



Statements and Speeches

No. 81/23

CANADA, CHINA AND THE RULE OF LAW

An Address by the Honourable Mark MacGuigan, Secretary of State for External Affairs, Peking, August 20, 1981

I am pleased, today, to comment on China's contribution to the development of international law. It is an area in which my country and yours have rich legal traditions that can be yet further enriched by greater contact between them and by working together for an international order based on the rule of law.

The idea of law is a universal phenomenon. The notion of objective legal norms binding on everybody — on ruler and ruled alike — has been more or less well understood and more or less well applied in different societies and at different periods. In my comments, I will attempt to bring out the importance of law in human affairs, and especially in international relations, for I am convinced that it is the idea of law, above all else, that can help us to span the distances imposed by geography, ideology, and varying levels of development.

It is well known that ancient Chinese law influenced eastern Asia in much the same way that Roman law influenced western Europe. It is perhaps not so well known that there has also been a certain rough parallel in the evolution of law in China and in common law countries like my own. China's legal history was marked by the conflict between the legalist and Confucian schools of thought, with the legalists upholding a kind of statute law system incorporated in the *Tables of the Law*, and the Confucianists upholding a kind of traditional customary law system reflected in the norms of proper behaviour. In the shared legal history of Canada and Britain, one finds a somewhat analogous tension or interplay between statute law and traditional customary law or common law. In both your case and ours, the end result was a compromise between the two approaches.

I have touched on legal history only to underline why we in Canada welcome so warmly the new interest in law which is manifest in China today. You have a vast wealth of experience to draw upon that can be instructive not only to you but to countries that have followed other roads. Your new initiatives in both internal and international law can enable you once again to make a unique contribution to the legal heritage of the world.

It is sometimes thought that what is most remarkable about Canada and other countries of the West is our advanced technology and material well-being. However, the source of our progress is not technology, but rather the rule of law, which protects citizens from arbitrary action by the state and guarantees the fundamental values of a free society — freedom of conscience and religion, freedom of speech and of the press, freedom of assembly and of association. It is this freedom in the framework of the rule of law which renders possible our social dynamism, economic progress and even technological innovation. For us the rule of law has proved to be the matrix

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