 J. CATH. SOC. THOUGHT 507, 509-10, 531 (2004).

<sup>31</sup> While “the preferential option for the poor” is by far the most favored formulation, we recognize that other formulations have been used on occasion. See, e.g., ECONOMIC JUSTICE FOR ALL, *supra* note 6, Introduction, ¶ 16, ch. 2, ¶ 87 (stating that “[a]s individuals and as a nation,” and “[a]s followers of Christ, we are challenged to make a fundamental ‘option for the poor’”). Our point is simply that alternative formulations of the kind sometimes used in *Economic Justice for All* are not common enough.

made it increasingly clear that, among other things, all thought takes place within conceptual frames, which “are mental structures of limited scope, with a systematic internal organization.”<sup>32</sup> These frames have boundaries, such that “[w]hen you think within a frame, you tend to ignore what is outside of it” as well as what is inconsistent with it.<sup>33</sup> Such framing is not, we note, an exclusive characteristic of weak minds; it is embodied within the biology of the brain and is thus characteristic of all minds.<sup>34</sup>

Particular framings have particular consequences. In several ways, unfortunate consequences flow from making our preferred frame of reference for thinking about poverty “the” preferential option. Among other things, for example, that framing unintentionally encourages inaction and disagreement.

It does so by putting stress upon the option for the poor that is capable of being defined and articulated, at the relative expense of stressing that an option for the poor must be lived and experienced. It stresses the option that comes from above rather than an option that emerges from within. And these are the wrong emphases. Consider Gutiérrez’s comparative assessment of theological discourse and pastoral activity:

Theology is reflection, a critical attitude. Theology *follows*; it is the second step. What Hegel used to say about philosophy can likewise be applied to theology: it rises only at sundown. The pastoral activity of the Church does not flow as a conclusion from theological premises. Theology does not produce pastoral activity; rather it reflects upon it.<sup>35</sup>

“The” preferential option, we suggest, bears the same relationship to “a” preferential option as theology does to pastoral activity. And as liberation theology criticizes the sundown activity of theology when it loses sight of the primacy of the first step of pastoral activity, discussion of “the” preferential option can lose sight of the more important matter of concretely choosing to opt for the poor. When this occurs, the consequence is a loss of a sense of urgency. And such a loss is a great tragedy for, as “[i]n the final analysis poverty means death: unjust death, the

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<sup>32</sup> GEORGE LAKOFF, *WHOSE FREEDOM? THE BATTLE OVER AMERICA’S MOST IMPORTANT IDEA* 10 (2006).

<sup>33</sup> *Id.* at 11, 13.

<sup>34</sup> *Id.* at 10.

<sup>35</sup> GUTIÉRREZ, *A THEOLOGY OF LIBERATION*, *supra* note 3, at 9.

premature death of the poor, physical death,”<sup>36</sup> it is beyond dispute that the task of helping the poor is an urgent one. Indeed, it is not only for the sake of the poor that a sense of urgency should prevail.<sup>37</sup>

Although we view the world through conceptual frames that both focus and limit our perceptions, the persistent use of appropriate language can effect a reframing of our thought processes.<sup>38</sup> If we habitually begin to refer to “a” preferential option for the poor, or to speak of “one’s” preferential option for the poor, we create a frame that more directly confronts the contradictions between our wishes for the poor and our work—or lack of work—on their behalf. This frame places a primary emphasis not upon perfecting an objective understanding of the preferential option for the poor, but upon each person undertaking a personal and concrete commitment to the poor.

It might be objected that the emphasis on undertaking a personal and concrete commitment undervalues the need for objective analysis of structural impediments to remedying or relieving poverty. Indeed, one might argue that while volunteering at a homeless shelter, or visiting the imprisoned, or representing poor clients *pro bono* are all very nice things to do, none of these activities are capable of striking at the roots of poverty. To the contrary, however, we think that an analysis of structural impediments is likely to be effective only if preceded by a personal and concrete commitment to the poor, which commitment must be rooted in love. Gutiérrez makes this very point when he states that the most important thing is the way we put our love to work.<sup>39</sup> Analysis not rooted in love is more likely to sound as a clanging cymbal.

Indeed, without love, the prophet’s call for justice to roll like a river will never find fulfillment. Consider the following statement by Pope John Paul II:

Love for others, and in the first place love for the poor, in whom the church sees Christ himself, is made concrete in the promotion of justice. Justice will never be fully attained unless people see in the poor person, who is asking for help in order

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<sup>36</sup> GUTIÉRREZ, *ESSENTIAL WRITINGS*, *supra* note 4, at 144.

<sup>37</sup> *See, e.g.*, GUTIÉRREZ, *A THEOLOGY OF LIBERATION*, *supra* note 3, at xxxii (“Being part of the life of our people, sharing their sufferings and joys, their concerns and their struggles, as well as the faith and hope that they live as a Christian community—all this is not a formality required if one is to do theology; it is a requirement for being a Christian.”).

<sup>38</sup> LAKOFF, *supra* note 32, at 10-11.

<sup>39</sup> GUTIÉRREZ, *A THEOLOGY OF LIBERATION*, *supra* note 3, at xxviii.

to survive, not an annoyance or a burden, but an opportunity for showing kindness and a chance for greater enrichment. Only such an awareness can give the courage needed to face the risk and the change involved in every authentic attempt to come to the aid of another. It is not merely a matter of ‘giving from one’s surplus’ . . . .<sup>40</sup>

In John Paul II’s view, then, love compels us to know the poor, to face risk and change, and to give beyond one’s surplus. For persons blessed with powers of policy analysis and inclined to address questions of poverty, what are the implications?

First, as we have suggested, it means one must seek out opportunities to interact with and help the poor. This is not merely to respond directly and concretely to the urgency of the poor’s situation—although that response is surely a very good and necessary thing—personal interaction also provides crucial perspective. Dietrich Bonhoeffer wrote that it was “an experience of incomparable value to have learned to see the great events of history from beneath: from the viewpoint of the useless, the suspect, the abused, the powerless, the despised—in a word, from the viewpoint of those who suffer.”<sup>41</sup> Philip Land stated that Catholic social teaching “is forged in doing.”<sup>42</sup> Conversely, Gutiérrez has noted that some people who seek to justify the preferential option (on the ground that “[a]ll the poor are good”) give “the impression of never having seen a poor person up close”<sup>43</sup> and, indeed, we have all read analyses of poverty that suggest the same deficiency. In sum, personal interaction with the poor is not a distraction from serious analysis; it is nearly a prerequisite for it.

Second, it means that in developing and communicating one’s analysis, policy analysts must constantly question whether they are putting their love to work. Love, we know, is not pompous, inflated, or rude; it does not seek its own interests. But how much analysis, how much commentary, is one or more of these things. We find it difficult to subject our own views to the same skeptical scrutiny we routinely give to other’s views. We find it difficult to discipline ourselves so as to avoid destructive rhetoric. We emphasize points of disagreement, and fail to give other arguments the benefit of the doubt. All this is to say that we engage in a course of conduct rather poorly designed to persuade others about the correctness of our policy views. Indeed, while such conduct

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<sup>40</sup> POPE JOHN PAUL II, *CENTESIMUS ANNUS* ¶ 58 (1991).

<sup>41</sup> JOHN O’BRIEN, *THEOLOGY AND THE OPTION FOR THE POOR* 30 n.20 (1992) (*citing* DIETRICH BONHOEFFER, *LETTERS AND PAPERS FROM PRISON* 177 (E. Bethge ed., 1987)).

<sup>42</sup> LAND, *supra* note 4, at xvii.

<sup>43</sup> GUTIÉRREZ, *ESSENTIAL WRITINGS*, *supra* note 4, at 146.

will alienate “non-believers” and is thus self-defeating as a strategy of persuasion, it will tend to confirm quite effectively our generous view of our own brilliance and originality (as if we needed further convincing).

It does not have to be like this. Gutiérrez, for example, offered the following response to criticisms of liberation theology:

There are various reasons for [the resistance to and misinterpretations of liberation theology]. But rather than point out the responsibilities of others, let me say simply that it is not easy to deal with sensitive and conflictual themes—like the very reality we are attempting to penetrate with the eyes of faith—and to find immediately and for good the clearest and most balanced formulas in which to express theological reflection on these themes. All language is to some extent a groping for clarity; it is therefore necessary to deal respectively with other persons and with what they think they find in works written from this theological perspective. Readers have rights that authors neither can nor ought to deny. At every stage, therefore, we must refine, improve, and possibly correct earlier formulations . . . .<sup>44</sup>

We would do well to cultivate a similar modesty, but that is asking a lot. It is asking for change and openness to change. It is asking us to refrain from drawing from our bottomless well of rebuttal and aspersion and to instead draw from the less plentiful well of self-reflection, reconciliation, and even ungrudging admission of error. For persons who purport to serve the poor through their work as policy analysts, this course may be difficult, because it may call for one to give what is not in surplus.

Indeed, some may regard our suggestions as recipes for mediocrity or worse. Should we eagerly accept messy and incoherent policy compromises? Should we refuse to render the judgment that a bad idea is bad?

There is no way to definitively answer the question in the abstract, but it may be helpful to try to structure our conduct in this respect according to the motto of the Moravian Church: “In essentials unity; in nonessentials liberty; and in all things love.”<sup>45</sup> Human judgment can go horrendously awry. Much time and energy is wasted in pointless disagreements. Because it is so revealing of human nature, *Gulliver’s Travels’* depiction of a Lilliput wracked by internal conflict over whether one should wear shoes with high or low heels, and external conflict

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<sup>44</sup> GUTIÉRREZ, A THEOLOGY OF LIBERATION, *supra* note 3, at xviii.

<sup>45</sup> EDWIN A. SAWYER, ALL ABOUT THE MORAVIANS: HISTORY, BELIEFS, AND PRACTICES OF A WORLDWIDE CHURCH 74 (1990). The Moravian Church has approximately 750,000 members, and is that ultimate rarity: a pre-Reformation Protestant Church. *Id.* at 4.

over the issue of whether one should crack open an egg from the big or the small end, continues to resonate almost three centuries after it was written.<sup>46</sup> We flatter ourselves too much to think that there is no Lilliputian in us today. Our ego has a natural preferential commitment to our own ideas that is independent of the strength of those ideas. Only love can overcome this tendency. Only by putting our love to work can we ever hope to reliably distinguish between what is essential and what is nonessential in our own thinking. Love can do this because our love finds itself in other people, and once there, gains a perspective that extends beyond the ego. With love, we can transcend our own frames of reference.

For the reasons given above, our view is that by more consistently framing our thinking in terms of “a” or “one’s” preferential option, we can help to improve the conditions of the poor. But even our favored approach will not produce uncontested policy solutions—as our discussion of immigration and its effect on the domestic poor illustrates, policy conflicts are often very real and, when they are, there are no magic solutions. As the world is ever changing, better ways are always emerging, however, and we should not hesitate to offer specific policy prescriptions as the fruit of our option for the poor. When we offer our prescriptions from love we maximize the chances that our views will be deserving of and find fertile soil, and that we will welcome changes and better ideas suggested by others. Thus, even as it is often very difficult to argue that the preferential option demands the acquiescence of all to one specific policy, the utility of making a preferential option for the poor is not exhausted by the limits of one’s own analyses, or by the prudential limits that the institutional church imposes upon itself.

#### **IV. Conclusion**

The authors of this article tend to favor liberal immigration laws. We additionally think that this view is consistent with a preferential option for the poor. But given the intrinsic complexities of the issue, who would we serve—ourselves or the poor—by arguing that only this view is consistent with the preferential option for the poor? John Paul II, after all, said that immigration was a kind of “necessary evil,”<sup>47</sup> and he recognized that, in the end, successful development is the only remedy for limiting the “push” factors that are the cause of every substantial

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<sup>46</sup> JONATHAN SWIFT, *GULLIVER’S TRAVELS*, Part I, ch. 4 (Ricardo Quintana ed., Random House 1958) (1726).

<sup>47</sup> POPE JOHN PAUL II, *LABORUM EXERCENS* ¶ 23 (1981).

migration.<sup>48</sup> If someone favors a relatively restrictive immigration policy, but energetically pushes for and supports development of less-favored countries, or diligently and faithfully serves the native poor, is it clear that it is better for us to discount his or her approach than it is for us to praise it as an other option for the poor? Shouldn't we try to do better to avoid dissipating our energies in quarrels over whose ways are best? In the Hindu religion, there are various paths to God—through knowledge and learning, through meditation, or through service and work, for example—and all these ways are regarded as legitimate, different as they are.<sup>49</sup> Surely the possibility exists that there are different, even apparently contradictory, ways to commit to the poor as well. Further, let us remember, as the Galileo Commission said in 1992, that “[i]t often happens that, beyond two partial points of view which are in contrast, there exists a wider view of things which embraces them both and integrates them.”<sup>50</sup> The possibility of this suggests that proceeding with and from love, in good faith and with humility, is not only the most prudent but also likely the wisest course.

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<sup>48</sup> See Pope John Paul II, *The Church and Illegal Immigrants: Message of Pope John Paul II for World Migration Day* (July 25, 1995) in 41 THE POPE SPEAKS 8-9 (Jan. Feb. 1996) (stating that “long-lasting” reductions of immigration flows will be achieved only upon the elimination of “underdevelopment [and] [t]he present economic and social imbalance”).

<sup>49</sup> HUSTON SMITH, *THE RELIGIONS OF MAN* 32-61 (1965).

<sup>50</sup> Report of the Galileo Commission (1992).