

COMMISSION ON HUMAN RIGHTS

Third session

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CHINA: AMENDMENTS TO

THE DRAFT INTERNATIONAL DECLARATION ON HUMAN RIGHTS

Drafting Committee Text

(E/CN.4/95)

Proposed Amendments

WHEREAS the peoples of the United Nation have reaffirmed their faith in fundament human rights, in the dignity and worth o the human person, and in the equal right of men and women;

THE GENERAL ASSEMBLY RESOLVES to state in a solemn declaration the essential rights and fundamental freedoms of the human being

AND ADOPTS the following Declaration:

Article 1

All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers.

Wording to be decided by the Commission.

Article 2

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom.

Substitute for Articles 2 and 3

Every one is entitled to the human rights and fundamental freedoms set forth in this Declaration without distinction as to race, sex, language or religion. The exercise of these rights requires recognition of the rights of others and the just requirements of the community in which he resides.

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Article 3

1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin.

2. All are equal before the law regardless of office or status and entitled to equal protection of the law against any arbitrary discrimination or against any incitement to such discrimination, in violation of this Declaration.

Article 4

Every one has the right to life, to liberty and security of person,

Article 5

Slavery is prohibited in all its forms.

Article 6

No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Everyone placed under arrest or detention, shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.

Proposed Amendments:

Substitute

Everyone has the right to life.

Substitute for Articles 5 and 8

No one shall be held in slavery or in voluntary servitude or be subjected to torture or to cruel or inhuman punishment or indignity.

Substitute

No one shall be subjected to arbitrary arrest or detention.

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Article 7

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

Article 8

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

Proposed Amendments

Substitute

Everyone has the right to equal protection under law.

See Article 5

/3. No one shall be

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Article 8 (continued)

3. No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.

Article 9

Everyone is entitled to protection under the law from unreasonable interference with reputation, family, home or correspondence.

Article 10

1. Everyone is entitled to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Article 11

1. Everyone has the right to seek and may be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 12

Everyone has everywhere the right to recognition as a person before the law.

Article 13

1. Men and women shall have equal rights as to marriage in accordance with the law. Marriage may not be contracted without the full consent of both intending spouses and before the age of puberty.

2. Marriage and the family shall be protected by the State and Society.

Proposed Amendments

Substitute

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Omit

Substitute

Everyone has the right to seek and be granted asylum from persecution.

Omit

Omit

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Proposed Amendments

Article 14

Everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Omit

Article 15

Everyone has the right to a nationality.

Omit

Article 16

1. Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right.
2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in teaching, practice, worship and observance.

Substitute for Articles 16, 17, 18 and 19

Everyone has the right to freedom of conscience and belief, to freedom of assembly and of association, and to freedom of information, speech and expression.

Articles 17 and 18

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

Article 19

Everyone has the right to freedom of peaceful assembly and to participate in local, national, international and trade union associations for the promotion, defence and protection of purposes and interests not inconsistent with this Declaration.

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Article 20

Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.

Articles 21 and 22

1. Everyone without discrimination on grounds of race, sex, language, religious belief or social origin and not under any legal disability has the right to take an effective part in the Government of his country.

The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.

2. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.

3. Access to public employment shall not be a matter of privilege or favour.

Article 23

1. Everyone has the right to work.

2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

3. The State is bound to take all necessary steps to prevent unemployment.

Proposed Amendments

Substitute:

Everyone has the right to take part in the affairs of his government directly or through his representatives

Substitute for Articles 23, 24, 25, 26, 27, 28 and 29.

Everyone has the right to a decent living; to work and leisure, to health, education, economic and social security.

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Proposed Amendments

Article 24

1. Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions and to join trade unions for the protection of his interests in securing a decent standard of living for himself and his family.

2. Women shall work with the same advantages as men and receive equal pay for equal work.

Article 25

Everyone without distinction as to economic and social conditions has the right to the preservation of his health through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

Article 26

1. Everyone has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequence of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.

2. Motherhood shall be granted special care and assistance.

Children are similarly entitled to special care and assistance.

Drafting Committee TextArticle 27

Everyone has the right to education. Fundamental education shall be free and compulsory. There shall be equal access for higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, financial means or political affiliation.

Article 28

Education will be directed to the full physical, intellectual, moral and spiritual development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere.

Article 29

1. Everyone has the right to rest and leisure.
2. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Article 30

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific discoveries.

Article 31

(Text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities).

Proposed Amendments

(For Articles 27-29 see substitution against Article 23 on page 6).

Omit

Omit

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Proposed Amendments

Article 31 (continued)

In States inhabited by well-defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, to establish and maintain their school and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose.

Article 32

Omit

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.

Article 33

Omit

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed to the destruction of any of the rights and freedoms prescribed herein

(The Articles are to be arranged in the order as appeared in document E/CN.4/AC.1/18, Draft International Declaration on Human Rights, submitted by the Delegation of China, to the second session of the Drafting Committee of the *Commission on Human Rights*).