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RESPONSE

CONTEMPLATING SINHA’S ANTHROPOCENTRIC THEORY OF INTERNATIONAL LAW AS A BASIS FOR HUMAN RIGHTS

by Eugene D. Fryer*

I. INTRODUCTION

At times we must recognize the value of the contemplative pause in our consideration of the status and direction of the international protection of human rights. The scholar, the policy maker, the partisan—all are advised to test their human rights assumptions for the sanguine. This is not to concede that some optimism is inappropriate or dispensable to any human rights endeavor, ranging from human rights theorizing to human rights advocacy.

The contemplative pause is particularly appropriate to consideration of the anthropocentric theory of international law, proposed by S. Prakash Sinha in a past issue of this Journal and advanced by him as an “intellectually sound” basis for human rights theory.¹ The discussion which follows will examine what appears to be the chief vulnerability of this theory: its insulation, despite attempts by its author, from the domestic and international context in which human rights indeed do subsist.

The anthropocentric theory of international law is offered as a further step toward operationalizing in the human rights area the “functional” international law theory.² According to the functional view, contemporary state relations are increasingly shifting from the horizontal

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plane of interaction between coexisting states toward the vertical, increasingly integrated relations between cooperating states. It is said that this shift is impelled by the conditions of modern life: population density, resource scarcity, the proliferation of states. These combine under conditions highlighting the interlocking, interdependent nature of the present-day international order. From the nature of these relationships it should follow, according to the functionalist view, that the rules governing the affairs of this interdependent community should be based upon a broadening consensual basis. Not only should the range of issues subject to consensus be broadening, but the quality or depth of consensus within this range should be intensifying.

Sinha's anthropocentric theory of international law and of an anthropocentric basis for human rights represents a perceptive assessment of this consensual base. Sinha employs several reductive techniques in order to arrive at the maximum defensible core concept of human rights—at the human rights imperative. This human right imperative is identified as meeting the needs of man's planetary existence with justice.

From this general human rights imperative Sinha distinguishes (taking care not to counterpose or dichotomize) the further and important task of cataloging human rights. Where others, such as McDougal, linguistically and therefore presumably ontologically approach the human rights catalog in terms of "values," Sinha treats the catalog in terms of "needs." This catalog of needs is arranged, presumably hierarchically,
into primary and secondary needs. Most reasonably perceived as primary are the essentials of life, and as secondary, man's achievement of intangible values. The latter are generally stated as "freedoms" and "liberties." Both the imperative and the catalog merit detailed examination. My critique will follow an examination of the reductive methodology which guides Sinha in this attempt at an apparently modest and realistic approach to human rights.

II. THE ANTHROPOCENTRIC THEORY

An adequate theory of human rights, according to Sinha, must provide that the needs of man's planetary existence be met with justice. This concept will shape the catalog of particular human needs or rights so as to prescribe the direction in which international law is to develop in order to remain relevant and credible. Sinha comprehensively reviews several historical and extant human rights theories, then rejects them as failing for various reasons to measure up to standards which he prescribes for an adequate theory of human rights. The theories reviewed include several based in natural law, theories based on the being of man as man, the theory of the equality of man, and theories based upon social utility. These are seen as having failed to meet the needs of man with justice. According to Sinha, to provide a viable human rights imperative and to serve as a defensible basis for a catalog of human rights, a human rights theory must accomplish all of the following:

A. furnish a compelling justification for human rights;

B. provide a principle for both the protection of the individual and for the positive fulfillment of his needs;

C. account for the historicity of human rights;

(iii) Disease
(iv) Starvation
(v) Killers of modern life (transportation, industry).

2. Secondary needs:
   a. Economic betterment (availability, exploitation, and mobility of resources; development of technology and its transfer)
   b. Cultural enrichment (conditions of work, leisure, and participation in cultural goods)
   c. Achievement of intangible values (freedoms, liberties).

Id. 497-98.

9 Id. at 498.
10 Id. at 497.
11 Id. at 492.
12 Id. at 490.
13 Id. at 492.
14 Id. at 493-95.
15 Id. at 475.
D. enable an order of priority to operate upon any catalog of human rights;
E. allow for revision of human rights;
F. accommodate cultural relativity;
G. accommodate ideological relativity;
H. accommodate economic and technological relativity.

The anthropocentric theory of international law as a basis for human rights is offered as meeting these tests. This consummate achievement is in no small part due to the reductive methodology only briefly stated but elaborately footnoted. Such methodology strongly suggests the determinative tendency of scholarship which seeks to apply to inexact propositions the exact methodology more appropriate to the natural sciences or to finite proposals. This reductive characterization of the human rights problem also demonstrates the tendency to render manageable an elusive subject matter by precise categorization, as here by an appealing and simplified hierarchy of human needs.

Thus, Sinha explains his methodology as reductive in the following respects:

A. in bypassing all theories and explanatory concepts about human rights and focusing upon the object itself which is under examination (philosophical reduction);
B. by eliminating the factual elements of the object under examination so as to perceive its essence through discerning its typical structure (eidetic reduction);
C. by eliminating other objects of consciousness to disclose the consciousness or intentionality of the object under examination, "thereby enabling the consciousness to perceive itself in pure transcendental ego" (transcendental reduction).

It is at this methodological stage that the anthropocentric theory unavoidably assumes some of the very defects which in Sinha's view have consigned earlier human rights theories to the junkheap. To a degree boldly surpassing earlier theories, and by far outpacing other variants of today's functionalist international law approaches, the anthropocentric theory discounts the politically particularized character of the contemporary international order. Sinha assumes the existence or formation of a community of international interests, or values, which simply has not and does not inhere in reality. This defect contaminates the methodology which leads to the anthropocentric theory of human rights and contaminates the perspective from which the anthropocentric theory is seen as

16 Id. at 495-97.
17 Id. at 497-98.
18 Id. at 496.
19 Id.
meeting the test of an adequate human rights theory. It likewise contaminates the human rights catalog which springs from this theory.

A more moderate, realistic task for legal theory would be premised upon the open-ended character of the domestic and international environment in which human rights subsist. Linguistic manipulations which attempt to fit human rights phenomena into abstract methodology hide the political element, but only for purposes of scholarship. To this extent human rights scholarship is disabled from describing reality, either superficially or essentially, and is discredited from prescribing credible action or shaping attitudes at the popular or policy levels. The anthropocentric theory of international law and of human rights, despite its reductive simplicity and appeal, thus fails to account for either the "is" or the "ought" in an international system where state interest and power considerations still far outweigh an evolving sense of interdependent community and an evolving minimum consensus.

Instead it is now urged here, that in deriving a human rights imperative and a human rights catalog, one must reckon with the social conflict and struggle which result from human selfishness and power interests. These human attributes are perhaps as historically based as man's reductively deduced primary needs. That they might be scientifically isolated and engineered away for the purpose of a definable human rights theory is perhaps the ultimate exercise in futile theorizing. It is proposed here, less scientifically, that human rights theory can be an amalgam rather than a single focus. Similarly, beyond theory, an action program for securing the international protection of human rights realistically can and must be founded on issue-based relations among and between states, from which ultimately some human rights consensus will emerge, rather than the opposite.

III. THE IMPACT OF STATE INTEREST ON SINHA'S THEORY REQUISITES

That man has been "catapulted from his state to the entire planet for his existence in an unprecedented way" makes only a wishful case for an international human rights law which might or will be based upon shared human values derived through a heightened sense of interdependence. The following examination of Sinha's view of the requirements of an adequate human rights theory is based upon the view that the envi-

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23 Cohen, supra note 20, at 8.
25 Sinha, supra note 1, at 497.
vironment in which human rights subsist is a politicized environment in which state interests, by reductive methodology, cannot be diminished for scholastic purposes nor by-passed for operational purposes. This conclusion is reluctantly drawn in full appreciation of the compelling facts that indeed spell out growing global interdependence. These facts do call for a sensible jurisprudence and for a supporting theory capable of conforming international behavior to reasonable expectations of vertical cooperation. Such jurisprudence and theory are preferred to the perpetuation of ruinous horizontal antagonism and competition.

Sinha's theory requisites can do much in this positive direction. But his reduction of the evidence does not justify that man-centered law and policy should or will emerge. Rather, any variant condition along the cooperation-competition continuum is possible and likely. By the same device that a world of anthropocentric focus might bear out today's tentative anthropocentric international law theory, a world at some other point, up to man-negating ruin, might perfectly bear out any other tentative international law formulation.

At the present stage of international relations, despite evidence of interdependence, global relations are at best thought of as carried out in an "international system," not an "international society." "International system" presumes that states, in some form similar to that of present states, shall be the primary unit of socio-political activity. Beyond this, "society," for human rights purposes, requires that states perceive that they are bound by a roughly common set of rules in their human rights relations with one another and therefore necessarily with regard to the treatment of their own nationals. As between an international system and an international society there will exist, respectively on the one hand, those areas where rules are seen as basically hortatory and aspirational, and, on the other hand, where they are seen as fairly fixed and honored. In the intermediate range, descriptive of today, the "rules" may be tentative and inchoate, subject to fleshing out and to affirmation or refutation by state behavior.

State behavior will be based upon perceived self-interest. The merit of functionalist theories of international law is that they recognize that states might act upon the evidence of interdependence, among other factors, in leaning toward increased international cooperation and toward domestic behavior compatible with enhanced protection of human rights. But the anthropocentric theory, applied to human rights, assigns too great weight to the interdependence factor and too little to state interest.
The following contemplation of Sinha’s theory requisites also takes evidence of global interdependence at its maximum value. This is so that the case for global society, or at least for global non-antagonism, may be postulated accurately. Beyond this, the element of state interest will be factored, as follows, into each of Sinha’s theory requisites to ascertain its antipodal impact upon human rights theory and upon human rights policy and practice.

A. An adequate human rights theory must furnish a compelling justification for human rights. Sinha’s treatment of this requisite is quite terse, barely extending beyond the axiomatic statement of the requisite. His preceding exposition, critique and rejection of the several past and extant human rights theories disables them in their major aspects from furnishing a compelling justification for human rights. The anthropocentric theory is offered with no more than a priori or perhaps reductive certitude that it must fill the bill, in the absence of an alternative, as the adequate human rights theory. Little is done to demonstrate to the reader that any theory of human rights is compelled or that human rights might not ascend to some uniformly high level of protection without the mantel of theory. I propose that just such a result might be secured by ad hoc experience and with minimum debilitation to the cause of human rights. We might look for this purpose to human rights formulations perhaps bearing less dignity than theory but which comport with the domestic, bilateral, multilateral, or universal relations in question.

B. An adequate human rights theory must provide a principle for both the protection of the individual and the positive fulfillment of his needs. Here the anthropocentric theory as a basis for human rights is self-negating when the protection-fulfillment function is considered along with Sinha’s theory requisites of cultural, ideological and economic relativity, discussed below. There must be a cut-off point, lacking in the anthropocentric theory, beyond which relativity must give way to individual protection and need fulfillment. Otherwise, with a little imagination we may proceed from the anthropocentric bottoming of human rights theory to Sinha’s need hierarchy and its catalog of rights only to find states engaging in human rights dissemble. Under the immunity of ideological relativity, for example, states may cut off or bias the fulfillment of needs out of self-perceived state interest. The human rights concept and catalog cannot be considered disjunctively if man’s needs, particularly “secondary” or liberty-based needs, are to be assured any meaningful realization.

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30 Sinha, supra note 1, at 476.
31 Id. at 501.
32 Cohen, supra note 20, at 35.
33 Sinha, supra note 1, at 476.
Human rights thinking, at the level of theory or otherwise, must be concerned with the kind of primary political community which is to provide the human rights context. The anthropocentric theory therefore is open-ended with regard to both the kind and arrangement of authority within political communities and with regard to the types of values to which a legal order is committed. Sinha maintains that an anthropocentric human rights theory will provide the juridical base necessary to “[s]ecure recognition from the state of the individual’s security against its power, . . . to provide institutional machinery to effectuate that security, . . . to formulate demands toward realization of [man’s] values . . . [and] to mobilize the state’s resources and to harness its institutional machinery toward fulfillment of those demands.” Otherwise, in the absence of an anthropocentric, therefore “common” reference to invoke, the individual is upon his own resources, e.g., appeal “to moral principles and public opinion.” Therefore, according to Sinha, the domestic value of the anthropocentric theory is that it will place the conflict between the citizen and his state at a “juridically cognizable” level.

What at this point deprives the anthropocentrically based human rights concept of coherence and authority is that the character of the state matrix in which the human right or need is to be articulated and implemented is not stipulated. Perhaps to do so would be utopian, or for the theoretician gratuitous or interventionist. Indeed, the shape of the model community may be elusive or unknown. But any consideration of a human rights formulation, theoretical or otherwise, in the opinion of this observer should at least postulate an “open” domestic political order. “Open” means a state structure in which some pluralist influences may operate, or at the minimum, exist as a factor to be reckoned with by state authority. In this sense, the open domestic political order must exist with regard to much of the spectrum of domestic issues. The question of the protection and fulfillment of man’s needs will then operate not by leave of state recognition or by state deference to a human rights formulation. Rather, the assurance of human rights will be more likely because of the effective influence inhering in a right coupled with a measure of political power. Therefore an adequate human rights formulation, theory or otherwise, must reconcile the necessity for an open domestic political order with the requirement, stated by Sinha, that the human rights formulation be congenial to cultural, ideological and economic relativity.

C. An adequate human rights theory must account for the historic-

\[\footnotetext{\textsuperscript{34} Id.} \]
\[\footnotetext{\textsuperscript{35} Id.} \]
\[\footnotetext{\textsuperscript{36} Id.} \]
\[\footnotetext{\textsuperscript{37} Id.} \]
ity of human rights. Human rights are fundamental in nature and ontological in character "... and relate to man in his historicity." Unfortunately, Sinha's focus at this point shifts from man's needs to human rights. Distinguished from man's rights, the historicity of man's needs inevitably tracks with the course of man's existence. Sinha's catalog of needs, both primary and secondary, is an accurate representation of the hierarchy of man's needs, historically or otherwise determined. But on the question of historicity, to characterize the need as a right is to undo a case well stated only for the historicity of human need. Look at the historical record of the status of man's needs as "right." At once the character of need as right becomes so fragile as to exist mainly as need striving for the status of right, as unfulfilled right, or as right denied. There is little in the nature of human right as such to suggest that the notion contains its own authority, particularly if the right theories rejected by Sinha are beyond reference. Instead, we have resort only to the nonpersuasive authority of the historically enduring but historically extinguishable needs of man.

Again, on the issue of historicity, the anthropocentric basis of human rights theory is in need of an environmental postulate. The realistic requisites of a human rights formulation should acknowledge that in man's historical course, human rights have fared poorly in the political community in which tolerance for human needs or rights was not a primary contextual feature. This point requires only a footnote to 20th century experience. Consider the contempt for human needs or rights, either primary or secondary, which is too often ubiquitous in authoritarian societies. Consider, for example, evidence of such outrageous contempt in the apartheidal, Kampuchean or Ugandan variants of such authoritarian societies. Little exercise is required for the human rights theorist to recognize that human rights cannot prosecute its own brief if left merely to the authority of history. The tolerant domestic political structure, at least minimally accommodating to human needs, if only at Sinha's primary level of need, is essential to an adequate theory of human rights.

D. An adequate human rights theory must enable an order of priority to operate upon any catalog of human rights. The pressures of scarcity, of the finitude of resources, material and institutional, have delivered human rights theory up from the earlier theoretical attempts which have proved inadequate in dealing with global interdependence.

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38 Id.
39 Id.
40 That is, the theories founded upon natural law, upon the being of man as man, upon the equality of man, or upon social utility or upon any combination of these. Id. at 482.
41 Id. at 477.
42 Id. at 483-84.
Now an adequate human rights theory must operate with this limitation in view. The chief devices permitting this in the anthropocentric theory are the conceptual requisites that the economic limitations of states to fulfill human needs be respected and that domestic priorities, ideological and perhaps cultural concerning human rights be respected.

Too many questions arise here. First, who is called upon to respect economic, ideological and cultural diversity? Outsiders? National authorities? Nationals of the state? To whose benefit is this deference to run? State authorities? Nationals—and among them, ingroups? Outgroups? How binding is the injunction to respect diversity? Beyond the conceptual plane, what is the impact of all this upon the order and degree to which man's needs are to be met along Sinha's hierarchical structure of needs? Let us assume that material and institutional scarcity at some point are responsive to management. How then does the time element operate upon the priority for realization of man's hierarchical needs, allowing for ideological, cultural and economic relativity, which themselves are subject to mutation with time?

An adequate human rights theory must contain the seeds of mandate if human rights in concept or catalog are to ripen in serial fulfillment or otherwise, and taken individually, if human needs, even of the primary sort, are to be met straightforward. Otherwise the need remains less than a right, inchoate, as a conditional or deferred right. With respect to Sinha's secondary or liberty-based needs, scarcity societies have proceeded to relative abundance and nevertheless have deferred or conditioned these rights. Beyond such cases, it is all too commonplace that building nations defer the meeting of human needs, primary and secondary, in a manner which is suggestive of syndrome. The tough decisions concerning resource allocation and the reconciliation of ideology and human need are too easily postponed.

While these decisions may await the reasonable realization of optimal domestic conditions so long as fundamental needs of human survival are met, it is not in the interests of the denizens concerned that a laissez faire human rights doctrine permit indefinite procrastination. It is not in the interests of an interdependent world that this result be prescribed, and it is a self-inflicted wound upon a human rights formulation which assumes this sort of deferential baggage. Respect for the national integrity of states in resolving their own problems, in ordering their own priorities already is optimally articulated in international law, for example in

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43 Id. at 477.
44 Cohen, supra note 20, at 25.
United Nations Charter norms on non-interference in domestic affairs of states\textsuperscript{47} and in the prohibition on the use or threat of use of force in state relations.\textsuperscript{48} Universal standards for the self-determination of peoples are well defined.\textsuperscript{49} Colonialism\textsuperscript{50} and hegemonism\textsuperscript{51} in their many variants have been adequately proscribed. A human rights formulation need strain no further in elevating a deference to "national course" to a proportion which is self-cancelling of the potential for the fuller realization of international human rights.

E. An adequate human rights theory must allow for the revision of human rights.\textsuperscript{52} Human rights indeed are well served, as suggested by this requisite that human rights be revisable "in consonance with either a shift in needs or an emergence of new needs in the historical experience of man."\textsuperscript{53} The anthropocentric theory should proceed further to treat the minimum characteristics of the domestic political environment which are essential for these emerging needs to be articulated and to be recognized as rights. Questions of the amenability of the domestic system to affirmative rights revision again should address the issues of system openness. For example, by what initiative might the felt need come forward as incipient right? By what impulse might the state apparatus respond? Or may the state, in the same manner as it may deal inertially with the question of priorities, discussed above, likewise deal inertially with the related issues concerning the revisability of human rights. At least by way of dictum, an adequate human rights theory should touch upon the character of the domestic political order most hospitable to the revisability of human rights.

F. An adequate human rights theory must accommodate cultural relativity.\textsuperscript{54} In the final three theory requisites: cultural, ideological and economic relativity, the anthropocentric theory achieves self-eradicating simplicity. Sinha realistically perceives a working "challenge to any the-
ory of human rights on the international plane"55 when he speaks of a presumed tendency of certain human rights standards to be infused with dogmatic, cultural content. What it does mean, he says,

is that an American, who is accustomed to marriage between consenting spouses cannot, without being dogmatic, insist upon the abolition of arranged marriages in the village of Daryabad in India, for example; this is especially so when the record of his own culture is just about as unsuccessful as that of Daryabad in achieving marital bliss by reason of the particular way of getting espoused.56

According to Sinha, as a practical working matter the real business between states is not “culturally particularized,” e.g., diplomatic intercourse, territorial concerns, regulation of activities in the sea, and so on.57 Accordingly, this requisite of cultural relativity should be no real impediment to orderly international relations.

But what if the business between states is a controversy over the verified abuse by one state of the culture of its own nationals? Again footnoting twentieth century and contemporary experience, are not such abuses too often the first step toward the massive denial of rights which are far more fundamental than bare cultural practice?58 The anthropocentric theory, read as a whole, throws an unfortunate hands-off bias onto cultural doings within the domestic system. This is largely the result of the combined effect of the three relativist theory requirements, of the order of priority requirement, and of the apparently disadvantaged placement of cultural concerns at the periphery of the anthropocentric scheme of human needs. For the anthropocentric theory to serve as an adequate basis for human rights theory, its cultural relativity requirement should be expanded in some measure from the purely interstate proscription as it now stands, to include as well the prescriptive mandate for cultural relativism attaching within domestic systems.

G. An adequate human rights theory must accommodate ideological relativity.59 The thrust of the anthropocentric theory here is to treat human rights in an ideologically plural context,60 and in this respect the anthropocentric inquiry has come at last to grips with the self-willed character of the domestic human rights environment. Sinha prescribes

55 Id. at 480 n. 42.
57 Sinha, supra note 1, at 480 n.42.
59 Sinha, supra note 1, at 480.
60 Id. at 481, citing Murphy, Ideological Interpretations of Human Rights, 21 De PAUL L. REv. 286 (1971-1972).
the adequate human rights theory.\footnote{Sinha, supra note 1, at 481.}

[I]t must strive for the minimization of injustice to the individuals within the conceptual framework of their respective ideological models. Nor can that theory validly proceed upon the presumption that one ideology or the other is totally inconsistent with the demands of human rights.

My remarks above concerning individual protection and need fulfillment within the domestic political environment apply here. Ideologies, of course, need not be taken as exclusive prescriptions for the fulfillment of human rights. Consider the convergence based views of Roling that the traditional "international law of liberty" espoused by prosperous European states is trending toward a contemporary "international law of welfare."\footnote{B. Roling, International Law in an Expanded World 83, 104 (1960).} This shift tracks with the mutation of the competitive, horizontal international law of coexistence toward a vertical international law of cooperation, seen by Friedman, noted by Sinha, above. Illustrative of this trend is the growing predominance in international human rights statements of economic based human rights \textit{vis à vis} "spiritual" rights.\footnote{See, e.g., the increasingly distinct treatment given to economic and to "spiritual" human rights standards from the time of the 1948 Universal Declaration of Human Rights, supra note 56, up through the time of the International Covenant on Civil and Political Rights, G.A. Res. 2200, 20 U.N. GAOR, Supp. (No. 16), 52-58, U.N. Doc. A/6316 (1966), and the International Covenant on Economic Social and Cultural Rights, G.A. Res. 2200, 21 U.N. GAOR, Supp. (No. 16), 49-52 U.N. Doc. A/6316 (1966).} A recent pronouncement of the emerging international law of welfare is the Yugoslav proposal on the New International Economic Order (NIEO).\footnote{Proposal for the Establishment of a Committee of the International Law Association of the New International Economic Order, Yugoslav Association of International Law, Executive Committee, Belgrade, February 20, 1978, reprinted by the Philippine Branch of The International Law Association for the 58th Conference of The International Law Association (Aug. 27-Sep. 2, 1978), Manila, Philippines.} In the Yugoslav view, "It is not a question of a 'revolutionary' destruction of the existing international economic law, but of a gradual substantive changing and adjustment to new relations in the world."\footnote{Id. at 4. A substantially deideologized and compelling assessment of the economic realignment necessary for global equity is offered in the comprehensive Report of the Independent Commission on International Development Issues Under the Chairmanship of Willy Brandt, North-South: A Program for Survival, MIT Press, Cambridge (1980).}

Given the presumed relative permanency of the two foremost antagonistic ideological positions, represented in the bourgeois (United States) and socialist (Soviet)\footnote{For the Soviet view, see Contemporary International Law (G. Tunkin ed. Progress Publishers, Moscow, 1969) passim; Tunkin, International Law and Ideological Struggle, International Affairs, 24 (Nov. 1971) passim; G. Tunkin, Theory of International Law (W. Butler, trans, intro. Harvard Univ. Press, Cambridge, 1974), passim.} sense, human rights values can be maximized only
through non-antagonistic, issue-based dealings. The rules pertaining to these dealings must be compatible with respect for the opposite ideology and must work to enhance the protection of human rights without an insufferable public impact upon the ideology of either party. This approach is also adaptable to the different interest positions in the law of the sea, NIEO, and other resource and development related issues.

But is it beyond human rights theory to recognize that certain domestic political forms are more hostile to fundamental human rights than are other domestic political forms? To stretch ideological tolerance to the point of condemning in principle but not anathematizing the human rights breaches of which unchecked authoritarianism is capable is to frustrate the formulation. This is akin to the blithe humanitarianism which condemns the carnage of war while benignly blinking past the institution of war. Sinha therefore is encouraged to proceed further in his research from the finding that no "one ideology or the other is totally inconsistent with the demands of human rights." Such further effort might delve into the antagonism toward human rights which might be typical of both capitalist and socialist systems and at all points along the open-authoritarian political spectrum. Such an effort might be overly empirical for an initial theoretical formulation. I would nevertheless expect the theoretical effort at least to lop off and reject as incompatible with human rights those particular facets of domestic political orders by which the negative human rights context comes to far outweigh the positive. And this search for the hospitable human rights environment reasonably can condemn both sweat shop capitalism, ideologically based apartheid, Soviet psychiatric repression, and Kampuchean genocide as anathematized products of ideologies. I doubt that this would offend the ideological rela-
tivity of any human rights enthusiast, and I, along with Sinha\textsuperscript{72} number among this group.

H. \textit{An adequate human rights theory must accommodate economic relativity.}\textsuperscript{73} I have touched on the matter of economic relativity in the preceeding discussion of the theory requisite of "order or priority." For reasons stated there, a human rights theory which avoids the counterposition of bread before ballot is optimally flexible. To fashion a human rights catalog wherein undeniably vital corporeal rights occupy exclusive first priority is to place the implementation of the full range of human rights, including the liberty-based rights, too much in the hands of domestic policy makers. They too commonly plead economic hardship, the exigencies of nation building, hostile encirclement, and so forth, as due cause for human rights footdragging. When a human rights theory thus cuts more to the benefit of the state than to the individual we have no better than state authority as the monopolistic dispensor of human "rights."\textsuperscript{74} Liberty-based human rights in such an environment may be so strongly qualified by the requirement that they be exercised compatibly with the needs of the authority system that they are only defeasible human rights.\textsuperscript{75} What such theory will have accomplished is the promotion of human duty over the interest of human rights.\textsuperscript{76}

IV. \textbf{Conclusion}

In contemplating an anthropocentric theory of international law and an anthropocentric basis for human rights one must avoid the step from constructive idealism, with its real potential for shaping as well as for describing reality, onward into detached utopian constructions. Reductive methodology applied to this effect has emancipated human rights theory from the tawdry political environment in which human rights subsist, but only for limited scholastic purposes. Neither the concept nor the catalog provided by the anthropocentric theory of human rights adequately describe nor measure up to the present human rights predicament, notwithstanding growing global interdependence.

Cultural, ideological and economic relativity are to be conceded a highly prized position in human rights theory and are to be promoted.

\textsuperscript{72} Sinha, \textit{supra} note 1, at 479.
\textsuperscript{73} Id. at 482.
\textsuperscript{75} See, e.g., \textit{id.} arts. 47 (freedom of scientific, technical and artistic creation), 50 (freedom of speech, press and assembly), 51 (right to unite in public organizations), 52 (freedom of conscience or religion).
\textsuperscript{76} Cohen, \textit{supra} note 21, at 25.
But the "tragic antinomies of human existence" also should be factored into human rights theory. The human rights negative aspects of political environments must be recognized as features beyond the salvation of reductive relativity. It should little strain relativity and universalist tolerance to propose that the relatively "open," domestic political order, in contrast to the authoritarian, is a more congenial environment for anthropocentrically perceived human rights. If such a congenial political order, not further defined, is not a sine qua non to the articulation in reality of an anthropocentric basis for human rights, then such a political order perhaps beyond reach today, should be an aspirational human rights goal. Then the first step toward an adequate human rights theory shall have been achieved.

H. Morgenthau, supra note 23, at 209.