

## **Your human rights**

Everyone, without distinction of social status, race, gender, education or other factors, has basic rights and freedoms. All the countries in the world, including China, have recognized and pledged to safeguard rights spelled out in the United Nations (UN) Universal Declaration of Human Rights (UDHR) and in other international human rights treaties.

The recognition that everyone, without exception, is entitled to basic rights, is one of the great steps forward humanity has taken this century. Governments all over the world have solemnly committed themselves to uphold human rights.

But the declarations of governments are often empty words. Corrupt or undisciplined officials sometimes disregard the rights of ordinary citizens, and prevent legitimate complaints of human rights violations from being investigated. Government administrations sometimes protect officials for fear of scandals. Sometimes, disregard for basic rights does not just come from individual officials, it is a conscious state policy. As a result, citizens may be helpless in the face of human rights violations and international human rights law may remain ineffective.

This leaflet summarizes some basic civil and political rights which all should enjoy and which should be protected by all governments. These are rights which everyone in China and in all other countries should be able to exercise without restriction. These rights are protected under international human rights standards adopted by the UN, which spell out the basic protections all states should afford their citizens. States which have ratified these standards are bound by formal procedures to account for their actions in the relevant field. Those which, like China, have not yet ratified all these standards should still do nothing which is contrary to their provisions.

## **Universal and indivisible**

“Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments.” *Vienna Declaration and Programme of Action, 25 June 1993*

“It remains a long-term historical task for the Chinese people and government to continue to promote human rights and strive for the noble goal of full implementation of human rights as required by China’s socialism.”

“Human Rights in China”, *published by the Information Office of the State Council 1991.*

Human rights are universal and indivisible. The UDHR, which is part of the UN Charter, sets out basic human rights. The fundamental principle of universality and indivisibility was reaffirmed by the Vienna Declaration and Programme of Action adopted at the end of the 1993 UN World Conference on Human Rights. The Government of the People’s Republic of China has pledged to uphold the Vienna Declaration and Programme of Action, which states in its opening section:

“All human rights are universal, indivisible and inter-dependent and inter-related. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”

### **Civil and political rights**

Civil and political rights are essential for the enjoyment of other human rights, including economic, social and cultural rights. The International Covenant on Civil and Political Rights (ICCPR) is the international treaty which sets out the civil and political rights governments are obliged to uphold. The ICCPR recognizes that “the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights”. The principles protected by the ICCPR are the same as those of the UDHR, which the Government of China upholds. Here are some of these principles.

### ***Right to a fair trial***

“... everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law ... Everyone... shall have the right to be presumed innocent until proved guilty according to the law. ... [No one shall] be compelled to testify against himself or to confess guilt.” *Article 14, ICCPR*

This means that all detained or arrested people should be considered by police, the news media and officials as innocent of any wrongdoing, until a legally established tribunal has formally made a judgement. People in detention should not be referred to as criminals or offenders. Lengthy detention without charge or trial is not acceptable.

The trial process must be fair: this means that defendants must be able to present an adequate defence: they must have access to the same information as the prosecution, they must be able to call witnesses to testify in their favour, they must be able to question witnesses and to examine and discuss the evidence presented by the prosecution to the court. Witnesses must be protected from intimidation by all parties.

### ***Right to liberty and security of person***

“No one shall be subjected to arbitrary arrest or detention.” *Article 9, ICCPR*

This article means that everyone is entitled to know why they are detained or arrested, and to dispute the grounds for arrest or detention before a judge. The police cannot normally detain people at will. A detainee can appeal to a judge to be released, and has a right to be heard. In principle, detainees have a right to contact a lawyer and their family.

### ***Right to freedom of expression***

“Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds ...” *Article 19, ICCPR*

This article protects the rights of everyone to have and express opinions of all kinds publicly and without hindrance. Everyone also has the right to give and receive information and opinions without undue interference. The convention states that this right may be subject to restrictions, but only those which are provided by law and which are necessary for several defined purposes. These are: for respect of the rights or reputations of others, or for the protection of national security, public order, public health or morals. Opinions and information can be transmitted in any form: speech, books, newspapers, art, or any other means.

***Right to freedom of thought***

“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” *Article 18, ICCPR*

Under this article, the right of everyone to adopt a religion and to participate in religious activities is protected. No one can be detained for any religious activities, as long as they do not infringe on public safety, order, health or morals, or the fundamental rights and freedoms of others. Laws or regulations which allow for the detention of people for religious activities not infringing on public safety, order, health or morals, or on the fundamental rights and freedoms of others, are in contradiction with international human rights standards.

***Right of association***

“Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” *Article 22, ICCPR*

Everyone can freely form and join a political party, a trade union, or any other kind of association. The absence of official registration for a group is not in itself a sufficient ground for disbanding a group or prohibiting its activities. Belonging to a group of any kind is not in itself an offence. Under international human rights standards, the only restrictions which may be placed on the exercise of this right are those which are necessary in a democratic society in the interest

of public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. These restrictions have to be specified in law.

### ***Right to life***

“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime ... Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. *Article 6, ICCPR.*

The death penalty is the most severe penalty, and it is irreversible. Studies show that it has no special effect as a deterrent against crime. Nor does abolition of the death penalty lead to an increase in violent crime. The legal process in cases involving the death penalty must be especially careful. States should all abolish the death penalty. People under 18 and pregnant women, should never be sentenced to death.

### **Freedom from torture**

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

*Article 5, UDHR*

“No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture. An order from a superior officer or a public authority may not be invoked as a justification of torture”. *Article 2, Convention Against Torture*

“Torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted for such purposes as obtaining information or a confession, or as a means of punishment, intimidation or coercion. This means that people detained by Public Security Bureau officials should never be subjected to beatings, humiliations, or to other treatments or punishments which are cruel, inhuman or degrading. People held in custody of any form - prison, detention centre, police station etc. - all have the same rights, whatever the reason for their detention.

Officials who commit acts of torture or ill-treatment should be investigated and punished in accordance with law. Victims of torture, their relatives or their lawyers should be able to report cases of torture without fear of intimidation or retribution. International human rights law protects victims and their families.

The Chinese Government has ratified the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. Under the Convention, the authorities must impartially investigate whenever there are reasonable grounds to believe torture has taken place, and prosecute those responsible. Chinese law itself prohibits some forms of torture.

### **Rights of the child**

China has signed the Convention on the Rights of the Child (CRC), which came into force in September 1990 and is intended to promote and protect the human rights of children (defined as anyone aged below 18 unless majority is attained earlier). The Convention safeguards children's rights to life, to freedom of expression, association and assembly, to freedom of thought, conscience and religion.

#### ***Right to life and freedom from torture for the child:***

State parties shall ensure that: "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age." *Article 37, CRC*

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