

## Human Rights in China

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### Preface

It has been a long-cherished ideal of mankind to enjoy human rights in the full sense of the term. Since this great term – human rights – was coined centuries ago, people of all nations have achieved great results in their unremitting struggle for human rights. However, on a global scale, modern society has fallen far short of the lofty goal of securing the full range of human rights for people the world over. And this is why numerous people with lofty ideals are still working determinedly for this cause.

Under long years of oppression by the "three big mountains" – imperialism, feudalism and bureaucrat-capitalism – people in old China did not have any human rights to speak of. Suffering bitterly from this, the Chinese people fought for more than a century, defying death and personal sacrifices and advancing wave upon wave, in an arduous struggle to overthrow the "three big mountains" and gain their human rights. The situation in respect to human rights in China took a basic turn for the better after the founding of the People's Republic of China. Greatly treasuring this hard-won achievement, the Chinese government and people have spared no effort to safeguard human rights and steadily improve their human rights situation, and have achieved remarkable results. This has won full confirmation and fair appraisal from all people who have a real understanding of Chinese conditions and who are not prejudiced.

The issue of human rights has become one of great significance and common concern in the world community. The series of declarations and conventions adopted by the United Nations have won the support and respect of many countries. The Chinese government has also highly appraised the Universal Declaration of Human Rights, considering it the first international human rights document that has laid the foundation for the practice of human rights in the world arena. However, the evolution of the situation in regard to human rights is circumscribed by the historical, social, economic and cultural conditions of various nations, and involves a process of historical development. Owing to tremendous differences in historical background, social system, cultural tradition and economic development, countries differ in their understanding and practice of human rights. From their different situations, they have taken different attitudes towards the relevant UN conventions. Despite its international aspect, the issue of human rights falls by and large within the sovereignty of each country. Therefore, a country's human rights situation should not be judged in total disregard of its history and national conditions, nor can it be evaluated according to a preconceived model or the conditions of another country or region. Such is the practical attitude, the attitude of seeking truth from facts.

From their own historical conditions, the realities of their own country and their long practical experience, the Chinese people have derived their own viewpoints on the human rights issue and formulated relevant laws and policies. It is stipulated in the Constitution of the People's Republic of China that all power in the People's Republic of China belongs to the people. Chinese human rights have

three salient characteristics. First, extensiveness. It is not a minority of the people or part of a class or social stratum but the entire Chinese citizenry who constitutes the subject enjoying human rights. The human rights enjoyed by the Chinese citizenry encompass an extensive scope, including not only survival, personal and political rights, but also economic, cultural and social rights. The state pays full attention to safeguarding both individual and collectivrights. Second, equality. China has adopted the socialist system after abolishing the system of exploitation and eliminating the exploiting classes. The Chinese citizenry enjoys all civic rights equally irrespective of the money and property status as well as of nationality, race, sex, occupation, family background, religion, level of education and duration of residence. Third, authenticity. The state provides guarantees in terms of system, laws and material means for the realization of human rights. The various civic rights prescribed in the Constitution and other state laws are in accord with what people enjoy in real life. China's human rights legislation and policies are endorsed and supported by the people of all nationalities and social strata and by all the political parties, social organizations and all walks of life.

As a developing country, China has suffered from setbacks while safeguarding and developing human rights. Although much has been achieved in this regard, there is still much room for improvement. 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.

In order to help the international community understand the human rights situation as it is in China, we present the following brief account of China's basic position on and practice of human rights.

## **I. The Right to Subsistence – The Foremost Human Right The Chinese People Long Fight for**

It is a simple truth that, for any country or nation, the right to subsistence is the most important of all human rights, without which the other rights are out of the question. The Universal Declaration of Human Rights affirms that everyone has the right to life, liberty and the security of person. In old China, aggression by imperialism and oppression by feudalism and bureaucrat-capitalism deprived the people of all guarantee for their lives, and an uncountable number of them perished in war and famine. To solve their human rights problems, the first thing for the Chinese people to do is, for historical reasons, to secure the right to subsistence.

Without national independence, there would be no guarantee for the people's lives. When imperialist aggression became the major threat to their lives, the Chinese people had to win national independence before they could gain the right to subsistence. After the Opium War of 1840, China, hitherto a big feudal kingdom, was gradually turned into a semi-colonial, semi-feudal country. During the 110 years from 1840 to 1949, the British, French, Japanese, US and Russian imperialist powers waged hundreds of wars on varying scales against China, causing immeasurable losses to the lives and property of the Chinese people.

– The imperialists massacred Chinese people in untold numbers during their aggressive wars. In 1900, the troops of the Eight Allied Powers – Germany, Japan, Britain, Russia, France, the United States, Italy and Austria – killed, burned and looted, razing Tanggu, a town of 50,000 residents, to utter ruins, reducing Tianjin's population from one million to 100,000, killing countless people when they entered Beijing, where more than 1,700 were slaughtered at Zhuangwangfu alone. During Japan's full-scale invasion of China which began in 1937, more than 21 million people were killed or wounded and 10 million people mutilated to death. In the six weeks beginning from December 13, 1937, the Japanese invaders killed 300,000 people in Nanjing.

– The imperialists sold, maltreated and caused the death of numerous Chinese laborers, plunging countless people in old China into an abyss of misery. According to incomplete statistics, more than 12 million indentured Chinese laborers were sold to various parts of the world from the mid-19th century through the 1920s. Coaxed and abducted, these laborers were thrown into lockups, known as "pigsties," where they were branded with the names of their would-be destinations. During the 1852-58 period, 40,000 people were put in such "pigsties" in Shantou alone, and more than 8,000 of them were done to death there. Equally horrifying was the death toll of ill-treated laborers in factories and mines run by imperialists across China. During the Japanese occupation, no less than 2 million laborers perished from maltreatment and exhaustion in Northeast China. Once the laborers died, their remains were thrown into mountain gullies or pits dug into bare hillsides. So far more than 80 such massive pits have been found, with over 700,000 skeletons of the victims in them.

– Under the imperialists' colonial rule, the Chinese people had their fill of humiliation and there was no personal dignity to speak of. The foreign aggressors enjoyed "extraterritoriality" in those days. On December 24, 1946 Peking University student Shen Chong was raped by William Pierson, an American GI, but, to the great indignation of the Chinese people, the criminal, handled unilaterally by the American side, was acquitted and released. Imperialist powers exercised administrative, legislative, judicial, police and financial powers in the "concessions" they had set up in China, turning them into "states within a state" that were thoroughly independent of the Chinese administrative and legal systems. In 1885, foreign aggressors put up a signboard at the entrance of a park in the French concession; in a blatant insult to the Chinese people, it read, "Chinese and dogs not admitted."

– Forcing more than 1,100 unequal treaties on China, the imperialists plundered Chinese wealth on a large scale. Statistics show that, by way of these unequal treaties, the foreign aggressors made away with more than 100 billion taels of silver as war indemnities and other payments in the past century. Through the Sino-British Treaty of Nanking, the Sino-Japanese Treaty of Shimonoseki, the International Protocol of 1901 and five other such treaties alone, 1,953 million taels of silver in indemnity were extorted, 16 times the 1901 revenue of the Qing government. The Treaty of Shimonoseki alone earned Japan 230 million taels of silver in extortion money, about four and a half times its annual national revenue. The losses resulting from the destruction and looting by the invaders in wars against China were even more incalculable. During Japan's full-scale war of aggression against China (1937-45), 930 Chinese cities were occupied, causing US\$62 billion in direct losses and US\$500 billion in indirect losses. With their state sovereignty impaired and their social wealth plundered or destroyed, the Chinese people were deprived of the basic conditions for survival.

In face of the crumbling state sovereignty and the calamities wrought upon their lives, for over a century the Chinese people fought the foreign aggressors in an indomitable struggle for national salvation and independence. The Taiping Heavenly Kingdom Movement, the Boxers Movement and the Revolution of 1911 which overthrew the Qing Dynasty broke out during this period. These revolutionary movements dealt heavy blows to imperialist influences in China, but they failed to deliver the nation from semi-colonialism. A fundamental change took place only after the Chinese people, under the leadership of the Chinese Communist Party, overthrew the Kuomintang reactionary rule and founded the People's Republic of China. After its birth in 1921, the Communist Party of China set the clear-cut goal in its political program to "overthrow the oppression by international imperialism and achieve the complete independence of the Chinese nation" and to "overthrow the warlords and unite China into a real democratic republic"; it led the people in an arduous struggle culminating in victory in the national democratic revolution.

The founding of the People's Republic of China eradicated the forces of imperialism, feudalism and bureaucrat-capitalism in the Chinese mainland, put an end to the nation's history of dismemberment, oppression and humiliation at the hands of alien powers for well over a century and to long years of turbulence characterized by incessant war and social disunity, and realized the people's cherished dream of national independence and unification. The Chinese nation, which makes up one-fourth of the world's population, is no longer one that the aggressors could kill and insult at will. The Chinese people have stood up as the masters of their own country; for the first time they have won real human dignity and the respect of the whole world. The Chinese people have won the basic guarantee for their life and security.

National independence has protected the Chinese people from being trodden under the heels of foreign invaders. However, the problem of the people's right to subsistence can be truly solved only when their basic means of livelihood are guaranteed.

To eat their fill and dress warmly were the fundamental demand of the Chinese people who had long suffered cold and hunger. Far from meeting this demand, successive regimes in old China brought even more disasters to the people. In those days, landlords and rich peasants who accounted for 10 percent of the rural population held 70 percent of the land, while the poor peasants and farm laborers who accounted for 70 percent of the rural population owned only 10 percent of the land. The bureaucrat-comprador bourgeoisie who accounted for only a small fraction of the population monopolized 80 percent of the industrial capital and controlled the economic lifelines of the country. The Chinese people were repeatedly exploited by land rent, taxes, usury and industrial and commercial capital. The exploitation and poverty they suffered were of a degree rarely seen in other parts of the world. According to 1932 statistics, the Chinese peasants were subjected to 1,656 kinds of exorbitant taxes and levies, which took away 60-90 percent of their harvests. The people's miseries were exacerbated and their lives made all the harsher by the reactionary governments who, politically corrupt and impotent, surrendered China's sovereign rights under humiliating terms and served as tools of foreign imperialist rule, and by the separatist regime of warlords who were embroiled in endless wars. It was estimated that 80 percent of the populace in old China suffered to varying degrees of starvation and tens of thousands – hundreds of thousands in some cases – died of it every year. A major natural disaster invariably left the land strewn with corpses of hunger victims. More than 3.7 million lives were lost when floods hit east China in 1931. In 1943, a crop failure in Henan Province took the lives of 3 million people and left 15

million subsisting on grass and bark and struggling on the verge of death. After the victory of the War of Resistance Against Japan, the reactionary Kuomintang government launched a civil war, fed on the flesh and blood of the people and caused total economic collapse. In 1946, 10 million people died of hunger countrywide. In 1947, 100 million, or 22 percent of the national population then, were under the constant threat of hunger.

Ever since the founding of the People's Republic of China in 1949, the Communist Party of China and the Chinese government have always placed the task of helping the people get enough to wear and eat on the top of the agenda. For the first three years of the People's Republic, the Chinese people, led by their government, concentrated their efforts on healing the wounds of war and quickly restored the national economy to the record level in history. On this basis, China lost no time to complete the socialist transformation of agriculture, handicraft industry and capitalist industry and commerce, thus uprooting the system of exploitation, instituting the system of socialism and, for the first time in history, turning the people into masters of the means of production and beneficiaries of social wealth. This fired the people with soaring enthusiasm for building a new China and a new life, emancipated the social productive forces and set the economy on the track of unprecedented growth. Since 1979, China has switched the focus of its work to economic construction, begun reform and opening to the outside world, and set the goal of building socialism with Chinese characteristics. This has further expanded the social productive forces and enabled the nation to basically solve the problem of feeding and clothing its 1.1 billion people.

Tilling 7 percent of the world's total cultivated land – averaging only 1.3 mu (one mu equals one-fifteenth of one hectare) per capita as against 12.16 mu in the United States and the world's average of 4.52 mu – China has nevertheless succeeded in feeding a population that makes up 22 percent of the world's total. Contrary to some Western politicians' prediction that no Chinese government could solve the problem of feeding its people, socialist China has done it by its own efforts. The past 40-odd years have witnessed a marked increase in the average annual per-capita consumption of major consumer goods despite a yearly average population increase of 14 million. A survey shows that the daily caloric intake of food per resident in China was 2,270 in 1952, 2,311 in 1978 and 2,630 in 1990, approaching the world's average.

The life-span of the Chinese people has lengthened and their health improved considerably. According to statistics, the population's average life expectancy increased from 35 years before liberation to 70 years in 1988, higher than the average level in the world's medium-income countries, while the death rate dropped from 33 per thousand before liberation to 6.67 per thousand in 1990, which was one of the lowest death rates in the world. China's 1987 infant mortality of 31 per thousand approached the level of high-income countries. The health of the Chinese people, especially the physical development of youngsters, has greatly improved as compared with the situation in old China. An average 15-year-old boy in 1979 was 1.8 centimeters taller and 2.1 kilograms heavier than his counterparts living during the 1937-41 period; and an average girl of the same age in 1979 was 1.3 centimeters taller and 1 kilogram heavier. Since 1979, the health of the Chinese people has improved further. The label on old China, "sick man of East Asia," has long been consigned to the dustbin of history.

The problem of food and clothing having been basically solved, the people have been guaranteed with the basic right to subsistence. This is a historical achievement made by the Chinese people and government in seeking and protecting human rights.

However, to protect the people's right to subsistence and improve their living conditions remains an issue of paramount importance in China today. China has gained independence, but it is still a developing country with limited national strength. The preservation of national independence and state sovereignty and the freedom from imperialist subjugation are, therefore, the very fundamental conditions for the survival and development of the Chinese people. Although China has basically solved the problem of food and clothing, its economy is still at a fairly low level, its standard of living falls considerably short of that in developed countries, and the pressure of a huge population and relative per-capita paucity of resources will continue to restrict the socio-economic development and the improvement of the people's lives. The people's right to subsistence will still be threatened in the event of a social turmoil or other disasters. Therefore it is the fundamental wish and demand of the Chinese people and a long-term, urgent task of the Chinese government to maintain national stability, concentrate their effort on developing the productive forces along the line which has proven to be successful, persist in reform and opening to the outside world, strive to rejuvenate the national economy and boost the national strength, and, on the basis of having solved the problem of food and clothing, secure a well-off livelihood for the people throughout the country so that their right to subsistence will no longer be threatened.

## **II. The Chinese People Have Gained Extensive Political Rights**

While struggling for the right to subsistence, the Chinese people have waged a heroic struggle for democratic rights.

The people did not have any democratic rights to speak of in semi-feudal, semi-colonial China. The Revolution of 1911 led by Dr. Sun Yat-sen, the great forerunner of bourgeois-democratic revolution, overthrew the feudal Qing Dynasty and gave rise to the Republic of China. He hoped to establish a Western-style democratic system in China, but the fruits of the revolution were snatched by Yuan Shikai, a feudal warlord. Then parliament became a mere instrument for warlords in power struggle, and there occurred the scandal of the "parliament of pigs" and bribery in electing a president. His dream unfulfilled, Dr. Sun died in sorrow and indignation, which found expression in his famous admonition: "The revolution has not yet succeeded." Many Chinese had cherished illusions about the US-supported Chiang Kai-shek government. However, Chiang turned out to be just another warlord under whose fascist rule millions of democracy-seeking people perished in bloody massacres. He adopted a non-resistance policy towards the Japanese invasion while stepping up the civil war, ignoring opposition from the Chinese Communists, patriots and democrats from all walks of life and the broad masses of the people. He launched the all-out civil war after the victory of the War of Resistance Against Japan, again violating the ardent wish for peace, democracy and reconstruction of the Communist Party, the

democratic parties and the people throughout China. Driven beyond the limits of forbearance, the people rose up in arms and in the end toppled Chiang's reactionary rule.

Since the very day of its founding, the Communist Party of China has been holding high the banner of democracy and human rights. It encouraged and assisted Dr. Sun in reorganizing the Kuomintang, effected the cooperation between the Kuomintang and the Communist Party and launched the Northern Expedition against the reactionary rule of the warlords. After Chiang Kai-shek betrayed the democratic revolution, the Party united all patriots and democrats and led the people in a struggle against civil war, hunger, autocracy and persecution. In the liberated areas it established democratic governments, drew up laws which guaranteed the people's democratic rights and resolutely implemented its own democratic program. The democratic system in the liberated areas attracted numerous patriotic and democratic fighters and became the hope of the entire people. Under the Party's leadership, the Chinese people overthrew the Kuomintang reactionaries' dictatorial rule and founded the democratic and free People's Republic of China.

The Chinese people gained real democratic rights after the founding of New China. In explicit terms the Constitution stipulates that all power in the People's Republic of China belongs to the people. That the people are masters of their own country is the essence of China's democratic politics. By stating that the People's Republic of China is a socialist state of the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants, the Constitution has established the status of the workers, peasants and other working people as masters of the country and thus invested the laboring people who were at the bottom rung of the social ladder in old China with lawful democratic rights. Equality of men and women, as provided by the Constitution, has enabled women, who account for half of the Chinese population, to gain the same rights as men in politics, economy, culture, society and family life. The stipulation that all nationalities in China are equal has ensured that all the nation's minority nationalities enjoy equal democratic rights with the Han people.

To guarantee that the people are the real masters of the country with the right to run the country's economic and social affairs, China has adopted, in light of its actual conditions, the people's congresses as the state's basic political system. Deputies to the people's congresses at all levels are chosen through democratic elections. The Constitution stipulates that all citizens of the People's Republic of China who have reached the age of 18 have the right to vote and stand for election, regardless of nationality, race, sex, occupation, family background, religious belief, education, property status, or length of residence, with the exception of persons deprived of their political rights by law. Taking into consideration its vast territory, large population, inconvenient transportation and relatively low economic and cultural development, China has adopted an election system appropriate to its actual conditions. That is, deputies to people's congresses at the county level or below are elected directly, while those to people's congresses above the county level are elected indirectly. This election system makes it possible for the people to choose deputies whom they know and trust. The election system has been improved in recent years on the basis of past experience. For instance, more candidates are posted than the number of deputies to be elected, instead of an equal number as before. The right to vote has been widely exercised by the Chinese people. According to statistics from the 1990 county- and township-level direct elections, 99.97 percent of the citizens at 18 years of age or above enjoyed the right to vote. Generally speaking, upwards of 90 percent of the voters participate in the elections held in the various provinces,

autonomous regions and municipalities. The most striking characteristic of China's electoral system is that elections are not manipulated by money and that deputies are not elected on the basis of boasting and empty promises but according to their actual contributions to the country and society, their attitude in serving the people and their close relations with the people. It is clear from the election results that the elected are broadly representative, that is, representative of people of all social strata and all trades and professions. Of the 2,970 deputies to the Seventh National People's Congress, 684, or 23 percent, are workers and farmers; 697, or 23.4 percent, are intellectuals; 733, or 24.7 percent, are government functionaries; 540, or 18.2 percent, are democratic party members and patriots with no party affiliations; 267, or 9 percent, are from the People's Liberation Army; and 49, or 1.6 percent, are returned overseas Chinese.

The National People's Congress is the supreme organ of state power. It has legislative power. It elects or removes president and vice-president of the People's Republic of China, chairman of the Central Military Commission, president of the Supreme People's Court and procurator-general of the Supreme People's Procuratorate; and appoints or removes premier, vice-premiers, state councilors, ministers, ministers in charge of commissions, auditor-general and secretary-general. All administrative, judicial and procuratorial organs of the state are created by the National People's Congress, responsible to it and supervised by it. Following the principle of democratic centralism, the National People's Congress adopts major policy decisions after full airing of opinions; and once adopted, these policies are carried out in a concerted effort. In this way, the People's Congress can not only represent the people's common will but also become instrumental for the people in running state, economic and social affairs. Coming from among the people, the people's deputies are responsible to the people and supervised by the people; their close contact with the masses and wide knowledge of the actual situation enable them to fully reflect the people's wishes, formulate laws suited to reality and supervise the work of government organs.

The Chinese Communist Party is the ruling party of socialist China and the representative of the interests of the people throughout the country. Its leadership position has been the result of the historical choice made by the Chinese people during their protracted and arduous struggle for independence and emancipation. The leadership of the Party is mainly an ideological and political leadership. The Party derives its ideas and policies from the people's concentrated will and then turns them into state laws and decisions which are passed by the National People's Congress through the state's legal procedures. The Party does not take the place of the government in the state's leadership system. The Party conducts its activities within the framework of the Constitution and the law and has no right to transcend the Constitution and the law. All Party members, like all citizens in the country, are equal before the law.

The system of multi-party cooperation and political consultation under the leadership of the Communist Party is the basic political system that gives expression to people's democracy. It guarantees that all social strata, people's organizations and patriots from various quarters can express their opinions and play a role in the country's political and social life. There are in China eight democratic parties apart from the Communist Party; they are the Revolutionary Committee of the Chinese Kuomintang, the China Democratic League, the China Democratic National Construction Association, the China Association for Promoting Democracy, the Chinese Peasants and Workers Democratic Party, the China Zhi Gong Dang (Party for Public Interest), the Jiu San Society (September 3rd Society) and the Taiwan

Democratic Self-Government League. Cooperation between the Communist Party and these democratic parties took shape during the democratic revolution before 1949, the year New China was founded. The leading role of the Communist Party in the cooperation is recognized by the democratic parties as it has been evolved in long years of common struggle. These democratic parties shared with the Communist Party the same basic political ideas whether in the struggle for overthrowing the "three big mountains" or during the period of building New China. Enjoying political freedom and organizational independence, all these democratic parties have developed greatly. They are neither parties out of office nor opposition parties, but parties participating in state affairs. As China's ruling party, the Communist Party repeatedly asks these democratic parties for their opinions on every major state affair and consult with them for solutions. Relations between the Communist Party and the democratic parties follow the guideline of "long-term coexistence and mutual supervision, treating each other with full sincerity and sharing weal or woe." Full play has been given to the role of the democratic parties in participating in and discussing state affairs, democratic supervision and uniting all the people. Many members of the democratic parties have assumed leading posts in organs of state power, government departments and judicial organs. Of the 19 vice-chairmen elected by the Seventh National People's Congress at its First Session, seven are members of democratic parties. Nearly 1,200 members of the democratic parties and personages with no party affiliations are holding leading posts in governments above the county level.

The Chinese People's Political Consultative Conference (CPPCC) consists of representatives of all the political parties and people's organizations and from among patriots and democrats who support socialism and the reunification of the motherland. New China's first Central People's Government was elected by the First Chinese People's Political Consultative Conference. After the establishment of the National People's Congress as the supreme organ of state power, the CPPCC became an organization of the patriotic united front. It provides a forum for discussions on major state policies and principles and big issues in social life and plays a supervisory role through suggestions and criticisms. The CPPCC usually convenes simultaneously with the people's congress at the corresponding level. The system of political consultation has played an important role in promoting democracy.

China attaches great importance to the promotion of democracy at the grass-roots level so as to guarantee that citizens can directly exercise their political rights. Neighborhood Committees are the grass-roots democratic organizations in urban areas, and their counterparts in rural areas are Village Committees. As self-governing organizations established by the people, these committees deal with matters concerning public welfare and residents' well-being while assisting local governments in mediating family and neighborhood disputes, conducting ideological education and maintaining public order. Most Chinese enterprises have adopted the system of workers' congress, which is the basic form of democratic management through which workers participate in the decision-making and management of the enterprises and supervise the enterprise leaders. Over the last few years, virtually all directors and managers of large and medium-sized state enterprises have been examined and their work appraised with the participation and supervision of the workers' congresses.

The Constitution provides for a wide range of political rights to citizens. In addition to the right to vote and to be elected mentioned above, citizens also enjoy freedoms of speech, the press, assembly, association, procession and demonstration. There is no news censorship in China. Statistics show that of all the newspapers and magazines in China, only one-fifth are run by Party and state organizations, and

the others belong to various democratic parties, social organizations, academic associations and people's organizations. By law citizens have the right to intellectual property, such as copy-right, and the right to publication, patent, trademark, discovery, invention and scientific and technological achievement. It is a matter of personal freedom for a citizen to decide what book he will write, what point of view he will use in writing it and which publishing house he will choose to have his book published. Statistics show that an overwhelming majority of the 80,224 titles of books printed in 1990 with a total impression of 5.64 billion copies were signed by individual authors. As to the freedom of association, the 1990 statistics showed that there were 2,000 associations, including societies, research institutes, foundations, federations and clubs. All these associations operate freely within the framework of the Constitution and the law.

The Constitution also rules that citizens have the right to criticize and make suggestions regarding any state organ or functionary and the right to make to relevant state organs complaints or charges against, or exposures of, any state organ or functionary for violation of the law or dereliction of duty.

The Constitution provides that freedom of the person of citizens of the People's Republic of China is inviolable. Unlawful detention or deprivation of citizens' freedom of the person by other means and unlawful search of the person of citizens are prohibited; the personal dignity of citizens is inviolable, and insult, libel, false accusation or false incrimination directed against citizens by any means is prohibited; the residences of citizens are inviolable and unlawful search of, or intrusion into, a citizen's residence is prohibited; freedom and privacy of correspondence are protected by law, and those who hide, discard, damage or illegally open other people's letters, once discovered, shall be seriously dealt with, and grave cases shall be prosecuted.

The Constitution provides that China implements the system of people's democratic dictatorship, which combines democracy among the people and dictatorship against the people's enemies. To guarantee the people's democratic rights and other lawful rights and interests, China pays great attention to improving its legal system. It has promulgated and put into effect a series of major laws, including the Constitution, the Criminal Law, the Law of Criminal Procedure, the General Provisions of the Civil Law, the Law of Civil Procedure and the Law of Administrative Procedure. During the 1979-1990 period, the National People's Congress and its Standing Committees made 99 laws and 21 decisions on legislative amendments and passed 52 resolutions and decisions on legal matters; the State Council formulated more than 700 administrative laws and regulations; and the people's congresses and their standing committees of various provinces, autonomous regions and municipalities and provincial capital cities formulated numerous local laws and administrative rules and regulations, of which more than 1,000 were about human rights.

The unity between rights and duties is a basic principle of China's legal system. The Constitution stipulates that every citizen is entitled to the rights prescribed by the Constitution and the law and at the same time must perform the duties prescribed by the Constitution and the law, and that in exercising their freedoms and rights, citizens may not infringe upon the interests of the state, of society or of the collective, or upon the lawful freedoms and rights of other citizens. Legally citizens are the subjects of both rights and duties. Everyone is equal before the rights and duties prescribed by the Constitution and

the law. No organization or individual may enjoy the privilege of being above the Constitution and the law.

Practice of the past 40-odd years since liberation proves that the socialist democracy and legal system adopted by China are suited to the country's actual conditions and that the people is satisfied with it. It goes without saying that the building of this democratic politics and this legal system is no smooth sailing. There were times when democracy and law were seriously violated, such as happened during the "cultural revolution" (1966-76). Nevertheless, the Communist Party, backed by the people, corrected these mistakes and set the nation's socialist democracy and legal system back to the course of steady development. Upholding the general policy of reform and opening to the outside world and giving great attention to building socialist democratic politics, China is striving to improve and strictly enforce the socialist legal system and continuing the work to reform and improve the political system – all for the purpose of ensuring that the people can fully enjoy their civic rights and better exercise their political right of running the country.

### **III. Citizens Enjoy Economic, Cultural and Social Rights**

The human rights advocated by China encompass not only the right to subsistence and the civic and political rights, but also economic, cultural and social rights. The Chinese government pays due attention to the protection and realization of the rights of the country, the various nationalities and private citizens to economic, cultural, social and political development.

Socialist China eliminated the system of exploitation of man by man, thus making it possible for the first time in history for all working people to secure the right to equal economic development. China upholds the socialist system of public ownership of the means of production as the mainstay while at the same time permitting and encouraging the appropriate development of other economic sectors as supplements to the socialist economy. It will neither adopt a unitary public ownership system, which is divorced from the nation's current level of development of productive forces, nor practice privatization, which tends to shake the dominant position of public ownership in the national economy. Public ownership of the means of production constitutes the basis of China's socialist economic system. It guarantees that the major means of production in society are possessed by all the working people through the ownership by the whole people and the collective ownership by the laboring masses. The working people enjoy the right to manage, control and use the means of production. According to statistics, the total social investment in fixed assets in China came to 444.9 billion yuan in 1990, of which 291.9 billion yuan, or 65.6 percent, was invested in units owned by the whole people, and 52.9 billion, or 11.9 percent, in collectively-owned units. That is to say, the bigger share (77.5 percent) of the social investment in fixed assets is owned by the state and the collectives of the laboring masses.

The distribution system adopted in China is mainly based on the principle of "from each according to his ability, to each according to his work." At the same time, the government allows and encourages some people to become rich first by the sweat of their brow and through legitimate business activities. Those who get rich first can then help others, so that common prosperity can be achieved. This brings into play

the enthusiasm of the laboring masses and at the same time prevents polarization. China is one of the nations that register the lowest income gap in the world. According to 1990 statistics, the 20 percent of urban dwellers with the highest spendable incomes earn only 2.5 times as much as the 20 percent with the lowest incomes. This very fact has made it possible for China, an economically underdeveloped country, to guarantee the livelihood of its 1.1 billion people and avoid social confrontation resulting from polarization.

Economic equality has motivated the laboring people to a great extent and brought about speedy growth of the Chinese economy.

Over the past 40-odd post-liberation years and particularly in the past decade and more since the adoption of the policy of reform and opening to the outside world, China has all along been in the front rank of the world in terms of the rate of economic growth. The annual increase of GNP was 6.9 percent during the 1953-90 period and 8.8 percent during the 1979-90 period. China now leads the world in the output of many important products, including grain, cotton, pork, beef, mutton, cloth, coal, cement and television sets; and it has also emerged as one of the world's biggest producers of steel, crude oil, electricity and synthetic fibers.

With the growth of the national economy, the overall living standards of the Chinese people have greatly improved. Statistics show that in 1990 China's national income came to 1,442.9 billion yuan, or 11.9 times the 1952 figure of 58.9 billion yuan calculated according to constant prices. A good part of the national income was spent on consumer goods. In 1990, consumer spending amounted to 944.4 billion yuan, which was 8.4 times the 1952 figure of 47.7 billion yuan according to constant prices. Of the total volume of consumption, 810 billion yuan was spent by individual consumers, which was 7.3 times the 43.4 billion yuan in 1952 according to constant prices. The per-capita volume of consumption for the Chinese residents averaged 714 yuan in 1990, 3.7 times more than in 1952 according to constant prices, despite a 98.9 percent population increase in the intervening years. Now that the Chinese people have solved the basic problems of food and clothing, they are working their way toward a well-to-do life. According to statistics, in 1990 every hundred rural families owned 118.3 bicycles and 44.4 TV sets; and every hundred urban house-holds owned 188.6 bicycles, 111.4 TV sets, 42.3 refrigerators and 78.4 washing machines. In addition, the housing conditions of Chinese residents have improved, with the 1990 average per-capita living space increased to 7.1 square meters from 3.6 square meters in 1978 for urban dwellers and to 17.8 square meters from 8.1 square meters in 1978 for rural inhabitants. The speeds at which the economy grows and the people's living standards improve in New China are not only something inconceivable in old China, but also among the highest in the world community.

The right to work is a basic right of the citizens. In old China, people were deprived of the right to work according to their own will. This right was controlled by the landlords and capitalists, the owners of the means of production. The working people were constantly threatened by the prospect of unemployment. When China was liberated in 1949, a total of 4.742 million, or 60 percent of the total labor force in the cities, were jobless. It is stipulated in the Constitution that Chinese citizens have both the right and the duty to work. The government took all sorts of measures and solved the problem of unemployment, thereby enabling the masses of the working people to take part in socialist construction as masters of the society. In the 12 years between 1979 and 1990, a total of 94 million new jobs were created in urban

areas. With the expansion of the productive forces, the problem of rural surplus labor emerged as a major issue. The Chinese government has adopted the policy for some of the farmers to "leave the field but remain in the village," and, by vigorously developing rural enterprises and encouraging individual households to run industrial and sideline occupations along specialized lines, found the fundamental way out for the surplus labor force in rural areas. Since 1985, the unemployment rate in urban areas has remained at around 2.5 percent, which is fairly low as compared with other countries in the world.

The Constitution provides that public property and the legitimate property of citizens are protected. Public property owned by the state, collective property owned by the working people, and the legitimate property owned by individuals are all protected by law. Any organization or individual is thus forbidden to occupy, seize, share out or destroy such properties. It is also forbidden to seal up, withhold, freeze or confiscate such properties by illegal means. The state protects the citizens' ownership and inheritance rights to their legitimate income, savings, housing and other legitimate properties. The rights of use and contract management of state-owned land, forests, mountains, grassland, uncultivated land, beaches and waters obtained by units under public ownership and collective ownership and private citizens through legal means are protected by law. Whoever infringes upon such rights shall be dealt with by legal means. At present, there are more than 90,000 private enterprises in China. Like the properties of units under public ownership or collectively owned by the laboring people, the legitimate properties of private enterprises are under the protection of law and shall not be illegally seized, sealed up or confiscated. The Chinese government also provides legal protection to foreign investment, joint ventures with Chinese and foreign investment and solely foreign-owned enterprises in China.

The right of education is an important prerequisite for the overall, free development of human beings. In old China, the majority of the working people did not have such a right. With only less than 20 percent of school-age children going to school, more than 80 percent of the total population were illiterate. After the founding of New China, the government took various measures to guarantee the citizens' right of education by devoting great efforts to the development of education. By 1989, China had set up 1.045 million schools at various levels in urban and rural areas. Among them 1,075 were regular institutions of higher learning. In 1990, about 99.77 percent of school-age children in the cities and 97.29 percent of school-age children in the countryside were attending school. The numbers of college, middle school and primary school students were respectively 17.6 times, 40.3 times, and 5 times the 1949 figures. During the 1949-90 period, a total of 7.608 million graduate and undergraduate students completed their college education, almost 40 times the total between 1912 and 1948 in old China.

Since China adopted the policy of reform and opening to the outside world, the number of students studying abroad has been rapidly increasing. Since 1978, China has sent 150,000 students in various disciplines of learning to study in 86 countries and regions. So far almost 50,000 of them have returned after finishing their studies, and over 100,000 of them are staying abroad. After the political incident of 1989, the number of Chinese going abroad to study has not decreased but has increased to some extent. In 1990, China completed its plan of sending 3,000 government-sponsored students abroad for academic pursuits. Meanwhile, about 6,000 students were sent to foreign countries by various units, and 20,000 (not including those enrolled in Australian and Japanese language schools) paid their own way to study abroad.

According to statistics of departments concerned in Beijing, Shanghai and Guangzhou, more than 3,000 students have returned from overseas and have started work at their new posts during the past two years. In the meantime, more than 5,700 students have returned to countries where they study after coming home to visit relatives, take vacation or do short-term jobs. According to international norm, Chinese students who are sponsored by the government to study abroad have the duty to return to serve their home country. The Chinese government, always valuing returned students and creating favorable working conditions for them upon return to China, has set up special organizations to take direct responsibility in receiving and arranging suitable jobs for returned students. More than 70 post-doctoral mobile research centers and short-term working stations have been set up by the Chinese Academy of Sciences and various universities, offering fine research and living conditions for those who have returned. Moreover, the Chinese government and related departments have set up a number of foundations to raise funds for scientific research and to aid returned students in research and teaching activities.

The Chinese citizens enjoy freedom of scientific research and literary and artistic creation. In order to promote the development of scientific research and to bring about cultural and artistic prosperity, the Chinese government upholds the guideline of "serving the people and socialism" and the principle of "letting a hundred flowers blossom and a hundred of schools of thought contend." Since the founding of New China, the contingent of scientists and technicians has steadily expanded. In 1990, state-run units employed a total of 10.808 million natural scientists and technical workers, 24.4 times more than the 1952 figure of 425,000. The State Commission of Natural Science Foundation has since its establishment in February 1986 accepted 34,847 applications for scientific research projects which call for a total allotment of 2.31 billion yuan. Large numbers of outstanding achievements have been registered in the field of science and technology. In biological science, Chinese scientists succeeded in making synthetic bovine insulin and in converting yeast alanine into synthetic ribonucleic acid (RNA); in agricultural science, experiments in hybrid paddy rice have been successful; in high-energy physics, an electron-positron collider was constructed; other achievements in high technology are represented by the successful explosion of atomic and hydrogen bombs, the making of super-computers capable of 100 million calculations per second, the launching of the Long March III carrier rocket and the research in satellite telecommunications and superconductivity. In all these fields, China has either reached or approached advanced world levels.

China has formed a legal system to protect intellectual property rights. A trademark law and a patent law have been promulgated and put in force. On June 1, 1991, a copyright law went into effect. According to 1990 statistics, more than 270,000 valid trademarks have been registered; and 66 countries and regions have applied for patent rights in China. By the end of 1990, American enterprises alone have applied for registration of 12,528 patent rights in China.

Public health facilities are a necessary guarantee for the human rights of life and health. In old China, health organizations and technicians were in short supply and at a low level and the majority of them were concentrated in urban areas. After the founding of New China, a public health network was gradually established. Covering all the cities and countryside, this network includes many kinds of health organizations at various levels and employs different types of public health workers. In 1990, there were 209,000 health institutions across the land, 56.9 times that of 1949. The number of hospital

beds rose to 2.624 million, a 32.8-fold increase; and the number of professional health workers reached 3.898 million, 7.7 times that of 1949. In the countryside where the majority of Chinese people live, there are 47,749 hospitals at the township level; health centers or clinics have been set up in 86.2 percent of all villages; the number of hospital beds has reached 1.502 million; and there are 1.232 million medical personnel and professional health workers. In China, every doctor serves an average of 649 people whereas in medium-income countries the figure is 2,390. With the development of medical and public health undertakings, the incidence of infectious and endemic diseases has been drastically reduced. Such highly infectious diseases as leprosy, cholera, the plague, and smallpox have been basically eradicated. Snail fever, Kaschin-Beck disease, the Keshan disease and other endemic diseases have come under control. The development of medical care and epidemic prevention has greatly improved the health of the Chinese people. Impressed by what he called China's "surprising" achievements in medical care, Dr. Bernard P. Kean, the World Health Organization's representative in China, said that he could hardly believe it was a developing country by looking only at such statistics as life expectancy, infant mortality, and causes of death.

The Chinese nation has a fine tradition of respecting elderly people. This tradition has been carried forward in New China. Senior citizens have the right to material assistance from the state and society. By the end of 1990, there had been 23.01 million people in the whole country living on retirement pensions. The proportion of the number of retired workers to the number of workers still in service is 1:6. In 1990, the pension for an average retired worker was 60 percent of the average pay for a worker in service, which ensured the livelihood of senior citizens in retirement, who also had the help and care of people from all walks of life. In urban areas, one of the major tasks of Neighborhood Committees is to help widowed senior citizens and safeguard their rights and interests. Welfare institutions and senior citizen homes have been set up respectively by the state and the collective enterprises to provide board and lodging and other free services for senior citizens without relatives to depend on. In rural areas, childless and infirm old people are guaranteed food, clothing, housing, medical care and burial expenses by society and collectives. The legal rights of senior citizens are protected by law; it is forbidden to abuse, insult, slander, ill-treat or abandon them. Adult offspring have the obligation to provide for their parents.

China attaches great importance to guaranteeing the rights of women, children and teenagers.

According to the Constitution, women share equal rights with men in political, economic, cultural, social and family life. Like men, they have the right to elect and to be elected. A considerable percentage of people's deputies and officials at various levels are women. Of the people's deputies elected in 1988 to the Seventh National People's Congress, 634, or 21.3 percent, were women. At present, 5,600 women serve as judges in the people's courts. The state lays special stress on training and promoting women cadres. The number of women serving in government offices has increased from 366,000 in 1951 to 8.7 million; this accounts for 28.8 percent of the total number of civil servants. In China, men and women get equal pay for equal work. Working women enjoy the right of special labor protection and labor insurance. The total number of women workers in China has increased from 600,000 in 1949 to 53 million. Women's right to education is also duly respected. In 1990, the total number of female students at school reached 78.81 million. These included 700,000 college students, 21.56 million middle-school

students and 56.56 million primary school students, accounting for 33.7 percent, 42.2 percent and 46.2 percent respectively of the total number of students at school and college.

The state also pays special attention to protecting women's right to freedom of choice in marriage and forbids mercenary and arranged marriages and other acts of interference in other people's freedom of marriage. The judicial departments have taken stern measures according to law against criminals engaged in the sale of women.

The state has formulated laws and regulations to protect children. It is strictly forbidden to ill-treat and sell children and to use child labor. In order to safeguard the life and health of children, the state has issued a decision on strengthening and improving the health care in nurseries and kindergartens, and formulated special regulations to prevent and treat diseases such as infantile paralysis, smallpox, diphtheria and tuberculosis. China enjoys a relatively high rate of health care for children and of schooling for school-age children compared with other developing countries. The rate of inoculated children in China has almost reached the average level of developed countries.

However, China is still a developing country which is marked for its backward economic and cultural development, and much remains to be done to further expand the people's economic, cultural and social rights. In the Ten-Year Program for the National Economy and Social Development (1991-2000), concrete targets and measures are set forth for the further improvement of the people's economic, cultural and social rights.

#### **IV. Guarantee of Human Rights In China's Judicial Work**

The aim and task of China's judicial work is to protect the basic rights, freedoms, and other legal rights and interests of the whole people in accordance with law, protect public property and citizens' lawfully-owned private property, maintain social order, guarantee the smooth progress of the modernization drive, and punish the small number of criminals according to law. All this shows that China attaches great importance to human rights protection in the administration of justice.

China's public security and judicial organs follow the following principles in carrying out their duties: (1) All citizens are equal in regard to the applicability of law. In accordance with the law, each citizen's legal rights and interests shall be protected, and any citizen's offenses against the law and his criminal activities shall be looked into; (2) China's public security and judicial organs shall base themselves on facts and regard the law as the criterion in the conduct of all cases; (3) The procuratorate and the court shall independently exercise their respective procuratorial and judicial authority. They shall only obey the law and not be interfered with by any administrative organ, social organization or person. While dealing with criminal cases, the people's court, the people's procuratorate and the public security organ shall divide their work according to law, cooperate with and moderate one another. They should exercise their authority only within the scope of their own responsibilities and are not allowed to supersede one another. Procuratorial organs shall oversee whether the activities in public security organs, courts, prisons and reform-through-labor institutions are legal. These principles of justice are clearly stipulated

in China's law, and they provide the legal guarantee for safeguarding human rights in the state's judicial activities.

In every link of the work of public security and judicial organs and in the judicial procedure, China's law provides definite and strict stipulations to protect and guarantee human rights in an effective way.

### **1. Detention and Arrest**

China's Constitution provides that it is prohibited to take people into custody illegally or to deprive or limit citizens' personal freedom in other illegal ways. Without the permission or decision of the people's procuratorate or the decision of the people's court, and the dispensation of public security organs, no citizen can be arrested. In order to guarantee the proper use of the compulsory measure of arrest and to prevent infringement of the right of innocent people, the Constitution and the law vest procuratorial organs with the authority of investigation and approval before any arrest is made. According to law, public security organs have the authority to detain. If the internee is not convinced by the detention, he may appeal to the public security or procuratorial organs. If suspects detained by public security organs need to be arrested, this should be approved by the people's procuratorate; if the people's procuratorate does not approve the arrests, the public security organs should release them upon receiving notice from people's procuratorates. China's procuratorial organs and people's courts should promptly investigate and deal with cases involving staff members in governmental departments and other citizens depriving or limiting citizens' personal freedom.

China's Law of Criminal Procedure provides specific regulations on the deadline for handling criminal cases. At the same time, special regulations have been formulated on the deadline for major and complicated cases according to actual conditions. The Supplementary Regulations on Deadline in Handling Criminal Cases, issued by the Standing Committee of the National People's Congress in July 1984, provides extension and calculation of the deadline for investigation and detaining, the deadline for the first trial and second trial, and the deadline for supplementary investigation of major and complicated cases.

### **2. Search and the Obtaining of Evidence**

China's Constitution provides that it is prohibited to illegally search a citizen's body, and to illegally search or intrude into citizens' houses. The Law of Criminal Procedure provides that in order to search for criminal evidence and seize criminals, public security organs can search the body, articles, residence and other places concerned of the accused as well as those who may hide criminals or criminal evidence, but should do it strictly according to legal procedure. Procuratorial organs should strictly supervise law enforcement in the investigating activities of public security organs.

As a matter of principle and discipline for China's public security and judicial organs in handling cases, it is strictly prohibited to extort confessions by torture. Whenever a case of violating this principle and

discipline occurs, it should be dealt with according to law. In 1990, China's procuratorial organs filed for investigation 472 cases which involved extorting confessions by torture. This has not only protected citizens' personal rights effectively, but also taught law enforcement officials a lesson.

### **3. Prosecution and Trial**

Whether a case should be prosecuted after investigation or exempt from prosecution should be decided by procuratorial organs after overall and careful examination according to legal procedure; this is to ensure the timeliness, accuracy, and legality of a punishment, and at the same time, to prevent innocent citizens from unjust prosecution and prevent citizens' rights from infringement. In 1990, after examining cases to be prosecuted or exempt from prosecution, which were referred to them by investigating organs, the procuratorial organs at various levels in the country decided to exempt 3,507 people from prosecution.

The people's courts carry out a public trial system. Cases should be tried publicly, except those involving state secrets or individual privacy and involving minors, which according to law shall not be heard publicly. The main points of a case, the name of the accused, the time and place of the trial should be announced before the hearing, and visitors should be allowed into the court. During the hearing, all the facts and evidence on which the case on file is based should be investigated and checked in court. All activities in court should be carried out publicly except when the case is being reviewed during court recession. These include issuing the indictment by the public prosecutor, court investigation, questioning witnesses, debate and the final statement by the accused. The verdicts in all cases, including cases of non-public trial in accordance with law, should be pronounced publicly.

During the judicial process the people's court makes it a point to collect the evidence as comprehensively as possible according to legal procedure. With no other evidence except the confession of the accused as a basis, the accused cannot be pronounced guilty or sentenced; without the confession of the accused but with ample and reliable evidence, the accused can be pronounced guilty and sentenced.

The accused has the right to defense. According to the Law of Criminal Procedure, the accused, besides exercising his right to defend himself, can also entrust a lawyer, or close relatives, or other citizens to take up the defense on his behalf. When the public prosecutor institutes a case before the court, if the accused does not entrust his defense to a lawyer, the people's court can appoint one for him. During the trial, the accused has the right to terminate a lawyer's action in his defense and entrust another to take it up. After the people's court decides to hear a case, a duplicate copy of the indictment should be made available to the accused at least seven days before the opening session of the court in order that he may learn what crime or crimes he is being prosecuted for and the reasons why he is being prosecuted, and that he has enough time to prepare his defense and get in touch with his lawyer. During the prosecution, the people's court should strictly comply with the regulations of the Constitution and the Law of Criminal Procedure, and earnestly guarantee the right of the accused to defense.

The accused has the right to appeal to a higher court and the right of petition. In deciding cases the Chinese courts follow the system whereby the court of second instance is the court of last instance.

According to law, if a party refuses to accept the judgement and ruling of the first trial, he may appeal to a higher people's court; if he remains unconvinced by the judgement and ruling which are legal in effect, he may petition to people's courts or procuratorial organs. Appealing to a higher court will not increase the punishment.

China's Criminal Law has special regulations on juvenile crime and criminal responsibility. Those who have reached the age of 14 but not of 16 should be responsible for crimes of murder, serious injury, robbery, arson, hardened thievery and other felonies against public order; those who have reached the age of 14 but not of 18 should receive lenient punishment or mitigated punishment if they commit crimes; as for those who are exempt from punishment because they have not reached the age of 16, their parents or guardians should be ordered to subject them to discipline, and if necessary the government can take them away for custody and education.

Lawsuit procedures and judicial activities are strictly supervised as to their legality. In 1990, China's procuratorial organs put forward suggestions for the correction of illegal practice in 3,200 instances, thereby effectively guaranteeing citizens' legal rights and interests in lawsuits and judicial activities.

China, like most countries in the world, maintains capital punishment, but imposes very stringent restrictive regulations on the use of this extreme measure. China's Criminal Law states, "Capital punishment is applied only to criminals who are guilty of the most heinous crimes." It also provides that capital punishment is not applied to criminals who have not reached the age of 18 when they commit crimes or to women who are pregnant when they are on trial. China's Law of Criminal Procedure provides for a special review procedure in cases of capital punishment. That is, the judgement in cases of capital punishment, except for those made by the Supreme People's Court according to law, should be reported to the Supreme People's Court or to a high people's court authorized by it after the second, or final, instance; only after all the facts, evidence, convictions, sentences and trial procedures are comprehensively investigated and checked and approved can the judgement take legal effect. After the examination and approval, if a lower people's court finds that there may be mistakes in a judgement, it should stop enforcement of the punishment and immediately report to a higher people's court with the authority of examination and approval, or to the Supreme People's Court, in order that a ruling may be made by it.

China's law also provides a system allowing a two-year reprieve in carrying out a death sentence. That is, in cases where criminals should receive the death penalty but the sentence need not be carried out at once, capital punishment can be announced with a two-year reprieve and reform through forced labor, in order to observe the offender's behavior. If the offender sincerely repents and mends his ways, after the two-year reprieve expires, the punishment can be reduced to life imprisonment; if a criminal really repents, mends his ways and performs meritorious services after the two-year suspension expires, his punishment can be reduced to a set term of imprisonment from 15 years to 20 years. Practice has shown that most of the criminals who are given the death penalty with reprieve have had their punishment reduced to life imprisonment or a set term of imprisonment, after expiration of the two-year reprieve. The system of announcing the death sentence with a two-year reprieve and forced labor, as provided in China's Criminal Law, is an original creation in the application of capital punishment. It is an effective system by which strict control is exercised over the use of capital punishment in China.

#### **4. No "Political Prisoners" in China**

In China, ideas alone, in the absence of action which violates the criminal law, do not constitute a crime; nobody will be sentenced to punishment merely because he holds dissenting political views. So-called political prisoners do not exist in China. In Chinese Criminal Law "counterrevolutionary crime" refers to crime which endangers state security, i.e., criminal acts which are not only committed with the purpose of overthrowing state power and the socialist system, but which are also listed in Articles 91-102 of the Criminal Law as criminal acts, such as those carried out in conspiring to overthrow the government or splitting the country, those carried out in gathering a crowd in armed rebellion, and espionage activities. These kinds of criminal acts that endanger state security are punishable in any country. In 1980, in handling the case of the Lin Biao and Jiang Qing counterrevolutionary cliques, the special court of the Supreme People's Court strictly implemented this principle by prosecuting members of the cliques according to law for their criminal acts while leaving alone matters concerning the political line.

#### **5. Prison Work and Criminals' Rights**

At present there are in all 680 prisons and reform-through-labor institutions in China, holding 1.1 million criminals in detention. The rate of imprisonment is 0.99 per thousand of the total population. Compared with the rate of imprisonment of 4.13 per thousand in one of the Western developed countries according to 1990 statistics of its ministry of justice, China's rate is quite low.

China's prisons and reform-through-labor institutions receive, strictly according to law, criminals sent to them to enforce sentences passed by the courts. If they find the relevant legal documents not complete or the judgement not yet in effect legally, they have the legal right to refuse to take the persons in custody. Prisons and reform-through-labor institutions should notify a prisoner's family members of his whereabouts within three days after taking him into custody. According to China's law, most prisoners are allowed to serve their sentences in the area where they reside to make it convenient for their family members to visit them and for the units where they used to work to help educate them. The allegation that in China some citizens are sent to labor camps without trial or sent away in some form of exile within the country is a distortion of the system whereby prisons and reform-through-labor institutions in China take criminals into custody; it is a groundless fabrication.

In China, the rights of prisoners while serving their sentences are protected by law.

According to China's law, all prisoners, with exception of those who have been legally deprived of their political rights, have the right to vote. Prisoners also have the right to appeal, the right of defense, the right of immunity from insult to their dignity and from infringement of personal security and of legal property, the right of complaint, the right of accusation, and other civic rights which have not been curtailed by the law.

Convicted criminals, while serving their sentences, have the right to contact family members and other relatives regularly by correspondence or visits. If an important event happens in a criminal's family such as critical illness or the death of a directly-related family member, and if it is really necessary for the criminal himself to go back home to handle matters, he can be permitted to go home for a short period of time.

While serving their sentences, prisoners can read newspapers, magazines and books, watch television, listen to the radio, and take part in recreational and sports activities that are beneficial to the body and mind. In prisons and reform-through-labor institutions there are libraries where criminals can go to read. Like ordinary citizens, prisoners who are serving their sentences have the freedom of religious belief. Prisoners with religious beliefs can maintain their beliefs, and allowances are made for the customs and habits of prisoners of minority nationalities.

Prisoners are accorded the material treatment necessary in their daily lives. The state covers their living and medical expenses, and their grain, edible oil and non-staple food rations are set according to the same standards for local residents. All prisons and reform-through-labor institutions are staffed with an appropriate number of doctors; in professional medical institutions, medical facilities and hospital beds are set aside in prisoners' exclusive service; on an average, there are 14.8 hospital beds for every thousand prisoners, and those critically ill are sent to hospitals outside the prison for treatment or, on approval, may seek medical treatment on bail according to law. Prisoners' needs for medical care are guaranteed.

The people's procuratorates provide legal supervision of the protection of criminals' legitimate rights and interests. They send full-time prosecuting attorneys to jails and other places of surveillance to check whether the working and living facilities and conditions and the surveillance work are legitimate, to hear the opinions of those under surveillance, accept and look into their complaints and appeals, and deal with violations of law promptly when discovered.

The prisons and reform-through-labor institutions in China are not designed merely to punish the criminals but to educate them and turn them into law-abiding citizens by organizing them to take part in physical labor, learn legal and ordinary knowledge and master productive skills. Prisoners who have taken educational or technical training courses and passed examinations given by local education or labor departments are given certificates corresponding to their levels of education or technical grades. The validity of such certificates is recognized in society. By the end of 1990, about 720,000 certificates for literacy or diplomas for completing courses up to the college level had been issued to those serving terms in prisons and reform-through-labor institutions; over 510,000 had attended various technical training courses, and 398,000 received certificates of technical qualification. Prisoners thus find it easier to find jobs on release after serving their sentence.

China's law stipulates that prisoners who really show repentance and have rendered meritorious service can, upon rulings of the people's courts, have their sentences commuted or be put on parole. In 1990, 18 percent of the criminals in custody were accorded such treatments.

Thanks to the humanitarian, scientific and civilized management of the prisons and reform-through-labor institutions, the recidivism rate has for many years stood at 6-8 percent. Many prisoners have returned to society and become key members or engineers in their enterprises, and some of them have become model workers or labor heroes. Compared with the situation in one developed country in the West, where, according to 1989 judicial statistics, 41.4 percent of ex-prisoners returned to jail, China has come a long way in reforming and educating criminals. China's prisons and reform-through-labor institutions have won global acclaim for their achievements in turning the overwhelming majority of criminals, including the last emperor of the feudal Qing Dynasty and war criminals, into law-abiding citizens and qualified personnel helpful to the country's development.

## **6. Prison Labor**

China's law stipulates that all prisoners able to work should take part in physical labor. This is also the practice adopted in many countries worldwide. China's policy of reforming criminals through labor is designed to help those serving prison terms mend their old ways by acquiring the labor habit and fostering a sense of social responsibility, discipline and obedience to the law. This policy enables criminals in custody to stay healthy through a regular working life and avoid feelings of depression and apathy resulting from a prolonged monotonous and idle prison life. It also helps them learn productive skills and knowledge of one kind or another so that they can find a job after being released from prison and avoid committing new crimes because of difficulties in making a living. China's policy of reforming criminals through labor is not simply for the purpose of punishment; it is a humanitarian policy conducive to the reform, and the physical and mental health, of the criminals.

By the Chinese law, criminals work for no more than eight hours a day and take time off during holidays and festivals; they are entitled to the same grain, edible oil, and non-staple food rations and the same labor and health protection as accorded to workers of state-run enterprises engaged in the same type of work; those who overfulfill their production quotas are given bonuses and those holding technical titles at and above the middle grade are entitled to monthly technical allowances and opportunities of on-the-job vocational and technical training.

Prison labor products are mostly used to meet the needs within the prison system, and only a small quantity enters the domestic market through normal channels. The export of prison products is prohibited. China's foreign trade departments, which handle the export of Chinese commodities in a unified way, have never granted foreign trade rights to reform-through-labor institutions.

## **7. Education through Labor and the Rights of Those Being Educated through Labor**

The work of education through labor in China is based on the 1957 Decision on Education through Labor and other regulations adopted by the Standing Committee of the National People's Congress. Education through labor is not a criminal but an administrative punishment. Education-through-labor administrative committees have been set up by the people's governments of various provinces,

autonomous regions, municipalities as well as large and medium-sized cities, and the work is under the supervision of the people's procuratorates. It is stipulated that those eligible for education through labor should meet the requirements of relevant laws and regulations. For example, they should be at or above the age of 16 and have upset the public order in a large or medium-sized city but refused to mend their ways despite repeated admonition, or they have committed an offense not serious enough for criminal punishment. The decision to put a person under education-through-labor is made through a strict legal procedure and under a system of legal supervision in order to avoid subjecting the wrong person to the program.

After the education-through-labor administrative committee has according to related regulations made the decision to put a person an education-through-labor program ranging from one to three years, the person and his family members are entitled to be informed about the reasons for the decision and the duration of the program. If the person takes exception to the decision, he may appeal to the administrative committee or lodge a complaint with the people's court according to the Law of Administrative Procedure. If the education-through-labor institution finds that the person does not conform to the qualifications for the education-through-labor program or that he should have been sentenced to criminal punishment, it may report the case to the reeducation-through-labor administrative committee for review.

Those undergoing education through labor are entitled to civic rights prescribed by the Constitution and the law, except that they must comply with the measures taken according to the regulations on education through labor to restrict some of their rights. For instance, they are not deprived of their political rights and have the right to vote according to law; they have the freedom of correspondence and the right to take time off during festivals and holidays; during the period of education through labor they are allowed to meet with their family members, those who are married can live together with their spouses during visits, and they can be granted leave of absence or go home to visit family members during holidays. Those who have acquitted themselves well while being educated may have their term reduced or be released ahead of time. Every year about 50 percent of the people undergoing the education-through-labor program have their term reduced or are released ahead of time.

The education-through-labor institutions follow the policy of educating, persuading and redeeming the offenders, with the emphasis on redeeming. Classes are opened, and instructors assigned, in these institutions to conduct systematic ideological, cultural and technical education. Offenders under the education-through-labor program work no more than six hours every day.

An average of 50,000 people have been brought under the education-through-labor program annually since it was instituted. The overwhelming majority of those who have been reeducated have turned over a new leaf, and many have become valuable participants in building the country. According to surveys conducted over the last few years, only 7 percent of those released from the education-through-labor program have lapsed into offense or crime. The program has done what families, workplaces and schools cannot do: to prevent those who have dabbled in crime from committing further anti-social actions and breaking the law and to turn them into constructive members of society. Both the public and family members of the offenders speak highly of the program for its role in forestalling and reducing crime and maintaining public order.

China's public security and judicial organs have carried out their responsibilities strictly according to law and played an important role in protecting and guaranteeing the citizens' rights and freedoms. That explains why China has long been one of the countries with the lowest incidence of criminal cases and crime rate in the world. In 1990, the incidence of criminal cases and crime rate in China were 2 per thousand and 0.6 per thousand respectively, considerably lower than the figures in some developed Western countries, which ran as high as 60 per thousand and 20 per thousand respectively.

## V. Guarantee of the Right to Work

A citizen's right to work is the essential condition for his right to subsistence. Without the right to work, there will be no guarantee for the right to subsistence. The Constitution and the law provide that citizens have the right to work, rest, receive vocational training and be paid for their labor and that they have the right to labor protection and social security.

Having a job is the direct embodiment of the right to work. In China, with its large population and weak economy, employment is an outstanding social issue. In old China, corruption on the part of the Kuomintang government and the civil war it unleashed led the national economy to overall collapse and the bankruptcy of large numbers of industrial and commercial enterprises. By the beginning of 1948, 70-80 percent of the factories in Tianjin had shut down; in Guangdong, the number of factories shrank from more than 400 to less than 100; and in Shanghai, numerous factories were closed down and the 3,000-odd factories that survived had to run at 20 percent of their normal capacity. Numerous workers lost their jobs as a result of the massive number of industrial and commercial closedowns. By 1949, the year the nation was liberated, 4,742,000 workers, or 60 percent of the nation's total, were jobless. Such was the heavy social burden New China inherited from the old society.

After the founding of New China, the people's government attached great importance to this problem and took various practical measures to ensure employment. In less than four years, virtually all the unemployed left over from old China started work again. Since then, with the annual population growth of 14 million, employment has always been a cardinal issue in China's economic life. For a considerably long period of time, job-waiting people in urban areas basically counted on the government for job placements and most of them were employed in public works. Since the policy of reform and opening to the outside world was adopted in 1979, China has instituted a multi-ownership economic system with public ownership of the means of production taking the dominant position. The employment system whereby the state assigns virtually all the jobs has been revamped and the principle has been carried out to open up all avenues for job opportunities by combining the efforts in three fields--job placements by labor departments, employment in enterprises organized by those who need jobs, and self-employment. Labor companies have been established in the service of job-seekers, and vocational training has been expanded to improve the laborer's qualities and provide them with as many job opportunities as possible. To solve the problem of employment of the rural surplus labor force resulting from the development of production and the improvement of productivity, the government has devoted major efforts to setting up rural enterprises and encouraged farmers to develop industrial and sideline occupations along specialized lines and on a household basis. Thus those farmers who have quit farming can have work to do without

leaving their villages. Meanwhile, plans have been made for some of the surplus laborers to work in cities. In the economic rectification designed to raise the economic efficiency of enterprises and deepen their reform, a number of enterprises have been closed down, suspended, merged or switched to other lines of production in the last couple of years. The government, attaching great importance to the resettlement of the workers in these enterprises, has provided short- or medium-term training so that they can adapt to their new jobs quickly. In 1990, the number of workers in urban and rural areas reached 567 million, about 3.1 times what it was in 1949; the number of employees in cities and towns topped 147.3 million, 9.6 times that in 1949; and the urban and rural unemployment rate stood at only 2.5 percent.

In old China, women, who accounted for half of the nation's total population, not only suffered class oppression, but also had no right in the family, because of failure to gain economic independence. Those who were able to find jobs in society were subjected to every kind of discrimination. In New China, women enjoy the same right to work as men. The government devotes major efforts to developing social welfare, including nurseries and kindergartens, and encourages women to take up jobs, enabling them to acquire economic as well as political independence. The state law and policies provide special protection for women's employment. The Constitution provides the principle of equal pay for equal work to men and women alike. The government labor department intervenes and ensures that the mistake is corrected promptly whenever women are found to be discriminated against in their work units, and it stipulates that women get their normal pay during maternity leave. As a result, the number of employed women has been increased steadily, and their field of employment constantly expanding. Nowadays, women's employment rate has exceeded 96 percent in town and the countryside, trailing behind that of men's by less than two percentage points.

College graduates' employment is fully guaranteed in China. The situation is a far cry from old China, when graduation was synonymous to unemployment for college students. Since the founding of New China, the government has followed the policy of unified job assignment for all college graduates and thus ensured that every one of them has the opportunity to work. In the past 10 years, the government has reformed the job assignment system by combining the students' own choices with the state's guarantee of jobs. The state sees to it that, in light of the needs of various areas in economic development, every college graduate is provided with a suitable job on a voluntary basis. This is why unemployment is out of the question for college graduates in China.

In socialist China, the government guarantees the basic necessities of every worker and his family and sees to it that their life gradually improves with economic growth. Although Chinese workers have relatively low monetary wages, they enjoy a large amount of subsidies, including financial subsidies for housing, children's attendance at nursery and school and staple and non-staple foods, as well as social insurance such as medical treatment, industrial injury and retirement pension and many other welfare items, which are not counted in the wages. Statistics indicate that urban residents in China pay only 3-5 percent of their living expenses for housing, communication and medical treatment. Since China carried out reforms in 1979, past payment measures have been modified. On the basis of economic growth and labor-productivity increase, workers' wage levels have been raised proportionally. Therefore, the wage levels of workers have increased rapidly, and there has been an obvious improvement in the consumption level of all Chinese residents. Statistics in 1990 showed that the average consumption level

per capita of urban residents had increased from 149 yuan in 1952 to 1,442 yuan, an inflation-adjusted increase of 3.8 times.

China pays close attention to labor protection and has issued 1,682 laws, rules and regulations in 29 categories in this regard, while 28 provinces, autonomous regions and municipalities directly under the central government have their own local laws and regulations for labor protection. In addition, 452 articles of state technical standards regarding occupational safety and hygiene have been enacted throughout the country. China has established a state supervision system insuring labor safety, hygiene, protection for female workers and a work-hour and vacation schedule. So far more than 2,700 labor supervision institutions have been set up throughout China with some 30,000 supervisory personnel. The duty of the supervision institutions is to monitor the work of enterprises and their management with regard to labor safety and hygiene so as to stimulate the enterprises to improve working conditions constantly.

China adopts the policy of "safety first and prevention first" in labor protection, and combines state inspection with enterprise management and worker supervision. The government requires that 10 to 20 percent of the enterprise's annual renovation fund be used for labor safety and hygiene. Labor protection is regarded by the state as an important factor in appraising the management skill of an enterprise. In cases of casualties, an investigation will be conducted to look into the responsibility of the leaders and personnel concerned.

China provides free medical service in the urban state institutions and undertakings and co-operative medical service in most rural areas. Thus both urban and rural workers are assured of medical care. Those wounded or disabled on the job are provided living expenses from the state or the collective. In order to raise the level of labor protection, China has set up many testing centers for occupational safety and hygiene and labor-safety education offices. Dozens of universities have established safety-engineering departments. Labor and industry departments have set up scores of scientific research institutes which attempt to strengthen labor safety and improve working conditions for workers through scientific research, designing, production, usage and management. Compared with the Sixth Five-Year Plan period (1981-85), these efforts resulted in a 9.53 percent decrease in on-duty deaths and a 37.95 percent decrease in serious injury in state-owned and large collective enterprises during the Seventh Five-Year Plan period (1986-90).

The Chinese government pays special attention to the protection of female workers. In July 1988, the State Council promulgated Regulations on Labor Protection of Female Workers, laying down specific guidelines. For example, it is forbidden to make female workers engage in particularly strenuous work or work harmful to their physiological well-being. Also stipulated are concrete protections for female workers during the menstrual period, and also during pregnancy, maternity leave and breast-feeding, at which periods, their basic wages must remain the same and their work-contracts cannot be terminated. In recent years, a special fund has been established in many places to offer living subsidies to women during breast-feeding and leave.

Chinese workers are the masters of their enterprises. Workers' interests are closely connected with the enterprises' prosperity, and there is no conflict of fundamental interests between the managers and the

workers. This reality determines that China's system of protecting workers' rights is different from that under the wage-labor system. According to China's Law Concerning the Industrial Enterprises Owned by the Whole People, workers can directly participate in the formulation and supervision of regulations concerning the enterprise's operation, management, labor, personnel, wage, welfare, social security, collective welfare, etc. through the workers congress. China's trade unions play a particularly important role in the protection of workers' right to work. Since China adopted the policy of reform and opening to the outside world in 1979, trade unions have accomplished the following five tasks: They have, first, actively practiced and improved the system of workers' congresses; second, set up various workers' schools to perfect the education system; third, organized labor emulation drives and mobilized workers and staff to overfulfill state plans; fourth, protected workers' material and spiritual interests and guaranteed their welfare; and fifth, set up committees to deal with labor disputes.

In July 1987, the State Council issued the Interim Rules on Labor Disputes in State-Owned Enterprises. Aimed at readjusting labor relations in state-owned enterprises, this administrative law deals with disputes arising from the implementation of labor contracts and the dismissal of workers who violate discipline. Institutions specialized in handling these disputes include the enterprise labor dispute mediation committee, local labor dispute arbitration committee and the people's court. Most disputes are resolved through mediation by the committees. Only a minority of cases are settled through arbitration or by the people's court. Incomplete statistics show that in 1990 enterprise labor dispute mediation committees and local labor dispute arbitration committees throughout China handled 18,573 labor dispute cases and settled 16,813, of which 15,881 were settled through mediation with a success rate as high as 94 percent. Only 932 cases were settled through arbitration, about 6 percent of the total decided cases. There were only 218 cases settled through court suit after arbitration failed, accounting for about 1.2 percent of the total number of completed cases.

The Chinese government attaches great importance to labor legislation. In accordance with the Constitution, the State Council and state labor administration departments have promulgated laws and regulations regarding wages, welfare, worker safety and health, as well as vocational training and grading, working and resting hours, trade unions and democratic management of enterprises. At present, the drafting of a labor law is under way.

## **VI. Citizens Enjoy Freedom Of Religious Belief**

There are many religions in China, such as Buddhism, Daoism, Islam, Catholicism and Protestantism. Among them Buddhism, Daoism and Islam are more widely accepted. It is difficult to count the number of Buddhist and Daoist believers, since there are no strict admittance rites. Minority nationalities such as the Hui, Uygur, Kazak, Tatar, Tajik, Uzbek, Kirgiz, Dongxiang, Salar and Bonan believe in Islam, a total of 17 million people. There are 3.5 million and 4.5 million people in China following Catholicism and Protestantism respectively.

China's Constitution stipulates that citizens enjoy freedom of religious belief. The state protects normal religious activities and the lawful rights and interests of the religious circles. The Criminal Law, Civil

Law, Electoral Law, Military Service Law and Compulsory Education Law and some other laws make clear and specific provisions protecting religious freedom and equal rights of religious citizens. No state organ, social organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion. State functionaries who illegally deprive a citizen of the freedom of religious belief shall be investigated, and legal responsibility affixed where due according to Article 147 of the Criminal Law.

The government has established departments of religious affairs responsible for the implementation of the policy of religious freedom. During the "cultural revolution," the government's religious policy was violated. After the "cultural revolution," especially since China initiated the reform and opening to the outside world, the Chinese government has done a great deal of work and made notable achievements in restoring, amplifying and implementing the policy of religious freedom and guaranteeing citizens' rights in this regard.

With the support and help of the Chinese government, religious facilities destroyed during the "cultural revolution" have gradually been restored and repaired. By the end of 1989, more than 40,000 monasteries, temples and churches had been restored and opened to the public upon approval of the governments at various levels. Houses and land used for religious purposes are exempted from taxes. Temples, monasteries and churches which need repair but lack money get assistance from the government. Since 1980, financial allocations from the central government for the maintenance of temples, monasteries and churches have reached over 140 million yuan. The maintenance of the Potala Palace in Tibet received 35 million yuan from the government. Local governments also allocated funds for the maintenance of temples, monasteries and churches.

There are now eight national religious organizations in China. They are: the China Buddhist Association, the China Daoist Association, the China Islamic Association, the Chinese Patriotic Catholic Association, the National Administration Commission of the Chinese Catholic Church, the Chinese Catholic Bishops College, the Three-Self Patriotic Movement Committee of the Protestant Churches of China and the China Christian Council. There are also 164 provincial-level and more than 2,000 county-level religious organizations. All religious organizations and all religious citizens can independently organize religious activities and perform their religious duties under the protection of the Constitution and the law. There are 47 religious colleges in China, such as the Chinese Institute of Buddhist Studies, the Institute of Islamic Theology, the Jinling Union Theological Seminary of the Chinese Protestant Churches in Nanjing, the Chinese Catholic Seminary and the Chinese Institute of Daoist Studies. Since 1980, more than 2,000 young professional religious personnel have been graduated from religious colleges and more than 100 religious students have been sent to 12 countries and regions of the world for further studies. China has more than ten religious publications and about 200,000 professional religious personnel -- nearly 9,000 of them are deputies to the people's congresses and members of the Chinese People's Political Consultative Conference at various levels. Along with deputies and members from other circles, they participate in discussions of state affairs and enjoy equal democratic rights politically.

In China, because of these policies, different religions and religious organizations as well as religious people and nonreligious people respect each other and live in harmony.

The religious freedom that Chinese citizens enjoy under the Constitution and the law entails certain obligations stipulated by the same. The Constitution makes it clear that no one may make use of religion to engage in activities that disrupt public order, impair the health of other citizens or interfere with the state's educational system. Those who engage in criminal activities under the subterfuge of religion shall be dealt with according to law, whether they are religious people or not. Law-breaking believers, like other law-breaking citizens, are dealt with according to law. Among the religious people who were dealt with according to law, some were engaged in subversion against the state regime or activities endangering national security, some instigated the masses to defy state laws and regulations, others incited the masses to infighting that seriously disturbed public order, and still others swindled money, molested other people physically and mentally and seduced women in the name of religion. In short, none of them were arrested only because of their religious beliefs.

Guided by the principles of independence, self-rule and self-management, Chinese religions oppose any outside control or interference in their internal affairs so as to safeguard Chinese citizens' real enjoyment of freedom of religious belief. Before the founding of the People's Republic of China, China's Catholic and Protestant churches were all under the control of foreign religious forces. Dozens of "foreign missions" and "religious orders and congregations" carved out spheres of influence on the Chinese land, forming many "states within a state." At that time there were 143 Catholic dioceses in China, but only about 20 bishops were Chinese nationals -- and they were powerless -- a good indication of the semi-feudal and semi-colonial nature of the old Chinese society. Chinese Catholic and Protestant circles resented this state of affairs and, as early as in the 1920s, some insightful people proposed that the Chinese church do its own missionary work, support itself and manage its own affairs. But these proposals were not realized in old China. After the founding of New China, Chinese religious circles rid themselves of foreign control and realized self-management, self-support and self-propagation. The Chinese people finally control their own religious organizations.

The Chinese government actively supports Chinese religious organizations and religious personnel in their friendly exchanges with foreign religious organizations and personnel on the basis of independence, equality and mutual respect. International relationships between religious circles are regarded as part of the non-governmental exchange of the Chinese people with other peoples of the world. In recent years, Chinese religious organizations have established and developed friendly relations with more than 70 countries and regions and sent delegations to many international religious conferences and symposiums. Chinese religious groups have joined world religious groups such as the World Fellowship of Buddhists, the Supreme Council for Islamic Affairs, the World Conference on Religion and Peace, the Asian Conference on Religion and Peace and the World Council of Churches. Since 1955, excluding the "cultural revolution" period, the Chinese Muslims have never stopped their pilgrimages to Mecca. The Chinese government has offered all kinds of facility and assistance for these trips. Between 1955 and 1990 more than 11,000 Chinese Muslims participated in the Mecca pilgrimages, several dozen times the total before the founding of New China. In recent years the annual number of pilgrims has surpassed 1,000 -- 1,500 in 1987, 1,100 in 1988, 2,400 in 1989, 1,480 in 1990, and 1,517 in 1991.

## VII. Guarantee of the Rights of The Minority Nationality

China is a unified, multi-national country, with 56 nationalities in all. The Han people take up 92 percent of the total population of the country, leaving 8 percent for the other 55 nationalities. To realize equality, unity and common prosperity among the nationalities is China's basic principle guiding relationships between nationalities. The Constitution provides that all nationalities in the People's Republic of China are equal. The state protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited, and any acts that undermine the unity and create splits among the nationalities are also prohibited. The Constitution clearly stipulates that in striving for unity among all its nationalities, China opposes great-nation chauvinism, especially great-Han chauvinism, as well as local nationalism.

In old China, severe national discrimination and oppression existed over a long period of time. Many of the minority nationalities, who were in straitened circumstances and not countenanced, had to hide in the mountains and live a life of seclusion from the outside world.

After the People's Republic of China was founded in 1949, discrimination against and oppression of minority nationalities were abolished and their condition underwent a thorough change. In the 1950s, the Chinese government organized a large-scale investigation for identification of the nationalities. After scientific differentiation, 55 minority nationalities were acknowledged and this fact was announced publicly. Most of the minority nationalities, for the first time in China's history, became equal members of the great family of Chinese nationalities.

New China brought about the system of regional autonomy for minority nationalities. Organs of self-government were set up in regions where people of minority nationalities live in compact communities, and the internal affairs of the minority nationalities were handled by themselves. At present, there are throughout the country 159 national autonomous areas, including five autonomous regions, 30 autonomous prefectures and 124 autonomous counties (or banners). National autonomous areas exercise all rights of self-government in accordance with the Law of the People's Republic of China on Regional National Autonomy and may work out autonomous rules and specific regulations according to local political, economic and cultural characteristics. Without violating the Constitution and the law, autonomous regions have the right to adopt special policies and flexible measures; autonomous organs can apply for permission to make alterations or desist from implementing resolutions, decisions, orders and instructions made by higher-level state organs if they are not in accordance with the situation in autonomous regions. Organs of self-government have the right to handle local financial, economic, cultural and educational affairs. In regions where people of a number of nationalities live together or in scattered communities, more than 1,500 national townships were established so as to enable minority nationalities to enjoy equal rights to the fullest.

In New China the political rights of minority nationalities are ensured.

Before liberation, the minority nationalities, like the majority of the Han people, suffered under severe oppression by the reactionary ruling class. The oppression in some areas took more savage and cruel

forms than in others. For instance, in old Tibet, over 95 percent of Tibetans, from generation to generation, were serfs attached to officials, nobles and lamaseries. According to the 13-Article Code and the 16-Article Code which had been enforced for several hundred years in old Tibet, Tibetans were divided into three classes and nine grades. The lives of ironsmiths, butchers and women, who were declared an inferior grade of inferior class in explicit terms, were as cheap and worthless as a straw rope. This feudal serf system with its hierarchy of three classes and nine grades was bolstered by cruel punishments such as gouging out eyes, cutting off feet, removing the tongue, chopping off hands and arms, pushing an offender off a cliff or drowning. Under such circumstances, the human rights of the majority of laboring people were out of the question.

After New China was founded, the old system was abolished and democratic reforms were carried out in one minority area after another. In Tibet, the serfs shook off their chains, and are no longer serf-owners' private property that can be bought, sold, transferred, bartered or used to clear a debt, no longer to suffer the above-mentioned savage punishments, and no longer divided into the three classes and nine grades. Thanks to the democratic reform, the minority nationalities, oppressed for generations, obtained the freedom of person and human dignity, won basic human rights and for the first time became masters of their own destiny.

Today, the minority nationalities, as equals of the Han nationality, enjoy all the civil rights which are set down in the Constitution and the law. In addition, the minority nationalities enjoy some special rights accorded to them by law.

The right of the minority nationalities to participate in the exercise of the supreme power of the state is specially protected. The Constitution stipulates that "all the minority nationalities are entitled to appropriate representation" in the National People's Congress (NPC), the highest organ of state power. The proportion of deputies elected by the minority nationalities to the NPC in the total number of NPC deputies is always about twice as large as the proportion of members of the minority nationalities in the country's total population. Of the deputies to the Seventh National People's Congress, 455 or 15 percent come from minority nationalities. And even the Loba, Hezhe and Monba nationalities, with only several thousand people, are represented in the NPC.

The local people's congress is the local organ of state power. As prescribed in China's Electoral Law, in areas where the people of minority nationalities live in compact communities, each minority nationality of a compact community should have its own deputies to the local people's congress. The law also has stipulations for special consideration to be given to the deputies from each minority nationality in the election. According to these stipulations, if the total population of a minority nationality in a region where people of minority nationalities live in compact communities is less than 15 percent of the total population of the region, the population that each deputy of the minority nationality represents can be less than the population that each deputy to the local people's congress represents.

The Chinese people of all nationalities are eligible to hold any posts in the state organ and government departments. In this respect, there is also no discrimination against the minority nationalities. For instance, not a few members of minority nationalities are holding or once held such high-ranking state posts as vice-president of the state, vice-chairman of the Standing Committee of the NPC, vice-premier

of the State Council, president of the Supreme People's Court, and vice-chairman of the National Committee of the Chinese People's Political Consultative Conference (CPPCC). The Law on Regional National Autonomy prescribes that citizens of the minority nationality that exercises regional national autonomy should serve as director or deputy-director of the standing committee of the people's congress of the autonomous region; and the chairman of the regional autonomous government and head of the administration of the autonomous prefecture and the autonomous county should be citizens of the nationality that exercises self-government. The staff and officials of the people's governments of the autonomous regions, and of the departments affiliated to them, should include members of the nationality that exercises regional national autonomy and members of other minority nationalities. Statistics show that in 1989 the number of minority officials made up 17.27 percent of the total number of directors and deputy-directors of the standing committees of the people's congresses of various provinces, autonomous regions and municipalities directly under the central government. The number of minority officials made up 12.66 percent of the governors or vice-governors of provinces, mayors or deputy-mayors of municipalities, and chairmen or vice-chairmen of autonomous regions. Of the directors or deputy-directors of the standing committees of the people's congresses at levels of city, prefecture and autonomous prefecture, minority officials reached 14.20 percent. The number of minority officials among mayors or deputy-mayors, commissioners and directors of prefectures took up 11.90 percent. Of the directors or deputy-directors of the standing committees of the people's congresses at the county level, minority officials totalled 17.30 percent. Minority officials made up 15.16 percent of county magistrates. All these proportions surpass 8 percent which is the proportion covered by the population of the minority nationalities in the total population of the country.

The state always pays close attention to training cadres from among people of minority nationalities. In recent years, the number of minority nationality cadres has gone up at a rate of more than 10,000 people annually. Now there are 37,000 Tibetan cadres throughout Tibet, making up 66.6 percent of the total number of cadres; this breaks down to about 72 percent at autonomous-region level and 61.2 percent at county level. The number of Mongolian cadres accounted for 50 percent of the total number of cadres in Inner Mongolia Autonomous Region.

The rights of the national autonomous regions to economic, cultural and social development are given special consideration. Before the founding of the People's Republic of China, the economic, cultural and social development in minority areas was extremely backward. At that time, some areas were still at the stage of primitive clan communes, with people practicing slash-and-burn cultivation. The minority nationalities lived in dire poverty. The average life expectancy was only 30 years, and epidemic diseases were rampant, with the result that the population decreased year after year. After the founding of New China, the people's government actively helped the minority nationalities develop their economies and culture in an effort to change their outdated mode of production. This enabled them to leap over several historical stages of social development. Now most of the minority nationalities have solved the problem of food and clothing, and the total population of the minority nationalities increased from 35 million in 1953 to 91.20 million in 1990. The growth rate of the population of minority nationalities is faster than that of the Hans. The average life expectancy of the minority nationalities is over 60, an increase of more than 30 years over the past.

In order to help minority nationalities develop their economies, the state has carried out economic construction on a large scale in minority areas. In some of these areas where there was no industry at all in the past, many large modern industrial enterprises have been set up. These include the Karamay Oilfield in Xinjiang Uygur Autonomous Region, the Baotou Iron and Steel Co. in the Inner Mongolia Autonomous Region, the Longyang Xia Hydroelectric Power Station in Qinghai, the Daba Power Plant in Guizhou, the Yangbajin Thermal and Power Station in Tibet, the Guizhou Aluminium Works in Guizhou, the Hologol River Coalfield in Inner Mongolia, the North Xinjiang Railway in Xinjiang, the Sichuan-Tibet Highway and the Qinghai-Tibet Highway. Before liberation, there were no highways worthy of the name in Tibet. When the British wanted to send a car to the Dalai Lama as a gift, it had to be dismantled and carried to Lhasa by yak-back. At present, a highway network centered on Lhasa has been built, its mileage reaching 21,800 kilometers, and many domestic and international airlines have already opened. The state always gives aid in the form of labor, material and financial resources to national autonomous regions. Today the central government provides subsidies totalling nearly 8 billion yuan a year to minority areas in eight provinces and autonomous regions. Of them, Tibet receives more than 1.2 billion yuan. Besides, the state also allocates special funds totalling 600 million yuan a year to aid minority areas, such as development funds to support underdeveloped areas, subsidies for areas inhabited by minority nationalities, special investments in capital construction in frontier areas, as well as operating expenses to subsidize border construction. The government pursues a tax-reduction and tax-exemption policy towards poverty-stricken minority areas in addition to many special measures adopted to lighten their financial burdens, provide preferential investment for them and send them help in the form of brain power and wholesale contract to enable them to get rid of poverty. Special funds have been set up to supply food and clothing to minority areas. The government has also arranged for the economically developed areas to provide assistance to the economic construction in minority areas. The economic construction in minority areas has made great progress thanks to help from the state and efforts by the local people. The total output value of industry and agriculture of minority regions in 1949 was 3.66 billion yuan; of this, 3.12 billion yuan came from agricultural production and 540 million yuan from industrial production. In the same areas the total industrial and agricultural output value in 1990 came to 227.28 billion yuan, an increase of 23.6 times by calculating at 1980 constant price. Of this, the value of agricultural output was 97.776 billion yuan, up 8.1 times; and 129.506 billion yuan for industry, a hike of 135.5 times.

As for employment policy, the Chinese government has formulated a special policy for the minority nationalities. The government requires that state-owned enterprises in minority areas give precedence to local citizens of the minority nationalities over all others when recruiting workers, and that various local governments, when recruiting workers for state-owned enterprises, should employ minority farmers and herdsmen from rural and pastoral areas in a planned way.

The Chinese government has greatly developed medical and health undertakings in the minority regions, tackling the problem of shortage of doctors and medicine that has existed for a long time there. In 1990, health organizations in those regions increased to 31,973, providing 359,830 hospital beds, and the ranks of doctors and nurses have grown to 488,600. While furthering the practice of modern medicine, the government encourages the development of traditional minority medical practice including the Tibetan, Uygur, Mongolian and Dai medicines. The central government has sent a large number of medical teams

to minority regions. During the period from 1973 to mid-1987, the state organized medical teams totalling 2,600 persons from some dozen provinces and cities and sent them into Tibet.

The Chinese government has paid a great deal of attention to maintaining and developing the excellent traditional cultures of various nationalities, and made tremendous efforts to promote the culture and education of the minority nationalities. By 1990, there had been 75 institutions of higher learning established in minority areas where in previous years there were none. A total of 12 nationality colleges run specially for minority nationality students have been set up in different parts of the country. In addition, some well-known universities including Beijing University and Qinghua University run classes specially for minority nationality students. When enrolling new students, colleges and vocational secondary schools appropriately relax admission standards for minority examinees. The government has actively created conditions for teenagers living in pastoral and remote areas to receive education by establishing boarding schools in minority areas, where students coming from pastoral, mountainous and poverty-stricken areas usually enjoy grants-in-aid. The state has transferred many teachers from inland and coastal areas to remote minority regions to help expand educational undertakings there. Between 1974 and 1988, the number of teachers helping in Tibet alone numbered 2,969. The enrollment of minority students in colleges and universities throughout the country in 1989 was 102.4 times that of 1950; in ordinary middle schools, they totalled 70.3 times that of 1951; and in primary schools, 11.2 times that of 1951.

China's law stipulates that all minority peoples have the freedom to use and develop their own spoken and written languages. In the performance of their functions, the selfgovernment organs in autonomous regions should use one or several locally used languages according to the regulations of autonomy set by the autonomous regions. Those organs which simultaneously use several commonly used languages in their work can give priority to the language of the nationality which exercises regional autonomy. The spoken and written languages of minority nationalities are equal to the Han language (Chinese) in judicial activities. Citizens of all nationalities have the right to use the language of their own nationality in legal proceedings. Trials in regions where minority nationalities live in compact communities, or which are inhabited by many nationalities should be conducted in the commonly used language of the locality. Indictments, court verdicts, notices and other documents, if necessary, should be written in one or several local languages.

The central government supports minority nationalities in the development of culture and education through the use of their own languages and has helped ten minority nationalities create their own script. Both central and regional specialized publishing houses and news agencies were established to publish minority-language newspapers, magazines and books, which in 1989, according to statistics, were respectively 3.1, 7.6 and 5.8 times the number published throughout the country in 1952. People in minority regions can tune in to the Central People's Broadcasting Station every day to listen to programs in Mongolian, Tibetan, Uygur, Kazak and Korean languages. Each minority region runs radio and TV programs in one or several minority languages appropriate to the nationality population living there.

The Chinese government fully respects the traditional culture and customs of minority nationalities, supports various minority arts, and encourages minority people to go in for all forms of artistic and sports activities. People from minority areas can take holidays on their own traditional festivals. Gold,

silver and other raw materials are allotted in certain amounts by the government to the minority peoples for the production of the daily necessities or luxury articles including silks, satins, shoes, hats, jewelry, jade artifacts and gold or silver ornaments.

The disparity between the minority regions and the inland and coastal areas arose and developed over a long historical period. For more than 40 years since the People's Republic was founded, the Chinese government has made positive achievements in its effort to narrow the gap, promote social development and bring about a change for the better in the backward minority areas.

### **VIII. Family Planning and Protection Of Human Rights**

The Chinese government implements a family planning policy in the light of the Constitution, with the aim of promoting economic and social development, raising people's living standards, enhancing the quality of its population and safeguarding the people's rights to enjoy a better life.

China is a developing country with the biggest population in the world. Many people, little arable land, comparatively inadequate per-capita share of natural resources plus a relatively backward economy and culture -- these features spell out China's basic national conditions.

The population which is expanding too quickly poses a sharp contradiction to economic and social development, the utilization of resources and environmental protection, places a serious constraint on China's economic and social development, and drags improvement of livelihood and the quality of the people. By the end of 1990, the mainland population had reached 1.14 billion. With such an immense population base, China, despite the implementation of birth control, still sees a yearly net increase of 17 million people, a number equal to the population of a medium-sized country. As for the per-capita area of cultivated land, it had dropped to 1.3 mu, representing only 25 percent of the world average. Similarly, the per-capita share of freshwater resources is just one quarter of the world average. China's grain production ranks first in the world, but divided among the population, the amount of grain per person accounts for just 22 percent of that in the United States. More than a quarter of the annual addition to the national income is consumed by the new population born during the same year. As a result, funds for accumulation have to be cut, and the speed of economic growth slowed down. The rapid swelling of the population has brought about many pressures on the country's employment, education, housing, medical care, and communications and transportation. Faced with the gravity of this situation, the government, in order to guarantee people's minimum living conditions and to enable citizens not only to have enough to eat and wear but also to grow better off, cannot do as some people imagine -- wait for a high level of economic development to initiate a natural decline in birthrate. If we did so, the population would grow without restriction, and the economy would deteriorate steadily. Hence, China has to strive for economic growth by trying in every possible way to increase the productive forces, while at the same time practice the policy of family planning to strictly control population growth so that it may suit economic and social development. This is the only correct choice that any government responsible to the people and their descendants can make under China's given set of special circumstances.

It is universally acknowledged that China has achieved tremendous successes in family planning. The birthrate dropped by a big margin from 33.43 per thousand in 1970 to 21.06 per thousand in 1990, and the natural population growth dropped from 25.83 per thousand to 14.39 per thousand. In 1970, the child-bearing rate of Chinese women was 5.81, and the figure decreased to 2.31 in 1990. At present, the above three indicators are lower than the average level of other developing countries. To a certain extent, this success has mitigated the contradiction between China's ballooning population and its economic and social development. It has played an important role in advancing socialist modernization and raising the living standard and the quality of the population. Also it has been an important contribution to the stability of the world's population.

The Chinese government, proceeding from national conditions, has fixed the target of population growth and formulated the following family planning policy: delayed marriage and postponement of having children, giving birth to fewer but healthier children, and one family, one child. Rural families facing genuine difficulties (including households with a single daughter) can have a second child after an interval of several years. Family planning is also being encouraged among minority nationalities to further their well-being and prosperity, and is based on the minority people's own free will. The specific requirements for minorities are different from those for Han families and are determined by the governments of autonomous regions and provinces according to the population, economy, resources, culture and customs of each nationality. Such a population policy, taking into account both the state's necessity to control population growth and the masses' real problems and degree of acceptance, tallies with China's actual economic and social situation and conforms to the people's fundamental interests. As experience proves, the policy has been understood and supported by the masses after thoroughgoing publicity and education. The fourth census showed that among the children born in 1989 throughout the country, the more-than-three-children birthrate dropped to 19.32 percent from 62.21 percent in 1970.

China adheres to the principle of combining government guidance with the wishes of the masses when carrying out its family planning policy. Since it involves all families, it would be impossible to put the policy into effect in a country with a population of more than 1.1 billion without the masses' understanding, support and conscientious participation. Family planning is also a reform of social custom and cannot possibly be carried out just by administrative orders. In the countryside, which is inhabited by 80 percent of the population, millennia-old traditional ideas remain influential, the economy is backward in some areas, and the social welfare and guarantee systems are still inadequate. People have real difficulties in their production and livelihood. Given these factors, the government has always given priority to tireless publicity and educational work among the masses to enhance public awareness that birth control, as a fundamental policy, has a direct bearing on the nation's prosperity and people's happy family life.

Government officials are required to take the lead in carrying out the policy and set a good example. In recent years, the Chinese Family Planning Association has set up more than 600,000 grass-roots branches with 32 million members to aid the masses in self-education, self-management and self-service, combining ideological education with helping the masses solve practical problems.

At the same time, the government has adopted some necessary economic and administrative measures as supplementary means. These measures are all adopted in keeping with the law, and with the ultimate aim of persuasion.

The family planning program puts contraception first, to protect the health of women and children. The government has made great efforts to spread scientific knowledge of contraceptive practices, and to provide couples of child-bearing age who do not want child with safe, efficacious, simple and inexpensive contraceptives and the choice of a birth-control operation. At present, about 75 percent of the couples of child-bearing age throughout the country are resorting to various kinds of contraceptive practices. All forms of forced abortion are resolutely opposed. Artificial abortion, only as a remedy for contraception failure, is performed on a voluntary basis and with guarantee of safety. In a situation of a notably lower birthrate, the ratio of annual births to artificial abortions is about the medium level in the current world. This has resulted from effective practices of contraception. Now China is adopting practical and effective measures to further lower the ratio.

China's population policy has two objectives: control of population growth and improvement in quality of the population. Work in this field not only encourages couples of child-bearing age to have fewer children but also provides them with mother care, baby care and advice on optimum methods of child-bearing and child-rearing. These services include premarriage check-ups, heredity consultation, pre-natal diagnosis and care during pregnancy to help couples have sound, healthy babies.

Drowning or abandoning female infants, a pernicious practice left over from feudal society, occurs much less often now, but has not been stamped out entirely in some remote areas. China's law clearly forbids the drowning of infants and other acts of killing them. The government has adopted practical measures for handling these kinds of criminal offenses according to law.

China's family planning policy fully conforms to Item 9 of the United Nations' Declaration of Mexico City on Population and Growth in 1984, which demands that "countries which consider that their population growth rate hinders their national development plans should adopt appropriate population plans and programs." It also accords with the UN World Population Plan of Action which stresses that every country has the sovereign right to formulate and implement its own population policy. Some people who censure China's family planning policy as "violating human rights" and being "inhuman" do not understand or consider China's real situation. But some others have deliberately distorted the facts in an attempt to put pressure on China and interfere in China's internal affairs. China has only two alternatives in handling its population problem: to implement the family planning policy or to allow blind growth in births. The former choice enables children to be born and grow up healthily and live a better life, while the latter one leads to unrestrained expansion of population so that the majority of the people will be short of food and clothing, while some will even tend to die young. Which of the two pays more attention to human rights and is more humane? The answer is obvious.

## **IX. Guarantee of Human Rights For the Disabled**

An estimate based on a sample survey in 1987 shows that in the mainland of China there are about 51 million disabled people, or 5 percent of the population. The Chinese government has paid close attention to the question of rights of the disabled and provided them special assistance and protection in order to reduce or eliminate the effects of disability and the external obstacles and guarantee their rights.

China's Constitution provides that the state guarantees that the disabled enjoy the same civic rights as the able-bodied. The Standing Committee of the National People's Congress adopted the Law of the People's Republic of China on the Protection of Disabled Persons in December 1990. This law, guided by the principles of "equality," "participation" and "co-enjoyment," stipulates that the disabled enjoy equal rights with other citizens and are protected from infringement. It also states that measures of support and help shall be taken to develop undertakings for the handicapped, promote their equal participation in social life and guarantee their share of the material and cultural achievements of society. Many important laws such as the Criminal Law, the Criminal Procedure Law, the General Principles of the Civil Law, the Civil Procedure Law, the Marriage Law, the Inheritance Law, the Electoral Law, the Military Service Law and the Compulsory Education Law, have special provisions guaranteeing the rights and interests of the handicapped.

In accordance with these laws, the Chinese government has worked out specific policies, rules and regulations to protect the rights and interests of the disabled, for example, the China Five-Year Work Program for People with Disability, the Several Viewpoints on Developing the Education for People with Disability, the Program for the Implementation of Three Rehabilitation Projects for People with Disability, the Circular on Tax Exemption for Private Business Run by Disabled People and the Circular on Tax Exemption for Social Welfare Production Units. Authorities in some provinces, municipalities directly under the central government and autonomous regions have worked out local laws and regulations to safeguard the right and interests of the disabled. Many local governments have adopted concrete measures to provide the disabled with preferential assistance, treatment and care.

To guarantee the right of the disabled to elect and to be elected, China's Electoral Law stipulates that those who are unable to write their vote may ask others whom they trust to write for them. Appraisal of the mentally or intellectually handicapped who are unable to participate in elections has to be made by hospitals and other appropriate departments and approved by the election committees.

Chinese law guarantees the property rights and other civil rights and interests of the disabled. For the disabled who are unable to file a civil suit, the law stipulates requirements for their qualified guardians. The Inheritance Law of the People's Republic of China details measures protective of the right to inheritance of property of the disabled people who are unable to work and without resources. Chinese law also prohibits ill-treatment and abandonment of the disabled by family members. The disabled who cannot work or live independently have the right to require other family members to support them. The legal provider of a disabled person must fulfill his duty of supporting him.

The Chinese government and social organizations have made great efforts in ensuring rehabilitation, education, employment, cultural life, welfare and a good environment for the disabled.

Chinese laws prohibit discrimination, insult and injury against the handicapped or their ill-treatment and abandonment. Those who take advantage of the disability of the disabled to infringe upon their personal rights or other legitimate rights and interests and thus commit a criminal act will be punished severely according to law. Disabled violators of the criminal law will be exempted from criminal responsibility, or have their punishment mitigated or waived in full consideration of their intellectual, mental or physiological capacity in being responsible for their action. The laws also offer the disabled, especially the mentally or intellectually handicapped, who are involved in criminal, civil or administrative procedures, special protection of their procedural rights and the necessary legal assistance.

In March 1988, with approval of the Chinese government, the China Disabled Persons' Federation was established. The federation represents the common interests of all the disabled, protects their lawful rights and interests and mobilizes social forces to serve them. It has established its local branches on the basis of national administrative divisions. Federations of the disabled have been set up in all provinces, municipalities and counties, except in Taiwan. And grass-roots associations of the disabled have been set up in about one third of the townships, subdistricts and factories with a concentration of disabled workers. The federations help local governments to administer and develop undertakings for the handicapped and play an important role in safeguarding their rights. For example, the Beijing Federation of the Disabled has in recent years helped the government in doing five things: work out the Beijing Regulations on the Protection of Disabled Persons; mobilize society to open nearly 100 training courses for mentally retarded children, hearing and speech training courses for deaf children and work-rehabilitation centers for the mentally retarded and establish a community rehabilitation network of several levels; set up one school for the blind, four schools for deaf-mutes and six schools for mentally retarded children; find jobs for the urban disabled, raising their employment rate to 90 percent; and conduct a general survey and registration of five kinds of disabled persons in Beijing, building files, finding out the causes of child disability and recommending preventive measures. The country's unified organization of the disabled has played an important role in developing services for the disabled and has achieved great successes.

In order to help the disabled recover or remedy their capacities and enhance their participation in social life and ability to enjoy their rights, the State Council in 1988 approved the National Program of Three Projects for the Rehabilitation of the Disabled. The government and society have poured huge human and material resources in the three rehabilitation projects: curing of cataracts, rectifying sequelae of polio, and hearing and speech training for deaf children. In the past three years 500,000 cataract operations have been performed with a success rate of 99.76 percent; 160,000 polio sequelae have been rectified with an effectiveness rate of 98.7 percent, enabling many young disabled to improve their limb functions, enter schools or take up jobs; and 10,000 deaf-mute children under seven have received speech training, with an effectiveness rate of 80 percent. Some deaf-mute children entered ordinary schools after they were rehabilitated, and some won first prizes in national children's poem recitation competitions. Every year the federation and health departments at all levels dispatch medical teams to cure cataract and polio patients in minority areas such as Xinjiang and Tibet and remote, impoverished and mountainous areas. These teams work under difficult conditions and yet their success has been remarkable.

A national network of community rehabilitation centers in both urban and rural regions is being built. About 2,300 grass-roots community rehabilitation centers, 750 handicapped-children's care centers and training classes, and 1,300 work-rehabilitation centers for the mentally and intellectually handicapped have appeared in cities and towns. The 16 neighborhood offices of the Shenhe District in Shenyang, Liaoning Province, have established handicapped children's pre-school education and care centers, along with a variety of disabled service programs for training, rehabilitation, welfare, match-making and social security funds.

China has made great efforts to develop education for the disabled by opening special classes in ordinary schools and setting up special education schools. Twenty-seven provinces, autonomous regions and municipalities directly under the central government, as well as 70 prefectures and cities have mapped out and implemented local education development programs for the disabled.

In the past three years various kinds of special education schools have increased annually by 20 percent, and the special classes in ordinary schools have doubled. The number of blind, deaf and mentally retarded pupils attending these special schools and classes increased by 30 percent every year. The number of disabled youth receiving higher education is constantly increasing. In the last two years about 4,700 self-taught disabled persons won college diplomas through special examinations.

The Chinese government, attaching great importance to vocational education for the disabled, has established for them 28 vocational education centers. The special education schools also offer professional skill training courses. The state has set up massage medical schools for the blind in Luoyang, Xian, Nanjing and Taiyuan. Each province and city also started courses and trained a large number of blind massage doctors. The Shanghai Technical School for Young Deaf-Mutes offers woodwork, metalwork and fine arts courses. Its graduates are employed in 16 provinces, autonomous regions and municipalities directly under the central government, and many of them have become engineers or assistant engineers.

The state has a preferential policy in developing education for the disabled. China's financial departments provide subsidies for special education. Apart from tuition-fees exemption and scholarships for the disabled students receiving compulsory education, there are also prizes to encourage and support self-taught disabled youths.

The Chinese government supports many welfare enterprises in which the disabled are employed. It supports them in every way, in their production, management, technology, funding, taxation and marketing. With the help of the government's preferential policy, welfare enterprises increased rapidly from 1,022 in 1979 to 42,000 in 1990. In the 1980s the number of handicapped people working in these enterprises increased by 67,000 each year, bringing the total to 750,000. Government organs and other institutions and enterprises also employ some handicapped people. At the same time, the country encourages the handicapped to open individual businesses.

At present, among the 5.18 million urban handicapped aged 16 to 59, about 2.60 million are employed. The employment rate is now at 50.19 percent. In rural areas there are about 17 million handicapped aged

16 to 59, and 10.30 million of them are engaged in raising crops or livestock. This means that 60.55 percent of the rural handicapped have jobs.

The government's cultural departments at all levels actively organize and support cultural, sport and recreational activities of the disabled, enriching their life and guaranteeing their equal cultural rights. Today, there are in China 1,770 centers for the disabled to carry out activities such as calligraphy, painting, photography, stamp collecting, track and field, ball games, chess, art performances and quizzes. The China Sports Association for the Disabled, established in 1983, has joined seven world handicapped sports organizations. At international games China's handicapped athletes have won nearly 400 medals, and set many world records.

By means of welfare measures such as aid, relief, subsidy, provisions, insurance and special care, the government has ensured and improved the livelihood of the disabled. There are 1.4 million disabled who are unable to work and have no legal providers and living resources. In rural areas, these people are protected under the five-guarantee system -- the guarantees of food, clothing, housing, medical treatment and burial expenses -- or live in welfare homes, while in urban areas, they are provided with regular relief or collective living facilities. Throughout China there are almost 40,000 welfare facilities capable of accommodating about 80,000 handicapped people. Governments at all levels offer preferential conditions for the handicapped by reducing or exempting taxes and fees in their work, education, medical care and living, cultural and recreational expenses. Customs duties have been reduced or exempted for special goods and equipment imported for the use of the handicapped. The blind can travel by public bus, trolley, underground and ferry free of charge.

The government and the Disabled Persons' Federation have paid attention to eliminating discrimination against and prejudice toward the disabled. Great efforts have been made to create a social environment in which the disabled are respected and helped. Tens of thousands of people, under the banner of "society for the disabled and vice versa," participated in activities such as the Day of the Disabled, Helping-the-Disabled Day and Humanitarian Publicity Week. The "Young Pioneers' Helping-the-Handicapped Activities" involving more than 10 million children have been going on for the past five years. Activities such as "building families for the handicapped and being friends to them" have been widely attended. China has set May 19 of each year as the legal "national day for helping the handicapped."

China is gradually expanding the building of obstacle-free facilities so that the handicapped can participate in social life more easily. Slope passages and handrails have been built for the convenience of the handicapped on streets and in shops, hotels, theaters, libraries, airports and other public places in Beijing, Shenzhen, Shanghai, Shenyang and Guangzhou.

China has actively participated in the international community's efforts to secure the rights and interests of the handicapped. In 1982, when the United Nations General Assembly designated the ten year period from 1983 to 1992 as the "United Nations Decade of Disabled Persons," the Chinese government accepted its World Program of Action Concerning Disabled Persons. The China Organizational Committee of the United Nations Decade of Disabled Persons, with the participation of 22 governmental departments and the China Disabled Persons' Federation, was formed to lead and co-ordinate the work.

In 1987, upon approval by the Standing Committee of the National People's Congress, the Chinese government accepted the Convention Concerning Vocational Rehabilitation and Employment (Disabled Persons) passed by the International Labor Conference in 1983. Both the government and the organizations of the disabled in China have been praised by the United Nations and the international community for their endeavors and achievements in guaranteeing the human rights of the disabled. In 1988 UN Secretary-General Perez de Cuellar awarded the "Peace Messengers Award" and "Special Award" to China's organizations of the disabled.

## **X. Active Participation in International Human Rights Activities**

China recognizes and respects the purposes and principles of the Charter of the United Nations related to the protection and promotion of human rights. It appreciates and supports the efforts of the UN in promoting universal respect for human rights and fundamental freedoms, and takes an active part in UN activities in the human rights field. China advocates mutual respect for state sovereignty and maintains that priority should be given to the safeguarding of the right of the people of the developing countries to subsistence and development, thus creating the necessary conditions for people all over the world to enjoy various human rights. China is opposed to interfering in other countries' internal affairs on the pretext of human rights and has made unremitting efforts to eliminate various abnormal phenomena and strengthen international cooperation in the field of human rights.

In April 1955, Chinese Premier Zhou Enlai signed the "Draft Final Communique of the Asian-African Conference" (also known as the "Bandung Declaration") at the Asian and African Conference held in Bandung, Indonesia. The communique declared that the conference fully supports the fundamental principles concerning human rights laid down in the UN Charter, and made the "respect for fundamental human rights and for the purposes and principles of the Charter of the United Nations" the first of the ten principles of peaceful coexistence. In May of the same year, Zhou Enlai, speaking at an enlarged session of the Standing Committee of the National People's Congress, said that "the ten principles contained in the Bandung Declaration also include respect for fundamental human rights and for the purposes and principles of the Charter of the United Nations.... All these are the principles that have been consistently advocated by the Chinese people and adhered to by China."

In his speech during the general debate at the 41st session of the United Nations General Assembly held in 1986, the Chinese foreign minister, when mentioning the 20th anniversary of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, pointed out that "the two covenants have played a positive role in realizing the purposes and principles of the UN Charter concerning respect for human rights. The Chinese government has consistently supported these purposes and principles." In September 1988, the Chinese foreign minister pointed out in his speech at the 43rd session of the United Nations General Assembly that the "Universal Declaration of Human Rights" is "the first international instrument which systematically sets forth the specific contents regarding respect for and protection of fundamental human rights. Despite its historical limitations, the Declaration has exerted a far-reaching influence on the development of the post-war international human rights activities and played a positive role in this regard."

China has taken an active part in the UN activities in the sphere of human rights. Since resuming its lawful seat in the United Nations in 1971, China has sent its delegation to attend every session of the UN Economic and Social Council and of the UN General Assembly, and has taken an active part in deliberation of human rights issues and stated its views on the issue of human rights, making its contributions to enriching the connotation of the concept of human rights. Chinese delegations attended as observers the UN Human Rights Commission's sessions in 1979, 1980 and 1981. China was elected a member of the Human Rights Commission at the first regular session of the UN Economic and Social Council and has been a member ever since. Since 1984 the human rights affairs experts recommended by China to the Human Rights Commission have been continually elected members and alternate members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Chinese members have played an important role in the sub-commission. They have become members of the Working Group on Indigenous Populations and the Working Group on Communications affiliated to the sub-commission.

China has taken an active part in drafting and formulating international legal instruments on human rights within the UN, and has sent delegates to participate in working groups charged with drafting these instruments, including the UN Convention on the Rights of Children, the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and the Declaration on the Protection of Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities. The meetings of these working groups paid much attention to the suggestions and amendments put forward by China. Since 1981 China has participated in every session of the governmental experts group organized by the UN Commission on Human Rights to draft the Declaration on the Right to Development and made positive suggestions until the Declaration on the Right to Development was passed by the 41st session of the UN General Assembly in 1986. China energetically supported the Commission on Human Rights in conducting worldwide consultation on the implementation of the right to development and supported the proposal that the right to development be discussed as an independent agenda item in the Human Rights Commission. China has always been a cosponsor country of the Human Rights Commission's resolution on the right to development.

Since 1980 the Chinese government has successively signed, ratified and acceded to seven UN human rights conventions, namely the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Suppression and Punishment of the Crimes of Apartheid, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention Relating to the Status of Refugees, the Protocol Relating to the Status of Refugees, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Chinese government has always submitted reports on the implementation of the related conventions, and seriously and earnestly performed the obligations it has undertaken.

China has always upheld justice and made unremitting efforts to safeguard the right of third world countries to national self-determination and to stop massive infringements on human rights. As is well

known, China has for many years made unremitting efforts to seek a just and reasonable resolution of a series of major human rights issues, including the questions of Cambodia, Afghanistan, the occupied Palestinian and Arab territories, South Africa and Namibia, and Panama.

China pays close attention to the issue of the right to development. China believes that as history develops, the concept and connotation of human rights also develop constantly. The Declaration on the Right to Development provides that human rights refer to both individual rights and collective rights. This means a breakthrough in the traditional concept of human rights and represents a result won through many years of struggle by the newly-emerging independent countries and the international community, a result of great significance. In the world today the gap between the rich and the poor becomes wider and wider. Social and economic growth in many developing countries is slow, and one-third of the population in developing countries still live below the poverty line. To the people in the developing countries, the most urgent human rights are still the right to subsistence and the right to economic, social and cultural development. Therefore, attention should first be given to the right to development. China appeals to the international community to attach importance and give attention to the developing countries' right to development and adopt positive and effective measures to eliminate injustice and unreasonable practice in the world economic order. An earnest effort must be made to improve the international economic environment, alleviate and gradually eliminate factors disadvantageous to developing countries and establish a new international economic order. Factors which have a negative influence on the right to development, such as racism, colonialism, hegemonism and foreign aggression, occupation and interference must be eliminated. A favorable international environment must be created for the realization of the right to development.

Over a long period in the UN activities in the human rights field, China has firmly opposed to any country making use of the issue of human rights to sell its own values, ideology, political standards and mode of development, and to any country interfering in the internal affairs of other countries on the pretext of human rights, the internal affairs of developing countries in particular, and so hurting the sovereignty and dignity of many developing countries. Together with other developing countries, China has waged a resolute struggle against all such acts of interference, and upheld justice by speaking out from a sense of fairness. China has always maintained that human rights are essentially matters within the domestic jurisdiction of a country. Respect for each country's sovereignty and non-interference in internal affairs are universally recognized principles of international law, which are applicable to all fields of international relations, and of course applicable to the field of human rights as well. Section 7 of Article 2 of the Charter of the United Nations stipulates that "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...." The Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance With the Charter of the United Nations, and the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, which were all adopted by the United Nations, contain the following explicit provisions: "No State or group of States has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State," and every state has the duty "to refrain from the exploitation and the distortion of human rights issues as

a means of interference in the internal affairs of States, of exerting pressure on other States or creating distrust and disorder within and among States or groups of States." These provisions of international instruments reflect the will of the overwhelming majority of countries to safeguard the fundamental principles of international law and maintain a normal relationship between states. They are basic principles that must be followed in international human rights activities. The argument that the principle of non-interference in internal affairs does not apply to the issue of human rights is, in essence, a demand that sovereign states give up their state sovereignty in the field of human rights, a demand that is contrary to international law. Using the human rights issue for the political purpose of imposing the ideology of one country on another is no longer a question of human rights, but a manifestation of power politics in the form of interference in the internal affairs of other countries. Such abnormal practice in international human rights activities must be eliminated.

China is in favor of strengthening international cooperation in the realm of human rights on the basis of mutual understanding and seeking a common ground while reserving differences. However, no country in its effort to realize and protect human rights can take a route that is divorced from its history and its economic, political and cultural realities. A human rights system must be ratified and protected by each sovereign state through its domestic legislation. As pointed out in a resolution of the UN General Assembly at its 45th session: "Each State has the right freely to choose and develop its political, social, economic and cultural systems." It is also noted in the resolution of the 46th conference on human rights that no single mode of development is applicable to all cultures and peoples. It is neither proper nor feasible for any country to judge other countries by the yardstick of its own mode or to impose its own mode on others. Therefore, the purpose of international protection of human rights and related activities should be to promote normal cooperation in the international field of human rights and international harmony, mutual understanding and mutual respect. Consideration should be given to the differing views on human rights held by countries with different political, economic and social systems, as well as different historical, religious and cultural backgrounds. International human rights activities should be carried on in the spirit of seeking common ground while reserving differences, mutual respect, and the promotion of understanding and cooperation.

China has always held that to effect international protection of human rights, the international community should interfere with and stop acts that endanger world peace and security, such as gross human rights violations caused by colonialism, racism, foreign aggression and occupation, as well as apartheid, racial discrimination, genocide, slave trade and serious violation of human rights by international terrorist organizations. These are important aspects of international cooperation in the realm of human rights and an arduous task facing current international human rights protection activities.

There is now a change over the world pattern from the old to the new, and the world is more turbulent than before. Hegemonism and power politics continue to exist and endanger world peace and development. Interference in other countries' internal affairs and the pushing of power politics on the pretext of human rights are obstructing the realization of human rights and fundamental freedoms. In face of such a world situation, China is ready to work with the international community in a continued and unremitting effort to build a just and reasonable new order of international relations and to realize the purpose of the United Nations to uphold and promote human rights and fundamental freedoms.