THE CURRENT DIALOGUE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Discussion Paper by Allan McChesney[1]

Canadian Centre for Foreign Policy Development - May 1999

1. INTRODUCTION

This document is a resource for the May 1999 Roundtable on economic, social and cultural rights, part of a review/assessment of how Canada does human rights abroad and of how lessons and best practices might indicate directions for the future. During two (plus) days of dialogue, participants will have opportunities to address additional issues that inevitably will arise during their exchange of views. Our common purpose is to generate informed discussion. Any opinions stated by the author are not necessarily shared by either the Canadian Centre for Foreign Policy Development or the Department of Foreign Affairs and International Trade (DFAIT).

Although Roundtable participants have expertise in many facets of economic, social and cultural rights, it is appropriate to provide basic introductory notes on international obligations. Among the international economic, social, and cultural rights (ESCR) are: adequate food, housing, health and education; an adequate standard of living for self and family; safe and healthful working conditions; trade union rights; the right to participate in the cultural life of a community; and the right to benefit from scientific progress and from one's own creativity. Neither ESCR nor civil and political rights (CPR) such as the freedoms of expression and association have primacy; and all rights are interdependent.

The main monitoring procedures for human rights treaties that bind Canada are: periodic self-reporting by countries to UN and regional bodies consisting of "independent experts"; alternative reports conveyed to the same bodies by non-governmental organizations (NGOs); and published observations from the expert bodies. This model is used for the core treaties that reinforce virtually all rights proclaimed in the 1948 Universal Declaration of Human Rights, namely the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights 1966). To effect change the treaty monitoring bodies must rely primarily on giving advice and on mobilization of shame for States that do not comply with their obligations. Similar approaches are used for key UN treaties on racial discrimination, on the rights of women and on the rights of children, respectively. The latter two human rights instruments address many ESC rights as well as CP rights.

---

[1] Allan McChesney is a Canadian lawyer and legal educator, and Director of Justice and Democracy Consultants, Ottawa. His next publication on human rights will be a Handbook on Economic, Social and Cultural Rights (forthcoming 1999, in printed and Web-based formats). The Handbook is the introductory volume for the ESC Rights Violations Project, coordinated by HURIDOCS and the American Association for the Advancement of Science.