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RELIGIOUS FREEDOM IN CHINA IN RELATION TO UNITED NATIONS INTERNATIONAL COVENANTS

Inquiry–Debate Continued

Speech by:

The Honourable Vivienne Poy

Tuesday, February 8, 2000

THE SENATE

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RELIGIOUS FREEDOM IN CHINA IN RELATION TO UNITED NATIONS INTERNATIONAL COVENANTS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to religious freedom in China, in relation to the UN international covenants.—(*Honourable Senator Poy*).

Hon. Vivienne Poy: Honourable senators, before I begin, I should like to wish every one of you a very happy and healthy New Year in this year of the dragon.

I should like to speak to the inquiry into religious freedom in China that was initiated by Senator Wilson and on which Senator Austin and Senator Di Nino also spoke.

As the first person of Chinese heritage to sit in this chamber, I hope to bring a unique perspective to bear on this issue, particularly on China's cultural and historic attributes and how they shape its approach to human rights. When speaking of something as complex and emotionally charged as human rights, it is easy to allow our passions and rhetoric to overwhelm open-mindedness and logical argument.

In this chamber, it is important that we seek education over confrontation. If we do not, we risk losing sight of our common objective in this inquiry — namely, the greater respect for life, liberty and dignity of the human person in China, Canada and elsewhere.

This is a timely inquiry, as China has recently signed the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights. We look forward to China's ratification of these important documents. Moreover, the United States will be introducing a resolution on China's human rights practices at the United Nations Commission on Human Rights when it meets next month in Geneva.

Approximately one month ago, we marked the beginning of a new year and a new millennium. The passing of such a milestone offers an opportunity to reflect on past events, accomplishments and failures. I suspect that historians will view the past 100 years as a period of profound paradox. The 20th century was the bloodiest in human history, with millions of people suffering and losing their lives through war, regional conflicts and genocide. We saw the depths to which humanity can sink through the actions of various totalitarian regimes and by those states claiming to have a greater level of respect for human life. The 20th century also witnessed the dismantling of colonial empires, the establishment of the United Nations as a means for resolving

interstate conflict, and the adoption of international human rights agreements.

Today, the result is that nations do not have the luxury to judge themselves. A state's actions are increasingly assessed by the court of international public opinion. The notion of human rights has become so firmly established that last year NATO entered into a war in the Balkans for what we were told was a response to the human rights abuses in Kosovo. This conflict, as well as those in East Timor and Chechnya, exceed the scope of this inquiry, but, ultimately, they call our attention to the central issue regarding the right of sovereign states to dictate on matters of internal policy to other sovereign states. How effective is it?

Any discussion of human rights, regardless of the country or culture we talk about, draws our attention to the relationship between the state and its citizens. The examination of this relationship begs us to answer the following questions: What rights do we hold by virtue of our humanity? Is the concept of human rights, as defined by the West, universally applicable? What is the proper balance between the rights of the individual and the rights of the community? These are questions that challenged us in the 20th century and ones that will confront us even more in the future.

The approach of the West to human rights often ignores the darker periods of its own history. The actions of Nazi Germany and segregation in the United States reveal that the West certainly has not supported individual human rights uniformly since the concept was first devised during the Enlightenment.

Even in Canada, the treatment of the First Nations, the historic treatment of non-white immigrants and the internment of Japanese Canadians during World War II reveals that the struggle for human rights is never complete, even though successive Canadian governments have sought to correct these mistakes.

Human rights, as defined by the United Nations Universal Declaration of Human Rights, is a recent concept. Up to the 17th century, Western societies placed as much emphasis on duties as on the rights of citizens. Since the concept of human rights varies between cultures, the West has been accused of imposing an interpretation on cultures that do not share its historic and cultural background.

This argument is reflected in the works of Indian philosopher R. Pannikar, who wrote that:

Human rights are one window through which one particular culture envisages a just human order for its individuals.

Certainly, this sentiment is reflected in the approach to human rights taken by the Chinese government. Beijing has argued that the interpretation and implementation of international human rights standards varies with cultural and historical facts and the level of economic development. China approaches Western definitions of civil and political rights with extreme caution.

While we must be sensitive to cultural differences, for they do exist, such differences should not be used to rationalize systematic human rights abuse. In spite of all their differences, cultures share, and always will, the common denominator of humanity.

To understand the actions of the Chinese government, we must acknowledge the more collectivist nature of Chinese society and the impact that religion has played in its history. Not doing so can lead to charges of cultural imperialism. I found the remarks of Senator Wilson and Senator Austin on this aspect of the inquiry particularly interesting. Senator Wilson's detailed explanation of China's approach to religion was particularly enlightening, as was her observation that the Western press often report religion-related arrests without any explanation beyond the fact that "Chinese law was broken."

In traditional China, importance was placed on humanity, also known as Confucian humanism. Mencius taught that people are more important than rulers and therefore had the right to overthrow tyrants. Centuries before European civilizations abandoned the concept of the divine right of kings, the concept of "people's rights" existed in China.

The concepts of human equality and popular sovereignty existed very early in Chinese thought, but they did not lead to a political structure that protected human rights. That is because power in modern China became increasingly concentrated in the hands of a few. Until the 1911 revolution, at least, the imperial censorate was in the position to criticize the emperor's exercise of power.

Within the past few centuries, a number of political rebellions in China have had religious or mystic overtones, and many of these contributed to the fall of major dynasties. I am sure the leaders know their history well.

To emphasize the role played by religion in China's political history, I will say a few words about the Taiping Rebellion, which started in 1850. The God-Worshipping Society proclaimed the Heavenly Kingdom of Great Peace in Nanjing in 1851. The leader, Hung Hsiu Ch'üan, claimed to be the younger brother of Jesus. The movement swept across the entire south China. Religious indoctrination was used to control the population in the conquered territories. It took 14 years for the imperial government to crush the rebellion, and it cost the lives of 30 million people, which was approximately 10 per cent of the population of China at that time. That is the entire population of Canada today.

I, for one, can understand why the Chinese government wishes to avoid this kind of upheaval from a large segment of its population, particularly when it is working with great speed to bring about the economic reforms believed to be necessary for China to catch up with the industrialized countries.

John Stuart Mill's concept of "the greatest good for the greatest number" has been an accepted philosophy in China for a long time.

In the 20th century, Wu Ching-Hsiung, chief architect of the Chinese nationalist government's first and most liberal constitutional draft, wrote in the 1920s:

Westerners, in struggling for freedom, started with the individual. Now we, in struggling for freedom, start from the group... We wish to save the nation and the race, and so we cannot but demand that each individual sacrifice his own freedom in order to preserve the freedom of the group.

Chang Fo-ch'üan, a graduate of John Hopkins University and a professor at Beijing University during the 1920s, believed that there could be no areas of an individual's existence that are inviolate. "Freedom", he said, "is public, not private," and concerns the needs of society as fully as that of the individual. Sun Yat-sun, in his later years, maintained that "what China required was not the liberty of the individual, but the freedom of the state." These are the philosophies of some of the most important intellectuals in China in the first half of the 20th century.

In the revised Preliminary Draft of the Chinese Constitution of the 1920s under the Nationalist government, the article on religious freedom reads:

Every citizen shall have the freedom of religious belief; such freedom shall not be limited except in accordance with the law.

Not much has changed since then. The Chinese government today argues that individuals should be sacrificed where necessary for the collectivity and that those in power should decide what is good for that collectivity.

As long as any country is ruled by a one-party system, as in China where the Communist Party is enshrined in the constitution as the "dictatorship of the proletariat," the concept of human rights remains subject to the party's interpretation. "Human rights" in the Chinese language means "human power," and the struggle for human rights is understood by the government as a fight for political power and therefore as a threat to the establishment.

Since religious freedom falls within the confines of human rights, which is "human power," they are viewed as one and the same. In comparison to the draft constitution of 1920, Article 36 of China's 1982 constitution guarantees religious freedom. A second clause limits this guarantee, however, to "normal religious activities." "Normal" is left undefined, and the use of religion to disrupt public order is prohibited.

The control of any Chinese congregation by a foreign religious organization is not permitted. Historically, Western imperialists used religion as the pretext to dominate and obtain concessions from China. This in no way means that that was the intention of the missionaries who went to China. Most of them were simply used by their governments for political ends. Since the 19th century, many lawless Chinese converted to Christianity just so that they could enjoy the protection of the Western churches, and thus the Western governments, from Chinese law. An obvious example was the use of missionaries by the German government to obtain concessions in Shandong Province. Kaiser Wilhelm II was known to have said that he would have larger territorial rights in China if only he had more missionaries.

The present Chinese government recognizes and authorizes five religious movements: Buddhism, Catholicism, Protestantism, Taoism and Islam. Each of these five sanctioned religions is supervised by a “patriotic association” which reports to the government’s Religious Affairs Bureau. Although it flourishes, unregistered religious activity is illegal and remains a punishable offence.

Such an approach to religion appears alien to us as Canadians until we understand China’s unique historical and cultural experiences in this area.

This issue illustrates one of the main points of contention in the discussion of human rights in China — specifically, differences arising from Western versus Chinese understanding of human rights.

Linked to the “Asian” versus “Western” values discussion is the argument over whether human rights should take precedence over economic and social development. Collective rights such as the “right to development” have been suggested as being more important and more in keeping with the Chinese values than the West’s apparent preoccupation with civil and political rights. Indeed, the Chinese government’s attitude toward human rights is based on the proposition that subsistence rights are paramount and that civil and political rights are secondary.

The late Julius K. Nyerere, founder of modern-day Tanzania, perhaps expressed this idea best. He said:

What freedom has our subsistence farmer? He scratches a bare living from the soil provided the rains do not fail; his children work at his side without schooling, medical care, or even good feeding. Certainly he has freedom to vote and to speak as he wishes. But these freedoms are much less real to him than his freedom to be exploited. Only as his poverty is reduced will his existing political freedom become properly meaningful and his right to human dignity become a fact of human dignity.

President Li Tieying of the Chinese Academy of Social Sciences said the same thing to me when he visited Canada in October 1988. He said:

What’s the use of having rights and freedoms when you don’t have the right to adequate food and shelter?

To be sure, the idea of the greatest good for the greatest number of people appears at first to be an impelling argument for delaying the implementation of individual rights such as religious freedom. Countries have routinely explained away human rights violations through the need for national development.

Authoritarian governments, however, simply have not realistically demonstrated that free thought, speech, the establishment of mass organizations and the criticism of leaders is incompatible with the rights of subsistence and development. Statistical studies do not support the claim that there is a general conflict between civil and political rights and economic performance.

The Hon. the Speaker *pro tempore*: Senator Poy, your speaking time has expired. Are you asking for permission to continue?

Senator Poy: Yes.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Please go on.

Senator Poy: Honourable senators, the 1993 Vienna Declaration on Human Rights states that:

...while development facilitates the enjoyment of human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights.

Indeed, it is increasingly apparent that sustainable development actually requires a commitment to civil and political rights. By helping to ensure government accountability and transparency, civil and political rights can help channel economic growth into national development.

Arising from the developmental approach to human rights is the argument that individual civil and political rights must take a secondary position to the maintenance of order and stability, particularly in a country that is as vast in size and population as China. We do acknowledge that Chinese society differs markedly from Canada’s. We are aware that China’s immense population means that its society confronts many of the issues regarding freedom of speech, religion and assembly that we as Canadians really only deal with in the abstract. However, there can be no long-term peaceful coexistence among different religious and cultural groups and territories within a country without the establishment of a basis for respect of rights to human dignity. Compelled silence only offers the illusion of order.

Why is the Chinese government so concerned about civil unrest in recent years? The suppression of personal freedom has always existed but has seldom been reported by the Western press. With the opening up of China’s trade with the West, and because of the Internet, the rest of the world is much more aware of what goes on in that country.

Deng Xiao-Ping’s economic reforms have brought prosperity to China, but the wealth is concentrated in the hands of very few. Tens of millions of peasants have been driven off the land because of industrialization and development, and they are roaming the country looking for work. Unprofitable state industries are being dismantled and urban workers have not only lost their jobs but have also lost their social safety net. The feeling of loss and insecurity in the population is channelled towards the hope provided by religion, mysticism, and even traditional exercises that are believed to heal the body, particularly when a large segment of the population has lost the government medical care that went with their jobs.

The Internet remains the greatest threat to the Chinese government. The educated in the country can be mobilized instantly, as we saw on television last summer regarding the Falun Dafa movement. I believe, however, that mass arrest will only increase instability in the country.

The Chinese people need a safety valve to release their pent-up frustration caused by economic dislocation, and the only way is to democratize the system of government by giving the people more control over their own lives. Curbing freedom does not ensure stability in any country in the long run.

Honourable senators, before I conclude, a response is required to Senator Di Nino's suggestion that the reason the recent Chinese migrants have come to Canada on leaky boats is that there have been human rights violations in China. I refer to an interview with an illegal — and I repeat, illegal — Chinese migrant in the United States. When he was asked whether he had more freedom in the United States or in China, he immediately answered "China". He was then asked why he had suffered such hardship to go to the United States and the answer was: "For economic security."

As Senator Austin remarked, China is attempting to make progress in the field of human rights, thanks in part to the opening up of the country to technological changes and the flow of information and ideas. Considerable effort has been made by the Chinese government to establish the rule of law and a court system based on the same principles as those found in the West. As Canadians, we should welcome such developments. Canada is working with the Chinese government on human rights. The two countries are participating in a constructive dialogue on these issues and Canada is assisting China in reforming its legal and judicial structures.

Having said all that, I still believe that, ultimately, the improvement of China's human rights record will come from within, through the actions of the younger generation. Only so much can be accomplished on a government-to-government basis, particularly when one of those governments is authoritarian.

In this age of globalization, the deluge of information made possible by the Internet is the greatest equalizer of all. No longer can countries build walls to keep their citizens in. Chinese youths increasingly have the ability to access or disseminate information anywhere in the world. With better economic and educational opportunities for the young, the future leaders of China want what the rest of the world wants — economic security and individual freedom.

Honourable senators, in order for the Western democracies to have influence on human rights in China, there must be continuous dialogue. Friendship and trade are the two most useful tools of influence.

There is an old Chinese proverb that says: "There are many paths to the top of the mountain, but the view is always the same." I believe China is on its way up the mountain. It will reach the top, like Canada and the other industrialized countries, but along a different path.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wonder whether Senator Poy would take a few questions on what she has had to say these past few moments?

Senator Poy: Yes, if I can answer them.

Senator Kinsella: I think it may be rather difficult, if I have understood correctly what you have had to say. First, is it your position that human rights are culturally relative?

Senator Poy: The understanding of human rights is, because everyone has a different way of understanding. What I was saying is that the Chinese understanding of human rights is different. What we understand is really a Western import. Not that it is not right — it is right, but everyone must learn the same system. However, because the country is so different, their approach must be different.

I am stating a fact. I am not stating that what they are doing is correct. I am attempting to explain what is happening, from my own understanding.

Senator Kinsella: I wonder whether it is the honourable senator's position that there is no unity to human rights; that economic, social and cultural rights are somehow in an economic relationship with civil and political rights? Is it the honourable senator's position that there is no unity to human rights?

Senator Poy: I think there should be, but right now in China there is not; that is what I am saying. Hopefully, very soon there will be.

Senator Kinsella: Could the honourable senator let us know whether it is her view that there is a difference between a justification of a given human right and the international recognition of a given human right? For example, freedom of conscience and freedom of religion are recognized in international treaty law, and she has alluded to the fact that China has submitted the instruments of ratification of the International Covenant on Civil and Political Rights. Is it the honourable senator's view that the international law that recognizes the right to freedom of religion is one thing and the philosophical justification is quite another thing?

Senator Poy: I do not believe that, honourable senators. I am trying to explain what is happening. Historically, this is what happened in China. It takes time for leaders to learn to deal with things differently. When China reaches a similar standard to a Western country in terms of economics, there will be more opportunity for people to express themselves and to learn. Currently, it is as if we are comparing apples to oranges.

Senator Kinsella: Is the honourable senator saying that the human right of freedom of religion is being respected by the Government of China? The honourable senator has advised us that the Chinese government has an office of religion which approves of five religions. Does the right of freedom of religion embrace Judaism in China?

Senator Poy: According to my information, there are only five. I cannot say anything more than that. If Senator Wilson were here, she would be able to answer the question better than I am able to answer it.

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned.