
DOKUMENTATIONEN

Experts' Draft Proposal for a „Human Rights Protection Law of the People's Republic of China“

《中华人民共和国人权保障法》专家建议稿¹

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第一章 总则

第一条 为了切实保障人权事业的健康发展，进一步加强对人权的法律保障，推动人权领域的国际交流与合作，根据中华人民共和国宪法所确立的人权保障原则，参照国际人权公约的有关规定，制定本法。

Experts' Draft Proposal for a "Human Rights Protection Law of the People's Republic of China"

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Chapter 1 General Principles

Article 1 This law is enacted on the basis of the firmly established principle of human rights protection of the Constitution of the People's Republic of China and with reference to the relevant provisions of international human rights treaties in order to ensure the sound development of the pursuit of human rights, to gradually strengthen the legal protection of human rights and to promote international exchange and co-operation.

¹ This Experts' Draft Proposal was drafted by Mo Jihong, Member of the Executive Committee of the International Association of Constitutional Law, Vice President of the Constitutional Law Research Association of the Chinese Law Society and Research Fellow of the Law Institute of the Chinese Academy of Social Sciences. The Chinese text of the draft was published in *Mo Jihong* (ed.) (2008), *The Human Rights Guarantee Law and China* (Renquan baozhang fa yu Zhongguo), Beijing: Falü chubanshe (Law Press), 368-390.

第二条 在中华人民共和国境内制定有关人权保障的法律、法规和规章，通过行政管理措施来为人权的实现提供各种条件，对侵害人权的行为实现司法救济，在全社会进行人权宣传和人权教育，根据中华人民共和国已经缔结和参加的国际人权公约履行公约下的缔约国应尽义务，进行人权领域的国际交流和合作等活动，适用本法。

第三条 本法所称的人权是指在中华人民共和国境内生活和工作的所有的自然人依据本法的规定所享有的各项法律权利。

任何人基于本法规定都享有平等保护和平等对待，禁止一切形式的歧视。

国家保障男子和妇女平等享有本法所规定的各项人权，创造一切条件，逐步消除妇女与男子在社会地位上各种事实上的不平等现象。

根据特殊的法律身份享有的法律权利属于人权的一种特殊形式，应当符合本法所规定的人权保护的基本原则。

中华人民共和国宪法所确立的人权保护原则和联合国通过的《世界人权宣言》、《经济、社会和文化权利国际公约》和《公民权利和政治权利国际公约》等重要的国际人权公约中所主张的人权保护原则，是解释本法所规定的人权涵义的基本法律依据。

第四条 国家尊重和保障人权。

国家机关和国家机关工作人员在履行宪法和法律职责的过程中，应当依据宪法和法律，尊重和保障人权，并为人权的实现创造各种必要的法律条件和提供必要的制度保障。

任何组织或者个人不得违背宪法和法律所规定的保障人权的各项规定。

任何组织或者个人都不得有超越宪法和法律的特权。

第五条 人权的实现只受本法或者是其他法律根据宪法的规定所施加的限制。

不经本法或者是其他法律规定的特殊程序，不得限制或者剥夺任何人依据本法所享有的各项人权。

Article 2 This law applies to the drafting of laws, regulations and rules relating to the protection of human rights within the borders of the People's Republic of China, the furnishing of various conditions for the realization of human rights by way of administrative measures, the realization of judicial remedies against acts violating human rights, human rights propaganda and human rights education within the whole society, the performance of Signatory States' obligations under human rights treaties that have been already concluded or acceded to by the People's Republic of China, the conduct of international exchange and co-operation in the field of human rights and other activities.

Article 3 Human rights in the context of this law mean legal rights that are enjoyed on the basis of the provisions of this law by all natural persons living and working within the borders of the People's Republic of China.

All persons enjoy equal protection and equal treatment according to the provisions of this law; all forms of discrimination are prohibited.

The State guarantees that men and women equally enjoy the human rights set out in this law and creates conditions in order to eliminate step-by-step the phenomenon of factual inequality between men and women as regards their status in society.

Legal rights that are enjoyed according to a special legal status belong to a special form of human rights which shall conform to the basic principles of human rights protection set out in this law.

The basis for the interpretation of the meaning of the human rights set out in this law is the principle of human rights protection as established by the Constitution of the People's Republic of China and the principles of human rights protection enshrined in the Universal Declaration of Human Rights which was adopted by the United Nations, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other important international human rights treaties.

Article 4 The State respects and protects human rights.

State organs and the personnel of State organs shall respect and protect human rights according to the Constitution and laws when they fulfill their responsibilities under the Constitution and the laws, and for the realization of such rights they will create the necessary legal conditions and supply the necessary institutional safeguards.

No organization or individual may violate the provisions stipulated by the Constitution and by laws that safeguard human rights.

No organization or individual may have privileges that are above the Constitution or the law.

Article 5 The realization of human rights may only be restricted by this law or by other laws in accordance with the provisions of the Constitution.

The human rights enjoyed on the basis of this law may only be restricted, or a person may only be deprived of such a right, according to the special procedure of this law or as stipulated by another law.

人权受到限制或者是被剥夺的个人应当有权通过司法审判程序获悉权利受限制或者是被剥夺的法律理由，并有权做出陈述和反驳。

第六条 中华人民共和国公民以及在中华人民共和国境内生活和工作的外国人、无国籍人及其他自然人都有权受到本法的保护。在依据本法享有的人权受到侵犯之后，可以依据本法规定的法律程序请求有权国家机关给予权利救济。

第七条 本法所规定的人权不得限制宪法和其他法律所规定的各项权利的实现。

本法所规定的各项人权不得作为限制彼此之间权利内涵的依据。

宪法和其他法律所规定的各项权利不得作为限制本法所规定的人权的依据。

第八条 国家为了公共利益的需要和目的，可以依据本法所确立的法律程序，对本法所规定的各项人权的实现方式做出临时性限制。

依据法律规定被剥夺生命权的自然人，不得被解释为依据本法享有的其他人权被当然剥夺。

第九条 本法规定的各项人权不得予以滥用。

行使本法所规定的人权时，构成对一般民事权利限制的，只有构成承担刑事责任的，才应当对一般民事权利受到限制的当事人承担民事责任。

行使本法所规定的人权时，涉及到中华人民共和国刑法所保护的公共利益和其他个人利益的，应当优先考虑本法所保护的人权的实现。

第十条 国家工作人员在担任公职期间依据本法所享有的人权应当服从法律所规定的职业性限制。

第十一条 国家大力发展人权教育事业，在全社会普及和推广人权保障知识。

教育部门和各类学校应当将人权教育课程纳入国民教育体系。

第十二条 国家鼓励各种以人权保障为宗旨的社会团体的生存和发展，保障其合法的权利和利益。

Individuals whose human rights have been restricted or who have been deprived of their human rights shall be entitled to learn about the restriction of their rights or the legal grounds for the deprivation of their rights through judicial review proceedings and shall have the right to make statements and refutations.

Article 6 The citizens of the People's Republic of China as well as aliens, stateless persons and other natural persons that live and work within the borders of the People's Republic of China are entitled to the protection of this law. Upon the violation of a human right that is enjoyed pursuant to this law, compensation may be requested from the competent State organ according to the procedure set out in this law.

Article 7 The human rights set out in this law may not restrict the realization of the rights provided for in the Constitution or in other laws.

No human right of this law may be used as a basis for the mutual restriction of the contents of rights.

No right stipulated in the Constitution or in other laws may be used as a basis to restrict the human rights set out in this law.

Article 8 The State may, according to the legal procedure established by this law, impose restrictions of a temporary nature on the mode of realization of the human rights of this law in order to satisfy the need and purpose of public interest.

The deprivation of a natural person's right to life pursuant to legal provisions may not be interpreted as an automatic deprivation of other human rights set out in this law.

Article 9 The human rights set out in this law may not be abused.

If the exercise of a human right set out in this law constitutes the restriction of a general right of civil law, civil liability towards the party whose general right of civil law has been restricted shall only be incurred in the event that the act establishes criminal responsibility.

If the exercise of human rights set out in this law affects public interests or interests of individuals that are protected by the Criminal Law of the People's Republic of China, the realization of the human rights protected by this law shall be considered with priority.

Article 10 The human rights enjoyed by State personnel on the basis of this law shall be subject to restrictions stipulated by law relating to their occupation for the time they engage in a public office.

Article 11 The State vigorously develops the facilities for human rights education and disseminates and popularizes knowledge of the protection of human rights within the whole society.

Departments of education and all kinds of educational institutions shall incorporate a human rights education curriculum into the system of compulsory education.

Article 12 The State encourages the existence and development of all kinds of social organizations that pursue the protection of human rights and safeguards their lawful rights and interests.

第十三条 国家提倡和发展公民教育事业，促进全社会公众的公民意识的不断提高。

国家不断健全和完善公民身份制度，加强对公民基本权利的法律保护。

第十四条 任何人行使本法所规定的人权必须同时履行与本法所规定的人权相对应的各项法律义务和社会责任。

第十五条 本法为实施中华人民共和国宪法所规定的人权保障制度的具体法律，本法所规定的各项人权应当推定与中华人民共和国宪法所规定的人权保障原则和人权保障制度相一致。在实施本法的过程中，涉及到本法与中华人民共和国宪法规定不一致或者相抵触的情形，应当提请全国人民代表大会常务委员会进行宪法解释。

第十六条 凡是《中华人民共和国宪法》中所规定的公民基本权利没有制定相应的法律、法规来保障实施的，应当参照本法相关规定来加以保护。

凡是《中华人民共和国宪法》和本法所保障的各项人权和公民的基本权利缺少法律上必要的实施程序的，应当在司法审判程序中直接引用《中华人民共和国宪法》和本法的有关规定。

第二章 人权保障机构

第十七条 尊重和保障人权是各级国家权力机关、国家行政机关、国家审判机关和国家检察机关等国家机关的重要的宪法和法律职责。

国家机关工作人员在依法履行职权时，有义务尊重和保障人权。

第十八条 全国人民代表大会以及县级以上地方各级人民代表大会设立人权保障委员会作为专门委员会，负责全国范围内和本行政区域内的人权保障事务。

全国人民代表大会以及县级以上地方各级人民代表大会的人权保障委员会在人民代表大会会议闭会期间，受同级人民代表大会常务委员会的领导。

Article 13 The State encourages and develops the facilities of citizen education and promotes the continuous improvement of the public's awareness of civic obligations throughout the whole society.

The State continuously strengthens and perfects the system of citizenship and reinforces the legal protection of citizens' fundamental rights.

Article 14 Any individual who exercises human rights set out in this law must, at the same time, fulfill the legal obligations and social responsibilities that correspond to the human rights set out in this law.

Article 15 As this law is a concrete law that implements the system of human rights protection set out in the Constitution of the People's Republic of China, the human rights stipulated in this law shall be interpreted consistently with the principle and the system of human rights protection of the Constitution of the People's Republic of China. If, during the implementation of this law, a situation of nonconformity or contradiction between this law and provisions of the Constitution of the People's Republic of China is discovered, it shall be submitted to the Standing Committee of the National People's Congress for constitutional interpretation.

Article 16 If no law or regulation has been established in order to guarantee the implementation of the citizens' fundamental rights of the Constitution of the People's Republic of China, the relevant provisions of this law shall be referred to for their protection.

If the human rights and the citizens' fundamental rights that are protected by the Constitution of the People's Republic of China and this law lack legally indispensable procedures for their implementation, the relevant provisions of the Constitution of the People's Republic of China and this law shall be directly applied in judicial proceedings.

Chapter 2 Organs for the Protection of Human Rights

Article 17 The respect and protection of human rights is an important constitutional and legal responsibility of the organs of State power, the organs of State administration, the organs of the State judiciary and the organs of the State procuratorate as well as of other organs of the State at all levels.

The personnel of State organs have, when exercising their competences according to law, the duty to respect and protect human rights.

Article 18 The National People's Congress and the local People's Congresses above county level establish Human Rights Protection Committees as special committees that are nationwide and within their administrative districts responsible for the affairs of human rights protection.

The Human Rights Protection Committees of the National People's Congress and the local People's Congresses above county level are under the leadership of the People's Congress Standing Committee of the same level during the period when the People's Congresses are not in session.

第十九条 各级人民代表大会人权保障委员会是各级人民代表大会常设的专门委员会。委员会主任由各级人民代表大会常务委员会主任兼任。委员会委员由各级人民代表大会常务委员会组成人员通过选举方式或者任命方式产生，其中应当优先考虑法律专家以及与人权保障实践密切相关的实际部门的人员。

第二十条 人权保障委员会由主任1人，副主任2至3人，委员10至15人组成。

人权保障委员会委员的任期与同级人民代表大会的每届任期相同。

人权保障委员会的具体组织方式和活动方式由全国人民代表大会常务委员会以及县级以上地方各级人民代表大会常务委员会制定单行规则加以规定。

第二十一条 人权保障委员会的主要职责包括以下几个方面：

(一) 对本法实施的情况进行研究，就重大问题向同级人大常委会提出建议；

(二) 对国家行政机关、国家审判机关和国家检察机关实施本法的行为进行监督，并提出改进工作、提高人权保障水准的意见和建议；

(三) 接受同级人民代表大会及其常务委员会的委托，就实施本法的重要问题开展专项调查；

(四) 接受社会各界对实施本法所进行的咨询；

(五) 组织本行政区域的人权宣传和教育工作，并对人权宣传和教育工作提供指导性意见；

(六) 同级人民代表大会及其常务委员会交办的其他事项。

第二十二条 全国人民代表大会人权保障委员会设立人权实施保障组与人权案件争议仲裁组。人权保障委员会委员分别作为人权实施保障组与人权案件争议仲裁组的组成人员。

Article 19 The Human Rights Protection Committees of the People's Congresses at all levels are permanent special committees of the People's Congresses at all levels. The Committee Chair is concurrently held by the Chair of the Standing Committee of the relevant People's Congress. The Committee Members are chosen by way of election from the delegates of the People's Congress Standing Committee of the relevant level or by way of appointment; legal experts as well as personnel from departments that have a close relationship to the practice of the protection of human rights shall be primarily considered.

Article 20 Human Rights Protection Committees are composed of one Chair, two to three Vice Chairs and 10 to 15 Committee Members.

The term of office of members of Human Rights Protection Committees is the same as the term of office of the People's Congress Standing Committee at the same level.

The concrete method of organization and function of Human Rights Protection Committees is set out in separate regulations enacted by the National People's Congress Standing Committee as well as the local People's Congress Standing Committees above county level.

Article 21 The main responsibilities of the Human Rights Protection Committees include the following aspects:

(1) Conducting studies relating to the situation of the implementation of this law and giving advice on major problems to the People's Congress Standing Committee at the same level;

(2) Supervision of the implementation of this law by organs of the State administration, organs of the State judiciary and organs of the State procuratorate, and the submission of views and suggestions on the improvement of work and the raising of human rights protection standards;

(3) Launching of earmarked investigations into important issues of the implementation of this law on behalf of the People's Congress and its Standing Committee at the same level;

(4) Acceptance of inquiries on the implementation of this law by all sectors of society;

(5) Organization of human rights information and education within the relevant administrative district and issuing guiding opinions on human rights information and education;

(6) Other matters assigned by the People's Congress and its Standing Committee at the same level.

Article 22 The Human Rights Protection Committee of the National People's Congress establishes a group for safeguarding human rights implementation and a group for the settlement of human rights disputes. One part of the members of the human rights protection committee forms the group for safeguarding human rights implementation and the other part forms the group for the settlement of human rights disputes.

人权实施保障组负责研究本法在实施过程中需要加以解释的事项，人权案件争议仲裁组负责审查不服最高人民法院的终审判决并涉及到本法所规定的人权保障的案件，对最高人民法院是否要重新审理有关案件提出建议。

第二十三条 全国人民代表大会常务委员会可以就本法在实施过程中出现的重大问题组成特定问题调查委员会，特定问题调查委员会成员主要由人权保障委员会委员担任。

特定问题调查委员会在调查中发现需要对本法作出解释的，应当将有关问题提交人权保障委员会人权实施保障组研究；如果发现最高人民法院已经生效的判决与本法规定的人权保障的精神不一致，应当提请人权保障委员会人权案件争议仲裁组研究，并向最高人民法院提出重新审理有关案件的建议。

第二十四条 人权保障委员会就本法实施过程中需要加以解释的事项向全国人民代表大会常务委员会提出正式的法律解释案，由全国人民代表大会常务委员会通过正式的法律解释程序审议后予以公布。

第二十五条 最高人民法院在审理本法所规定的人权保障案件时，对于本法所规定的具体内容的涵义存有疑义的，应当请求全国人民代表大会常务委员会作出正式的法律解释。在全国人民代表大会常务委员会作出正式的法律解释之前，停止对有关案件的审理。

第二十六条 县级以上地方各级人民代表大会人权保障委员会负责协助同级人民代表大会及其常务委员会做好与实施本法相关的本行政区域内的人权保障工作。

第二十七条 全国人民代表大会常务委员会下设国家级人权研究中心，作为辅助全国人民代表大会人权保障委员会开展工作的专业研究机构。

国家人权研究中心的组成和活动方式，由全国人民代表大会常务委员会通过单行规则加以规定。

The group for safeguarding human rights implementation is responsible for the study of matters arising during implementation that require analysis; the group for the settlement of human rights disputes is responsible for the review of final judgments of the Supreme People's Court on cases of human rights protection pursuant to this law, which the parties refuse to obey - it makes recommendations on the question of whether the Supreme People's Court shall retry the relevant case.

Article 23 The Standing Committee of the National People's Congress may establish an investigation committee for a specific problem relating to an important issue arising from the process of implementation of this law; the members of the investigation committee for a specific problem shall mainly be members of the Human Rights Protection Committee.

If the investigation committee for a specific problem discovers during the investigation the need to make an interpretation of this law, it shall submit the relevant problem to the group for safeguarding human rights implementation of the Human Rights Protection Committee for studying; if it finds that an already effective judgment of the Supreme People's Court conflicts with the spirit of human rights protection of this law, it shall submit the issue to the group for the settlement of human rights disputes of the Human Rights Protection Committee for studying and shall make a recommendation to the Supreme People's Court on the retrial of the relevant case.

Article 24 If the Human Rights Protection Committee discovers during the implementation of this law a matter that requires interpretation, it will submit a formal draft for legal interpretation to the Standing Committee of the National People's Congress; the Standing Committee of the National People's Congress, promulgates the interpretation after deliberation by way of the formal legal interpretation procedure.

Article 25 If the Supreme People's Court, when hearing human rights protection cases relating to this law, has doubts about the meaning of concrete contents stipulated by this law, the Court shall request the Standing Committee of the National People's Congress to issue a formal legal interpretation. Before the Standing Committee of the National People's Congress issues a formal legal interpretation, the hearing of the case in question shall be suspended.

Article 26 The Human Rights Protection Committees of the local People's Congresses on all levels above county level are responsible for assisting the People's Congresses and their Standing Committees at the same level in the completion and implementation of human rights protection pursuant to this law within the relevant administrative district.

Article 27 A Research Centre shall be established on the national level under the Standing Committee of the National People's Congress, serving as a special research organ that assists the work of the Human Rights Protection Committee of the National People's Congress.

Organization and functions of the National Human Rights Research Centre are regulated by way of separate regulations of the Standing Committee of the National People's Congress.

第二十八条 全国人民代表大会常务委员会下设国家级人权保障新闻发布中心，负责代表中华人民共和国对外发布中国人权保障事业发展情况的各种信息。

国务院可以设立人权保障新闻发布中心，受国家人权保障新闻发布中心的委托，对外发布有关人权保障发展情况的各种信息。

国家人权保障新闻发布中心和国务院人权保障新闻发布中心属于全国人民代表大会常务委员会和国务院的办事机构，其组成和活动方式由内部规则加以规定。

第二十九条 最高人民法院是保障本法所规定的人权实现的最高司法机关，其作出的关于人权保障的判决具有最终的法律效力。

最高人民法院作出的与本法所规定的人权相关的最终判决确有错误的，应当按照本法所规定的法律程序处理。

第三十条 最高人民法院设立人权审判庭，负责审理与本法所规定的人权相关的一审和终审案件。

高级人民法院可以设立人权审判庭，负责审理与本法所规定的人权相关的一审案件。

中级人民法院和基层人民法院在审理案件的过程中，发现案件涉及到本法所规定的人权保障事项的，并且无法按照普通审判程序来审结案件的，应当停止对案件的审理，将案件提交高级人民法院审理，也可以直接提交最高人民法院审理。

人民法院审理涉及到本法所规定的人权案件的具体审判程序由全国人民代表大会常务委员会制定人权案件审判程序规则具体加以规定。

第三章 国家权力机关在人权保障中的责任

第三十一条 依据宪法和立法法的规定享有立法权的各级国家权力机关在制定法律、法规时，应当根据本法所确立的人权保障的基本精神，在法律、法规中通过建立各种具体的法律制度，保障和促进本法所规定的各项人权的实现。

Article 28 A news release centre shall be established on the national level under the Standing Committee of the National People's Congress; it shall be responsible for issuing on behalf of the People's Republic of China various information on the situation of the development of human rights protection in China.

The State Council may establish a centre for the release of human rights protection news; it may on behalf of the national human rights protection news release centre issue various information on the situation of the development of human rights protection.

The national human rights protection news release centre and the human rights protection news release centre of the State Council belong to the working bodies of Standing Committee of the National People's Congress and the State Council; their form of organization and functions are regulated by internal regulations.

Article 29 The Supreme People's Court is the highest judicial organ for safeguarding the realization of the human rights set out in this law; its judgments relating to the protection of human rights have final legal effect.

If final judgments of the Supreme People's Court relating to human rights set out in this law are incorrect, it shall be dealt with pursuant to the legal procedures laid down by this law.

Article 30 The Supreme People's Court establishes a human rights trial division that is responsible for trying first instance and final instance cases relating to the human rights set out in this law.

High People's Courts may establish human rights trial divisions that are responsible for trying first instance cases relating to human rights set out in this law.

If Intermediate People's Courts and Basic People's Courts discover during the course of adjudication that the case involves issues relating to matters of human rights protection as set out in this law, and the Court is unable to complete the adjudication according to the ordinary judicial procedure, the Court shall suspend the hearing of the case and submit the case to the High People's Court for adjudication or the Court may directly submit the case to the Supreme People's Court for adjudication.

For the definitive judicial procedure of the People's Court's adjudication involving cases relating to human rights set out in this law, the Standing Committee of the National People's Congress formulates the specific rules on the judicial procedure for human rights cases.

Chapter 3 Responsibilities of the Organs of State Power for the Protection of Human Rights

Article 31 When the organs of State power that have legislative power according to the provisions of the Constitution and the Legislation Law adopt laws and regulations, they shall, pursuant to the basic spirit of the human rights protection established by this law, safeguard and promote, by way of setting up in the laws and regulations various concrete legal rules, the realization of the human rights set out in this law.

第三十二条 对本法所规定的各项人权只能通过全国人民代表大会及其常务委员会制定的法律加以限制。

第三十三条 任何人根据本法规定所享有的各项人权只有根据《中华人民共和国刑法》的明确规定并经人民法院审判才能予以剥夺。

第三十四条 有立法权的地方国家权力机关及其常设机构在制定实施国家法律的地方性法规时，不得限制国家宪法和法律所规定的公民权利，也不得在地方性法规中增设国家法律所没有规定的公民义务。

地方性法规应当创造立法条件，增设国家法律中没有明确规定的公民权利。

第三十五条 有立法权的国家权力机关及其常设机构不得对《中华人民共和国宪法》所规定的公民的各项基本权利以及本法所规定的各项人权的实现设定许可制度。

第三十六条 全国人民代表大会常务委员会批准的国际条约或国际协定，不得与本法所规定的人权保障精神相抵触。

第三十七条 凡是有地方立法权的地方国家权力机关，可以制定本法的实施条例，但必须报请全国人民代表大会常务委员会批准后才能生效。

第四章 国家行政机关在人权保障中的责任

第三十八条 国家行政机关应当依据《中华人民共和国宪法》和本法的规定，在履行自身的行政职权的过程中，将保障人权和公民的基本权利作为各项管理活动的首要目标。

第三十九条 为了促进人权保障事业的健康发展，国家行政机关应当采取各种有效的措施，为《中华人民共和国宪法》和本法所规定的人权和公民的基本权利的实现提供有力的制度保障。

第四十条 国家行政机关在依法制定行政法规、行政规章时，不得在行政法规、行政规章中对《中华人民共和国宪法》和本法所规定的人权和公民的基本权利作出限制性规定。

Article 32 The human rights set out in this law may only be restricted by a law adopted by the National People's Congress or its Standing Committee.

Article 33 A person may only be deprived of the human rights enjoyed according to this law pursuant to the explicit provisions of the Criminal Law of the People's Republic of China and only upon the decision of a People's Court.

Article 34 The local organs of State power and their permanent organs that possess legislative power may not, when formulating local regulations for the implementation of State law, restrict the fundamental rights set out by the State Constitution and by law; they also may not add to the obligations of citizens in local regulations that were not stipulated by State law.

Local regulations shall create legislative conditions and add fundamental rights that are not explicitly provided for by State law.

Article 35 The organs of State power and their permanent organs that possess legislative power may not establish a licensing system for the exercise of citizens' fundamental rights set out in the Constitution of the People's Republic of China and the human rights stipulated by this law.

Article 36 The international treaties that are approved by the Standing Committee of the National People's Congress Standing Committee or international agreements may not contradict the spirit of human rights protection set out in this law.

Article 37 All local organs of State power with local legislative power may formulate implementation regulations for this law, but the implementing regulations must be submitted to the Standing Committee of the National People's Congress for approval before they enter into force.

Chapter 4 Responsibilities of the organs of State Administration for the Protection of Human Rights

Article 38 The organs of State administration shall in accordance with the provisions of the Constitution of the People's Republic of China and this law, when exercising their administrative powers, make the protection of human rights and fundamental civil rights the main purpose of their administrative actions.

Article 39 In order to promote the healthy development of the pursuit of human rights protection, the organs of State administration shall take various kinds of effective measures and shall provide strong systematic safeguards for the realization of human rights and citizens' fundamental rights stipulated in the Constitution of the People's Republic of China and in this law.

Article 40 Organs of State administration may not, when formulating administrative regulations and administrative rules, include into administrative regulations and administrative rules provisions that restrict human rights and citizens' fundamental rights set out in the Constitution of the People's Republic of China and in this law.

行政法规、行政规章可以设立实现《中华人民共和国宪法》和本法所规定的人权和公民的基本权利的保障制度。

第四十一条 国务院通过制定行政法规，发布行政决定的方式设立行政许可制度的，不得对《中华人民共和国宪法》和本法所规定的人权和公民的基本权利产生实质性限制。

有立法权的地方人民政府通过制定地方政府规章设定行政许可制度的，不得涉及《中华人民共和国宪法》和本法所规定的人权和公民的基本权利事项。

第四十二条 国家行政机关在实施法律、法规和规章的过程中，如果发现有关法律、法规和规章与保护《中华人民共和国宪法》和本法所规定的人权和公民的基本权利的要求相冲突的，应当停止执行有关法律、法规和规章。并将有问题的法律、法规和规章提交上一级人民政府直至提交国务院审查。国务院可以将有关问题提交全国人民代表大会人权保障委员会进行审议。

第四十三条 行政复议机关在进行复议过程中，发现作出具体行政行为所依据的法律、法规和规章存在与保护《中华人民共和国宪法》和本法所规定的人权和公民的基本权利的要求不一致的，应当将有关的法律、法规和规章提交上一级行政复议机关审查，直至提交国务院行政复议部门审查。国务院行政复议部门可以依照职权，将有关问题提交全国人民代表大会人权保障委员会审议。

第五章 国家审判机关、国家检察机关在人权保障中的责任

第四十四条 国家审判机关在司法审判过程中，涉及到与本法所规定的人权案件的，应当优先适用本法的规定。

第四十五条 国家检察机关应当依据本法的规定，对公安机关、国家安全机关、司法行政机关以及审判机关在刑事案件的侦查、起诉、审判和执行中行使职权的活动进行依法监督。

Administrative regulations and administrative rules may establish a system that safeguards the realization of the human rights and citizens' fundamental rights stipulated in the Constitution of the People's Republic of China and in this law.

Article 41 The State Council may not, when establishing an administrative licensing system by way of formulating administrative regulations and issuing administrative decisions, make restrictions of an essential nature to the human rights and citizens' fundamental rights set out in the Constitution of the People's Republic of China and in this law.

The local People's Governments that have legislative power may not, when establishing an administrative licensing system by way of formulating local government rules, touch upon matters of human rights and citizens' fundamental rights set out in the Constitution of the People's Republic of China and in this law.

Article 42 If the organs of State administration discover, when implementing laws, regulations and rules, that the relevant laws, regulations and rules conflict with the requirements of protecting the human rights and citizens' fundamental rights set out in the Constitution of the People's Republic of China and in this law, they shall suspend the execution of the relevant laws, regulations and rules and submit the laws, regulations and rules in doubt to the People's Government at the next higher level, which may further submit it up to the State Council for investigation. The State Council may submit the relevant problem to the Human Rights Protection Committee of the National People's Congress for deliberation.

Article 43 If the administrative review organs during the process of review discover that the law, regulation or rule forming the basis of the administrative act under review conflict with the requirements of protecting the human rights and citizens' fundamental rights set out in the Constitution of the People's Republic of China and in this law, they shall submit the relevant law, regulation or rule to the next higher administrative review organ for investigation, which may submit it further up to the administrative review department of the State Council for investigation. The administrative review department of the State Council may, in accordance with its powers, submit the relevant question to the Human Rights Protection Committee of the National People's Congress for deliberation.

Chapter 5 Responsibilities of the Organs of the State Judiciary and the Organs of the State Procuratorate for the Protection of Human Rights

Article 44 Organs of the State Judiciary shall apply the provisions of this law with priority when they deal with human rights cases regulated by this law during the process of judicial adjudication.

Article 45 The organs of the State procuratorate shall on the basis of the provisions of this law supervise according to law the exercise of powers and functions of the public security organs, the state security organs, the administrative judicial organs as well as the adjudicative organs in relation to investigation, indictment, adjudication and the execution of criminal cases.

对人民法院违反本法规定作出的各类判决，人民检察院有权提起抗诉。

第四十六条 剥夺生命权、且立即执行的死刑判决必须由中级人民法院作出，并经高级人民法院的复核才能生效。

第四十七条 剥夺生命权、且立即执行的死刑判决必须由高级人民法院作出，并经最高人民法院的复核才能生效。

最高人民法院可以直接作出剥夺生命权、且立即执行的死刑判决。

第四十八条 各级人民法院作出的剥夺生命权的死刑判决，应当在判决作出最迟3日前将作出死刑判决的事实和法律依据公布在《人民法院报》、《检察日报》上，社会公众有权对死刑判决的合法性和合理性提出质疑。

第四十九条 最高人民法院在复核立即执行的死刑判决作出复核决定最迟10前应当将同意死刑判决的事实依据和法律理由向全国人民代表大会人权保障委员会报告。

人权保障委员会经过审议后，大多数委员不赞同最高人民法院的复核意见的，应当提请全国人民代表大会常务委员会决定是否同意最高人民法院的复核意见。

第五十条 剥夺罪犯依据本法享有的除生命权之外的其他人权的，由最高人民法院作出最终决定。

凡是剥夺罪犯终身享有本法所规定的某项人权的，应当由最高人民法院提请全国人民代表大会人权保障委员会审议，人权保障委员会大多数委员不赞同的，剥夺罪犯终身享有本法所规定的某项人权的判决不得生效。

根据本法规定，在紧急状态期间也不得予以剥夺的人权，任何机构都不得作出剥夺权利的决定。

第五十一条 人民法院错误作出限制或剥夺本法所规定的各项人权的判决，受害人有权请求国家赔偿。

The People's Procuratorate has the power to make an appeal against all kinds of decisions of People's Courts that violate the provisions of this law.

Article 46 Judgments that deprive of the right to life but do not provide for the immediate execution of the death penalty have to be made by Intermediate Courts and become effective only after the review by a High People's Court.

Article 47 Judgments that deprive of the right to life and provide for the immediate execution of the death penalty have to be made by High Courts and become effective only after the review by the Supreme People's Court.

The Supreme People's Court may directly issue judgments that deprive of the right to life and provide for the immediate execution of the death penalty.

Article 48 People's Courts on all levels that issue judgments on the death penalty that deprive of the right to life shall publish the facts and the legal basis of the judgment on the death penalty in the 'People's Court Newspaper' or the 'Procuratorate Daily Newspaper' not later than three days before issuing the judgment and the public is entitled to raise questions regarding the legality and reasonableness of the judgment on the death penalty.

Article 49 The Supreme People's Court, when reviewing judgments that provide for the immediate execution of the death penalty, shall report the factual basis and the legal reasons of the judgment on the death penalty to the Human Rights Protection Committee of the National People's Congress not later than ten days before issuing the review decision.

In the event that the majority of members do not approve the opinion of the Supreme People's Court on the review, the Human Rights Protection Committee, after deliberation, shall submit the issue to the Standing Committee of the National People's Congress for decision on whether it agrees with the opinion of the review of the Supreme People's Court.

Article 50 The Supreme People's Court makes the final decision on the deprivation of the criminal's human rights enjoyed on the basis of this law, other than the right to life.

When a criminal faces lifelong deprivation of enjoyment certain human rights set out in this law, the Supreme People's Court shall submit the issue to the Human Rights Protection Committee of the National People's Congress for deliberation; if the majority of the members of the Human Rights Protection Committee does not agree, the judgment providing for lifelong deprivation of enjoyment of certain human rights set out in this law will not become effective.

According to the provisions of this law, no organ may make a decision on the deprivation of such human rights that are not subject to deprivation during a state of emergency.

Article 51 If a People's Court issues an incorrect judgment that limits or deprives of any of the human rights set out in this law, the aggrieved party is entitled to request state compensation.

第六章 突发事件与紧急状态处置期间的人权保障

第五十二条 在处置突发事件期间，国家行政机关可以依法限制公民的权利、增加公民的义务。

在实行紧急状态期间，有权决定进入紧急状态的国家机关可以决定限制或者剥夺本法所规定的各项人权。但是，生命权、不受虐待或者刑讯逼供权、不受奴役或者苦役权、受到公正审判权、法律面前人人平等的权利和宗教信仰自由不得予以限制或者剥夺。

第五十三条 为处置突发事件，国家行政机关应当公平、公正地采取各项有效的措施，不得因为民族、种族、性别、职业、语言、宗教信仰或者社会地位的不同区别对待。

第五十四条 国家行政机关为应对突发事件采取的措施，应当与突发事件可能造成的社会危害的性质、程度和范围相适应；有多种措施可供选择的，应当选择对当事人权益损害最小的措施。

第五十五条 国家行政机关应当及时返还为处置突发事件征用的公民、法人或者其他组织的财产；不能返还或者财产毁损的，应当依法给予补偿。

国家行政机关为处置突发事件征收公民、法人或者其他组织财产的，应当按照被征收财产的实际价值给予补偿。

第五十六条 公民、法人或者其他组织认为行政机关和行政机关工作人员应对突发事件的具体行政行为侵犯自己合法权益的，可以依法申请行政复议或者提起行政诉讼；其合法权益受到损害的，有权依法要求赔偿。

第五十七条 中华人民共和国政府根据国家缔结或者参加的国际条约和应对突发事件的实际需要，同外国政府和有关国际组织在平等互利基础上开展合作与交流。

凡是居住和生活在中国境内的非中华人民共和国公民依据本法享有的人权在突发事件与紧急状态处置期间享有与中华人民共和国公民的同等保护。

Chapter 6 Protection of Human Rights during the Handling of Suddenly Occurring Incidents and States of Emergency

Article 52 During a period of handling a suddenly occurring incident, organs of State administration may restrict the rights of citizens and increase the duties of citizens according to law.

During the period when a state of emergency is put into effect, the State organ that has the power to decide on entering into a state of emergency, may decide to restrict or deprive of the human rights set out in this law. But the right to life, the right not to be abused or subject to the extortion of a confession by torture, the right not to be enslaved or to have to do hard labour, the right to a fair trial, the right to equality before the law as well as the freedom of religious belief may not be subject to restriction or deprivation.

Article 53 In order to deal with a suddenly occurring incident, the organs of State administration shall take effective measures in a fair and just manner and may not discriminate on the basis of nationality, race, gender, occupation, language, religious belief or social status.

Article 54 Measures that organs of the State administration take in order to respond to a suddenly occurring incident shall suit the nature, extent and scope of the probable danger to society created by the suddenly occurring incident; if different measures can be selected, that measure shall be selected which involves the least harm to the rights and interests of the aggrieved party.

Article 55 The organs of State administration shall promptly return to citizens, legal persons and other organizations property that has been subject to requisition in order to deal with the suddenly occurring incident; if it cannot be returned or the property has been damaged, compensation shall be paid according to law.

In relation to property of citizens, legal persons and other organizations that has been subject to requisition in order to deal with the suddenly occurring incident, organs of the State administration shall compensate the real value of the requisitioned property.

Article 56 Citizens, legal persons or other organizations who believe that administrative acts of the organs of State administration and of the personnel of the organs of State administration issued in response to a suddenly occurring incident violate their lawful rights and interests may apply for administrative review or commence administrative litigation; if their lawful rights and interests have been harmed, they are entitled to request compensation according to law.

Article 57 The Government of the People's Republic of China, according to international treaties the State has concluded or acceded to or according to the actual needs of responding to a suddenly occurring incident, develops cooperation and exchange with foreign governments and relevant international organizations on the basis of equality and mutual benefit.

Human rights enjoyed on the basis of this law by persons who reside and live within the borders of the People's Republic of China but are not citizens of the People's Republic of China, during a period of dealing with a suddenly occurring incident or a state of emergency, enjoy the same protection as the rights of citizens of the People's Republic of China.

第七章 公民权利与政治权利的保障

第五十八条 人人享有生命权。非依据《中华人民共和国刑法》关于剥夺生命权的刑罚规定和《中华人民共和国刑事诉讼法》所确立的死刑审判程序，不得任意剥夺任何人的生命。

国家设立死刑赦免和减刑制度。对一切判处死刑的案件均得给予大赦、特赦或减刑。

对十八岁以下的未成年人，不得判处立即执行的死刑。

对孕妇不得执行死刑。不得以强迫已经怀孕的妇女流产的方式来判处其死刑。

国家应当致力于死刑制度的改革，逐步废除对非暴力侵犯生命的犯罪的死刑制度。

第五十九条 任何人不得加以酷刑或施以残忍的、不人道的或侮辱性的待遇或刑罚。

任何人不得未经其自由同意而施以医药或科学试验。凡是自愿参加医药或科学实验的，应当获得终身的健康保险和必要的健康补偿费用。

严禁刑讯逼供。

各级人民政府有义务采取必要措施，防止家庭暴力行为的发生。

第六十条 任何人不得使为奴隶；一切形式的奴隶制度和奴隶买卖均应以禁止。

任何人不应被强迫役使。只有依照法律承担赋税义务的，可以实行以工代赈。

依法被判处刑罚的，应当承担法律所规定的劳动义务。

依法履行服兵役义务的，应当履行军事指挥机构的各项命令。

在突发事件或紧急状态期间，国家行政机关或者是决定紧急状态的机构可以设定紧急法律义务，实行社会动员。

第六十一条 任何人有权享有人身自由和安全。任何人不得加以任意逮捕或拘禁。除非依照法律所确定的根据和程序，任何人不得被剥夺自由。

Chapter 7 Protection of Civil and Political Rights

Article 58 Everyone enjoys the right to life. No one may be arbitrarily deprived of his/her life; such a deprivation may only take place on the basis of provisions for the penalty of deprivation of the right to life in the 'Criminal Law of the People's Republic of China' and the judicial procedure on the death penalty established by the 'Criminal Procedure Law of the People's Republic of China'.

The State establishes a system of pardoning and commuting death sentences. All cases in which a death sentence has been imposed may be given a general pardon, a special pardon or a commuting of the sentence.

Death penalties for immediate execution are not to be imposed on minors under the age of 18.

The death penalty may not be executed on pregnant women. A death sentence may not be imposed on already pregnant women after forcing an abortion on them.

The State shall devote itself to a reform of the death penalty system and shall gradually abolish the death penalty system for non-violent crimes against life.

Article 59 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

No one shall be subjected without his/her free consent to medical or scientific experimentation. Any one who participates voluntarily in medical or scientific experimentation shall acquire a lifelong health insurance and necessary health compensatory payments.

It is prohibited to extort a confession by torture.

The People's Governments at all levels have the duty to adopt the necessary measures to prevent acts of family violence from happening.

Article 60 No one shall be held in slavery; all forms of slavery and slave-trade shall be prohibited.

No one shall be forced to work. Only persons who bear tax obligations according to law may conduct compulsory public affairs.

Those who are sentenced according to law shall undertake labour obligations as set out by law.

Those who perform the obligation of military service according to law shall carry out any order of the military command organs.

During the period of a suddenly occurring incident or a state of emergency the organs of State administration or the organ that decides about the state of emergency may establish duties under emergency law and implement the mobilization of society.

Article 61 Everyone is entitled to enjoy personal liberty and security. No one shall be arbitrarily arrested or detained. No one shall be deprived of his liberty except according to the grounds and the procedure set out by law.

任何被逮捕的人，在被逮捕时应被告知逮捕他的理由，并应被迅速告知对他提出的任何指控。

任何因刑事指控被逮捕或拘留的人，应当有权要求及时审讯，并有权要求在合理的时间内予以释放。刑事诉讼的被告人在不影响审判的情况下，可以申请取保候审或监视居住。

任何因逮捕或拘留被剥夺自由的人，有权向人民法院提起诉讼，以便人民法院能不拖延地决定逮捕或拘禁他是否合法以及如果逮捕或拘留不合法时命令予以释放。

任何遭受非法逮捕或拘禁的受害者，有得到赔偿的权利。

第六十二条 所有被剥夺自由的人应给予人道待遇及尊重其固有的人格尊严。

除特殊情况外，刑事审判中的未决犯应与已决犯分开关押，并应给予适合于未决犯者身份的分别待遇；被控告的少年应与成年人分开关押，并应尽快予以判决。

监狱制度应将犯人改造和重新社会化作为狱政管理的基本目标。少年犯应与成年人分开执行刑罚，并应给予适合其年龄及法律地位的人道待遇。

第六十三条 任何人不得仅仅由于无力履行合同义务而被判刑。

因躲避债务拒不执行人民法院判决，构成妨碍公务犯罪行为的，应当按照《中华人民共和国刑法》承担刑事责任。

第六十四条 合法处在中华人民共和国领土内的每一个人在中华人民共和国境内有权享受迁徙自由和居住自由。

任何人有自由进出中华人民共和国国境。

本条所规定的自由，除受法律所规定并为保护国家安全、公共秩序、公共卫生或道德、或他人的权利和自由所必需且与本法所规定的其他权利不抵触的限制外，应不受任何其他限制。

Anyone who is arrested shall be informed, at the time of arrest, of the reasons of his/her arrest and shall be promptly informed of any charges put forward against him/her.

Anyone arrested or detained on a criminal charge shall be entitled to request a prompt interrogation and shall be entitled to be released within a reasonable time. The defendant in a criminal procedure may, subject to the condition that it does not affect the trial, apply for providing a guarantee to appear for trial or for living at home under surveillance.

Anyone who is deprived of his/her liberty by arrest or detention is entitled to take proceedings before a People's Court in order that that People's Court may decide without delay on the lawfulness of the arrest or detention and order his/her release if the arrest or detention is unlawful.

Any victim who has suffered unlawful arrest or detention has the right to obtain compensation.

Article 62 All persons deprived of their liberty shall be given humane treatment and their inherent human dignity shall be respected.

Unconvicted persons in criminal procedures shall, save in exceptional circumstances, be imprisoned separate from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons; accused juvenile persons shall be imprisoned separate from adults and shall be brought as speedily as possible for adjudication.

The penitentiary system shall make the transformation and social rehabilitation of prisoners the main objective of prison administration. Juvenile offenders shall be subject to the enforcement of their criminal sentence separate from adults and be accorded humane treatment appropriate to their age and legal status.

Article 63 No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

Someone who refuses to obey by a judgment of a People's Court in order to avoid debts, constituting the criminal offence of obstructing public affairs, shall bear criminal responsibility according to the Criminal Law of the People's Republic of China.

Article 64 Everyone lawfully within the territory of the People's Republic of China has, within the territory of the People's Republic of China, the right to enjoy the freedom of movement and the freedom of residence.

Every person has the right to enter and leave the territory of the People's Republic of China.

The freedoms set out in this article shall not be subject to any other restriction except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights set out in this law.

第六十五条 合法处在中华人民共和国境内的外国人、无国籍人以及其他非中华人民共和国公民，只有按照依法作出的决定才可以被驱逐出境。

除非因国家安全原因的紧急需要外，应准予被驱逐出境的人提出反对驱逐出境的理由。有关国家机关应当给予被驱逐出境的人申诉和答辩的机会，并允许其聘请中华人民共和国执业律师代为申诉。

第六十六条 (一) 所有的人在人民法院面前一律平等。在判定对任何人提出的任何刑事指控或确定他在—件诉讼案中的权利和义务时，人人有资格由一个依法设立的合格的、独立的和无偏倚的人民法院审判庭进行公正的和公开的审讯。基于道德的、公共秩序的或国家安全的理由，或保护诉讼当事人的隐私，或在特殊情况下人民法院审判庭认为公开审判会损害公共利益时，可以禁止记者和公众出席全部或部分审判；但对刑事案件的任何判决应公开宣布，涉及到儿童和少年的案件需要的除外。

(二) 凡受刑事控告者，在未依法证实有罪之前，应有权被视为无罪。

(三) 在判定对他提出的任何刑事指控时，人人完全平等地有资格享受以下的最低限度的保证：

(1) 迅速以一种他懂得的语言详细地告知对他提出的指控的性质和原因；

(2) 有相当时间和便利准备他的辩护并与其选择的律师联络。

(3) 受审时间不被无故拖延；

(4) 出席受审并亲自替其辩护或经由其所选择的法律援助人员进行辩护；如果没有法律援助，要通知其享有这种权利；在公共利益有此需要的案件中，为其指定法律援助，而在其没有足够能力支付法律援助费用的案件中，为其免费；

(5) 讯问或业已讯问对其不利的证人，应当使对其有利的证人在与对其不利的证人相同的条件下出庭和受讯问；

Article 65 Aliens lawfully in the territory of the People's Republic of China, stateless and other persons not being citizens of the People's Republic of China, may be expelled only in pursuance of a decision reached in accordance with law.

Except where compelling reasons of national security otherwise require, the expelled person shall be allowed to submit the reasons against his/her expulsion. The relevant State organ shall give the expelled the opportunity for a complaint and defence, as well as allow him/her to engage a professional lawyer of the People's Republic of China to make a complaint on his/her behalf.

Article 66 (1) All persons are equal before the People's Courts. In the determination of any criminal charge against him/her, or of his/her rights and obligations in a suit at law, everyone is qualified to be tried by a competent, independent and impartial trial division of a People's Court established by law conducting a fair and public hearing. Journalists or the public may be prohibited from attending all or part of a trial for reasons of morals, public order or national security, or the protection of the personal secrets of litigants, or if the trial division of a People's Court in special circumstances believes that a public trial will harm public interest; but any judgment rendered in a criminal case shall be announced in public except where the cases of children or juveniles require otherwise.

(2) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

(3) In the determination of any criminal charge against him, everyone is qualified to enjoy, in full equality, the following minimum guarantees:

(a) To be informed promptly and in detail in a language which he/she understands of the nature and cause of the charge against him/her;

(b) To have adequate time and facilities for the preparation of his/her defence and to communicate with counsel of his/her own choice;

(c) To be tried without undue delay;

(d) To be tried in his/her presence, and to defend him/herself in person or through legal assistance of his/her own choice; if he/she does not have legal assistance, to be informed that he/she enjoys such a right; and to have legal assistance assigned to him/her in any case where public interest so requires and without payment in a case where he/she does not have sufficient means to pay for legal assistance;

(e) To examine, or have examined,² the witnesses against him/her, and to obtain the attendance in court and examination of witnesses on his/her behalf under the same conditions as witnesses against him/her;

(6) 如其不懂或不会说法庭上所用的语言，免费为其提供翻译；

(7) 不被强迫作不利于他自己的证言或强迫承认犯罪。

(四) 对少年的案件，在程序上应考虑到他们的年龄和帮助他们重新做人的需要。

(五) 凡被判定有罪者，应有权由上级人民法院对其作出的有罪判决进行复审。

(六) 因错误审判而判处刑罚的人，在事后被宣告无罪的，应当享有获得赔偿的权利，除非其被判刑是因为自身原因造成的。

(七) 任何人已经依据刑事程序被定罪判刑或宣告无罪的，不得就同一罪名再行审判或给予加重处罚。

第六十七条 任何人的任何作为或不作为，在其发生时依照中华人民共和国刑法规定不构成犯罪的，不得确认其实施了犯罪行为。任何人依据犯罪时的刑法规定所判处的刑罚低于作出判决时的刑法所规定的刑罚的，应当以犯罪时的刑法所规定的刑罚量刑。如果作出判决时的刑法所规定的刑罚低于犯罪时的刑法所规定的刑罚的，应当以作出判决时的刑法所规定的刑罚量刑。

第六十八条 任何人在任何地方在法律面前的人格有权得到承认。

第六十九条 任何人的私生活、家庭、住宅或通信秘密不得加以任意或非法干涉，他的荣誉和名誉不得加以非法攻击。

为享有上述权利，人人有权享受法律保护，以免受这种干涉或攻击。

第七十条 任何人有权享受思想、良心和宗教信仰自由。此项权利包括维持或改变其宗教信仰的自由，以及单独或集体、公开或秘密地以礼拜、戒律、实践和教义来表明其宗教信仰的自由。

任何人不得被强迫维持或改变其宗教信仰。

(f) To be offered free assistance of an interpreter if he/she cannot understand or speak the language used in court;

(g) Not to be compelled to testify against him/herself or to be compelled to admit committing a crime.

(4) In the case of juvenile persons, the procedure shall take into account the requirements of their age and of helping them to make a fresh start in life.

(5) Everyone convicted of a crime shall have the right to have his/her conviction reviewed by a higher level People's Court.

(6) Someone who has been convicted of a criminal offence on the basis of an incorrect trial, and who has been declared not guilty afterwards, shall enjoy the right to obtain compensation, except where the conviction has been caused by him/herself.

(7) No one who has already been convicted or declared not guilty pursuant to criminal procedure may be tried again or given a heavier sentence for the same crime.

Article 67 No one shall be convicted of any criminal offence on account of any act or omission which did not constitute a criminal offence under the Criminal Law of the People's Republic of China at the time when it was committed. If the penalty imposed on anyone set out by Criminal Law applicable at the time when the criminal offence was committed is lighter than the penalty under the Criminal Law applicable at the time of conviction, the measurement of penalty shall be applied as set out by Criminal Law at the time when the criminal offence was committed. If the penalty set out by Criminal Law applicable at the time of the conviction is lighter than the penalty set out by Criminal Law applicable at the time when the criminal offence was committed, the measurement of penalty as set out by Criminal Law applicable at the time of the conviction shall be applied.

Article 68 Everyone shall have the right to recognition everywhere as a person before the law.

Article 69 No one shall be subjected to arbitrary or unlawful interference with his/her private life, family, home or confidentiality of correspondence, his/her honour and reputation shall not be subjected to unlawful attacks.

To enjoy the abovementioned rights, everyone is entitled to enjoy the protection of the law in order to avoid being subjected to such interference and attacks.

Article 70 Everyone has the right to enjoy the freedom of thought, conscience and religious belief. This right includes the freedom to keep or change a religious belief, as well as the freedom, either individually or collectively, in public or private, to manifest his/her religious belief in religious service, religious discipline, practice and religious doctrine.

No one may be forced to keep or change his/her religious belief.

² A literal translation would be: "To examine, or to have already examined...". Regarding the discrepancies between the authentic English and Chinese texts on the one hand and another widely used Chinese text (that has been followed here) on the other see: SUN *Shiyan*, International Covenant on Civil and Political Rights: One Covenant, Two Chinese Texts, 75 *Nordic Journal of International Law* (2006), at p. 198.

表明自己的宗教信仰的自由，仅只受法律所规定的以及为保障公共安全、秩序、卫生或道德、或他人的基本权利和自由所必需的限制。

少数民族地区的宗教信仰自由受到保护。少数民族的未成年人的父母或监护人可以为子女提供其接受能力所能理解的宗教教育。

第七十一条 任何人有权持有主张，不受干涉。

任何人有自由发表意见的权利；此项权利包括寻求、接受和传递各种消息和思想的自由，而不论国界，也不论口头的、书写的、印刷的、采取艺术形式的、或通过其所选择的任何其他媒介。

本条第二款所规定的权利的行使带有特殊的义务和责任，因此得受某些限制，但这些限制只应由法律规定并为下列条件所必需：

- (一) 尊重他人的权利或名誉；
- (二) 保障国家安全或公共秩序，或公共卫生或道德。

第七十二条 任何鼓吹战争的宣传，为本法所禁止。

任何鼓吹民族、种族或宗教仇恨的主张，构成煽动歧视、敌视或强暴者，为本法所禁止。情节严重构成犯罪的，按照刑法规定处理。

本条并不禁止因为抵抗外来侵略或者平叛分裂国家的行为所进行的战争动员。

第七十三条 和平集会的权利应被承认。对此项权利的行使不得加以限制，除了依法以及为维护国家安全或公共安全、公共秩序，保护公共卫生或道德或他人的权利和自由的需要而施加的限制。

第七十四条 任何人有权享受与他人结社的自由。

对此项权利的行使不得加以限制。除了法律所规定的限制以及为维护国家安全或公共安全、公共秩序，保护公共卫生或道德，或他人的权利和自由所必需的限制。

本条不禁止对人民军队或人民警察行使此项权利加以合法的限制。

The freedom to manifest one's religious beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

The freedom of religious belief in ethnic minority districts receives protection. Parents or guardians of minors of ethnic minorities may provide religious education for them which is appropriate to their level of understanding.

Article 71 Everyone has the right to hold opinions without interference.

Everyone has the right to freely express opinions; this right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art or through any other media of his/her choice.

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but these restrictions shall only be such as are provided by law and are necessary in the following circumstances:

- (1) To respect of the rights and reputations of others;
- (2) To protect national security or public order, or public health or morals.

Article 72 Any propaganda for the advocacy of war is prohibited by this law.

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by this law. Where the circumstances are serious and constitute a criminal offence, they shall be dealt with pursuant to the provisions of the Criminal Law.

This article does not prohibit war mobilization conducted to resist an external aggression or to suppress acts to split the State.

Article 73 The right to peaceful assembly shall be recognized. No restrictions shall be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary to defend national security or public safety, public order, to protect public health or morals or the rights and freedoms of others.

Article 74 Everyone is entitled to enjoy the freedom to form associations with others.

No restrictions may be placed on the exercise of this right, except those imposed in conformity with the law and which are necessary to defend national security or public safety, public order, to protect public health or morals or the rights and freedoms of others.

This article does not prohibit the lawful imposition of restrictions on the People's Armed Forces or the People's Police in their exercise of this right.

第七十五条 家庭是天然的和基本的社会单元，并应受社会和国家的保护。

已达结婚年龄的男女缔结婚姻和成立家庭的权利应被承认。

只有经男女双方自由的和完全的同意，才能缔结婚姻。

国家通过立法等措施保证缔结婚姻的男女双方在结婚、结婚存续期间和离婚时的权利和责任平等。在离婚的情况下，儿童的权益应当受到必要保护。

第七十六条 每一个儿童应有权享受家庭、社会和国家为其未成年地位给予的必要保护措施，不因种族、肤色、性别、语言、宗教、国籍或社会出身、财产或出生而受任何歧视。

每一个儿童出生后应立即加以登记，并应有一个名字。

凡是出生在中华人民共和国境内的每一个儿童都有权取得中华人民共和国国籍。但是，已经取得其他国家国籍的除外。中华人民共和国公民只有一个国籍。

第七十七条 中华人民共和国公民依据中华人民共和国宪法和本法应有下列权利和机会：

(一) 直接或通过自由选择的代表参与公共事务；

(二) 在定期选举中享有选举权和被选举权，这种选举权应是普遍的和平等的并以无记名投票方式进行，以保证选举人的意志的自由表达；

(三) 在一般平等的条件下，参加国家机关和政府组织的公务活动。

本条所规定的权利只有依据《中华人民共和国刑法》规定，并且由人民法院作出判决才能予以限制或剥夺。

第七十八条 所有的人在法律前一律平等，并有权受法律的平等保护。

禁止任何歧视并保证所有的人得到平等的和有效的保护，以免受基于种族、肤色、性别、语言、宗教、政治或其他见解、国籍或社会出身、财产、出生或其他身分等任何理由的歧视。

Article 75 The family is the natural and fundamental group unit of society and shall receive protection by society and the State.

The right of men and women of marriageable age to marry and to found a family shall be recognized.

Only if man and women both give their free and full consent, may they enter into a marriage.

The State ensures through legislation and other steps the equality of rights and responsibilities of both men and women who enter into a marriage as to marriage, during marriage and at its dissolution. In case of dissolution, the rights and interests of children receive the necessary protection.

Article 76 Every child shall have the right to enjoy such measures of protection as are required by his/her status as a minor on the part of his family, society, and the State, without any discrimination as to race, colour, sex, language, religion, nationality or social origin, property or birth.

Every child shall be registered immediately after birth and shall have a name.

Every child born within the boundaries of the People's Republic of China has the right to acquire the nationality of the People's Republic of China, except those who have already acquired the nationality of another State. Citizens of the People's Republic of China may only have one nationality.

Article 77 Citizens of the People's Republic of China shall, pursuant to the Constitution of the People's Republic of China and this law, have the following rights and opportunities:

(1) To take part in public affairs, directly or through freely chosen representatives;

(2) To enjoy the right to vote and to be elected in periodic elections; such right to vote shall be universal and equal and be conducted by way of secret ballot so as to guarantee the free expression of the will of the electors;

(3) To participate, on general terms of equality, in the public affairs of State organs and Government organizations.

The rights set out in this article may only be restricted or one may only be deprived of these rights pursuant to the provisions of the Criminal Law of the People's Republic of China and on the basis of the judgment of a People's Court.

Article 78 All persons are equal before the law and are entitled to the equal protection of law.

Any discrimination is prohibited and all persons are guaranteed equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

第七十九条 中华人民共和国各民族一律平等。国家保障各少数民族的合法的权利和利益，维护和发展各民族的平等、团结、互助关系。禁止对任何民族的歧视和压迫，禁止破坏民族团结和制造民族分裂的行为。

国家根据各少数民族的特点和需要，帮助各少数民族地区加速经济和文化的发展。

各少数民族聚居的地方实行区域自治，设立自治机关，行使自治权。各民族自治地方都是中华人民共和国不可分离的部分。

各民族都有使用和发展自己的语言文字的自由，都有保持或者改革自己的风俗习惯的自由。

各民族公民都有用本民族语言文字进行诉讼的权利。人民法院和人民检察院对于不通晓当地通用的语言文字的诉讼参与人，应当为他们翻译。

在少数民族聚居或者多民族共同居住的地区，应当用当地通用的语言进行审理；起诉书、判决书、布告和其他文书应当根据实际需要当地通用的一种或者几种文字。

第八章 经济、社会和文化权利的保障

第八十条 任何人享有工作权，包括应有机会凭其自由选择和接受的工作来谋生的权利，国家采取适当措施来保障这一权利的实现。

为充分实现这一权利而采取的措施应包括技术的和职业的指导和训练，以及在保障个人基本政治和经济自由的条件下达到稳定的经济、社会和文化的发展和充分的生产就业的计划、政策和技术。

第八十一条 任何人有权享受公正或良好的工作条件，特别要保证：

(一) 最低限度给予所有工人以下列报酬：公平的工资和同值工作同酬而没有任何歧视，特别是保证妇女享受不差于男子所享受的工作条件，并享受同工同酬；保证他们自己和他们的家庭得有符合本法规定的过得去的生活；

Article 79 All ethnic groups of the People's Republic of China are equal. The State ensures the lawful rights and interests of all ethnic minorities, safeguards and develops a relationship of equality, unity and mutual support among all ethnic groups. Any discrimination and oppression of any ethnic group is prohibited; activities which destroy the unity of ethnic groups and split minorities are prohibited.

The State, pursuant to the characteristics and needs of ethnic minorities, supports ethnic minority districts to accelerate economic and cultural development.

All territories inhabited by ethnic minorities implement regional autonomy, establish organs of self-government and exercise autonomy. All autonomous territories of ethnic minorities are inseparable parts of the People's Republic of China.

All ethnic groups have the freedom to use and develop their own spoken and written language as well as to keep or change their own social customs and habits.

The citizens of all ethnic groups have the right to conduct lawsuits in the spoken and written language of their ethnic group. The People's Courts and People's Procuratorates shall provide translation for parties of the lawsuit who do not understand the commonly used local spoken and written language.

In territories inhabited by an ethnic minority or where many ethnic groups live together, courts shall hear cases in the commonly used local spoken and written language; indictments, judgments, notices and other documents shall, according to practical needs, apply the commonly used local kind or kinds of written language.

Chapter 8 Protection of Economic, Social and Cultural Rights

Article 80 Every person enjoys the right to work, which includes the right to the opportunity to gain his/her living by work which he/she freely chooses or accepts. The State takes the appropriate steps to ensure the realization of this right.

The steps taken to achieve the full realization of this right shall include technical and vocational guidance and training as well as programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 81 Every person has the right to the enjoyment of just and favourable conditions of work which ensure, in particular:

(1) Remuneration which provides all workers, as a minimum, with: fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; the guarantee of a decent living for themselves and their families in accordance with the provisions of this law;

(二) 安全和卫生的工作条件;

(三) 任何人在其行业中适当的提级的同等机会, 除资历和能力的考虑外, 不受其他考虑的限制;

休息、闲暇和工作时间的合理限制, 定期给薪休假以及公共假日报酬。

第八十二条 任何人有权组织工会和参加其所选择的工会, 以促进和保护其享有的经济和社会利益。组织工会应当按照《中华人民共和国工会法》所规定的程序进行。

本条不应禁止对人民军队或人民警察或国家行政机关工作人员行使这些权利加以合法的限制。

第八十三条 任何人有权享受社会保障, 包括社会保险。

第八十四条 对作为社会的自然和基本的单元的家庭, 特别是对于它的建立和当它负责照顾和教育未独立的儿童时, 应给予尽可能广泛的保护和协助。

对母亲, 在产前和产后的合理期间, 应给以特别保护。在此期间, 对有工作的母亲应给以给薪休假或有适当社会保障福利金的休假。

应为一切儿童和少年采取特殊的保护和协助措施, 不得因出身或其他条件而有任何歧视。儿童和少年应予保护免受经济和社会的剥削。雇佣他们做对他们的道德或健康有害或对生命有危险的工作或做足以妨害他们正常发育的工作, 依法应受惩罚。

任何组织或个人不得雇佣不符合法律规定的童工。

第八十五条 任何人有权为他和自己和家庭获得相当的生活水准, 包括足够的食物、衣着和住房, 并能不断改进生活条件。

任何人享有免于饥饿的基本权利。

国家为保证本条所规定的权利的目的, 充分利用科技知识、传播营养原则的知识和发展或改革土地制度以使天然资源得到最有效的开发和利用等方法, 改进粮食的生产、保存及分配方法, 保障粮食有效供应。

(2) Safe and healthy working conditions;

(3) Equal opportunity for everyone to be promoted in his/her employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 82 Every person has the right to form trade unions and join the trade union of his/her choice so as to promote and protect his/her economic and social interests. The forming of a trade union shall be conducted according to the procedure set out in the Trade Union Law of the People's Republic of China.

This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the People's Armed Forces, the People's Police or the administrative State organs.

Article 83 Every person has the right to enjoy social security, including social insurance.

Article 84 The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.

Special protection shall be accorded to mothers during a reasonable period before and after childbirth. During such period, working mothers shall be accorded paid leave or leave with adequate social benefits.

Special measures of protection and assistance shall be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons shall be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development shall be punishable according to law.

No organization or individual may employ child labourers who do not comply with the provisions of the law.

Article 85 Everyone has the right to an adequate standard of living for him/herself and his/her family, including sufficient food, clothing and housing and to the continuous improvement of living conditions.

Everyone enjoys the fundamental right to be free from hunger.

In order to ensure the rights set out in this article, the State makes full use of technical and scientific knowledge, disseminates knowledge of the principles of nutrition and develops or reforms the agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources, improves the methods of grain production, conservation and distribution and ensures efficient grain supply.

第八十六条 任何人有权享有能达到的最高的体质和心理健康的标准。

为充分实现这一权利，国家采取积极有效的措施，减低死胎率和婴儿死亡率，使儿童得到健康的发育；改善环境卫生和工业卫生的各个方面；预防、治疗和控制传染病、风土病、职业病以及其他的疾病；创造保证人人在患病时能得到医疗照顾的条件。

第八十七条 任何人有受教育的权利。

国家发展社会主义的教育事业，提高全国人民的科学文化水平。

国家举办各种学校，实行免费初等义务教育，发展中等教育、职业教育和高等教育，并且发展学前教育。

国家发展各种教育设施，扫除文盲，对工人、农民、国家工作人员和其他劳动者进行政治、文化、科学、技术、业务的教育，鼓励自学成才。

国家鼓励集体经济组织、国家企业事业组织和其他社会力量依照法律规定举办各种教育事业。

国家推广全国通用的普通话。

第八十八条 任何人有权：

- (一) 参加文化生活；
- (二) 享受科学进步及其应用所产生的利益；
- (三) 对其本人的任何科学、文学或艺术作品所产生的精神上 and 物质上的利益，享受被保护之利。

为充分实现这一权利，国家采取保存、发展和传播科学和文化所必需的措施。

国家尊重进行科学研究和创造性活动所不可缺少的自由。

第八十九条 国家尊重和保障联合国国际人权公约所规定的各项集体人权，包括自决权、生存权和发展权，全面推进人权保障事业的健康发展。

Article 86 Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health.

In order to fully realize this right, the State takes active and effective steps for the reduction of the stillbirth rate and the infant mortality rate, the healthy development of the child; the improvement of all aspects of environmental and industrial hygiene; the prevention, treatment and control of epidemic, endemic, occupational and other diseases; the creation of conditions to ensure that everyone is able to obtain medical attention in the event of sickness.

Article 87 Everyone has the right to education.

The State develops the socialist education facilities and improves the scientific cultural level of the people throughout the whole nation.

The State runs various kinds of educational institutions, implements compulsory primary education, develops secondary education, vocational education and higher education and develops pre-school education.

The State develops various kinds of educational facilities, eliminates illiteracy, conducts political, cultural, technical and professional education of workers, peasants, State personnel and other labourers and encourages training through self-education.

The State encourages collective economic organizations, State enterprises, non-profit organizations and other social groups to run various kinds of educational facilities in accordance with the provisions of law.

The State popularizes the general use of Putonghua.

Article 88 Everyone has the right

- (1) To take part in cultural life;
- (2) To enjoy the benefits of scientific progress and its applications;
- (3) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he/she is the author.

In order to fully realize this right, the State takes the steps necessary for the conservation, the development and diffusion of science and culture.

The State respects the freedom indispensable for scientific research and creative activity.

Article 89 The State respects and ensures all collective human rights set out in the international human rights covenants of the United Nations, including the right to self-determination, right to existence and the right to development, and promotes comprehensively the healthy development of the pursuit of safeguarding human rights

国家采取各种措施,不断消除《公民权利和政治权利国际公约》和《经济、社会和文化权利国际公约》中所保障的各项人权在国内法保障体系中实施的差距,努力提高人权保障水平,推进人权国内法保护的不断完善和全面进步。

第九章 人权保障的国际交流与合作

第九十条 尊重和保障人权是中华人民共和国政府在人权保障的国际交流与合作领域的重要指导思想。

第九十一条 中华人民共和国缔结和参加的国际人权公约以及公约的任择议定书,在人民法院依据本法规定审理有关人权案件时,可以作为人民法院审判案件时参照适用的法律依据。

第九十二条 中华人民共和国政府已经签署但尚未批准的国际人权公约以及公约的任择议定书中保障人权的禁止性要求不得再在国内立法中予以保护性的立法。

第九十三条 中华人民共和国未签署、未批准和参加的国际人权公约以及公约的任择议定书,其人权保障的基本立法精神应当得到国内立法的尊重和关注。

第九十四条 中华人民共和国各级国家机关有义务认真履行中华人民共和国已经缔结和参加的国际人权公约以及公约的任择议定书所规定的缔约国政府应尽的公约下的各项义务。

第九十五条 中华人民共和国积极参加有关人权保护的双边、多边条约以及联合国机构组织的国际人权公约或者是区域性人权公约的缔结,并采取各种有效的国内法措施来推动这些国际人权公约在国内法中的实施。

第九十六条 凡居住在中华人民共和国境内的外国人、无国籍人以及其他非中华人民共和国公民与中华人民共和国公民同等享有本法所规定的各项人权。

The State takes various measures in order to continuously eliminate the inconsistencies between the human rights guaranteed in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights on the one hand and their implementation in the domestic legal system on the other, makes great efforts to improve the level of safeguarding human rights and promotes the continuous perfection and comprehensive progress of domestic human rights protection.

Chapter 9 International Exchange and Co-operation in the Field of Human Rights

Article 90 To respect and safeguard human rights is the main guiding concept of the Government of the People's Republic of China in the area of international exchange and cooperation.

Article 91 The human rights treaties and treaty protocols, which have been concluded or acceded to by the People's Republic of China, may be applied in trials of the People's Courts as a legal basis by way of reference when People's Courts hear relevant human rights cases pursuant to this law.

Article 92 Human rights guarantees in international human rights treaties and treaty protocols, which have been signed by the Government of the People's Republic of China but have not yet been ratified, and which require the prohibition of certain acts, may not be implemented by domestic legislation that allows these acts.

Article 93 The fundamental legislative spirit of human rights guarantees in international human rights treaties and treaty protocols, which have not been signed, ratified and joined by the People's Republic of China, shall be respected and paid close attention to by domestic legislation.

Article 94 The State organs of the People's Republic of China of all levels are under the obligation to carry out thoroughly the obligations assumed by the Signatory States' Governments under international human rights treaties and treaty protocols, which have already been concluded or acceded to by the People's Republic of China.

Article 95 The People's Republic of China actively takes part in the relevant bilateral and multilateral treaties that protect human rights, concludes the human rights covenants formed by the organs of the United Nations or regional human rights covenants and takes various effective steps in domestic law to promote the implementation in domestic law of these international human rights covenants.

Article 96 Every alien, stateless person or other person who is not a citizen of the People's Republic of China residing within the borders of the People's Republic of China enjoys the human rights set out in this law on an equal footing with citizens of the People's Republic of China.

凡是本法规定之外的各项宪法和法律权利，居住在中华人民共和国境内的外国人、无国籍人以及其他非中华人民共和国公民依据国际法一般规则所规定的国民待遇的要求享受中华人民共和国宪法和法律的保护。

第九十七条 中华人民共和国政府以及中华人民共和国政府驻外机构有义务采取一切必要措施保护在境外居住和生活的中华人民共和国公民依据本法规定所享有的各项人权。

在境外居住和生活的香港特别行政区居民、澳门特别行政区居民以及台湾同胞的各项人权受到与中华人民共和国公民同等的保护。

第九十八条 驻华外交机构以及外交人员在中华人民共和国境内侵犯本法所规定的各项人权的，不得享有外交豁免权。

第九十九条 中华人民共和国政府驻外机构以及外交人员在境外侵犯本法所规定的各项人权的，应当接受侵权地所在国的司法管辖，有关涉及国家主权或者是重大国家利益的事项除外。

第一百条 中华人民共和国政府积极推动人权保障领域的人权宣传、教育等方面的国际交流与合作，保障在中华人民共和国境内从事人权宣传、教育的机构和人员的各项合法权益。

第一百零一条 在中华人民共和国境内的任何组织和个人不得以保障本法所规定的各项人权的实现为由，从事违反中华人民共和国宪法和法律的规定的活动。

第十章 附则

第一百零二条 本法所规定的各项人权应当与中华人民共和国宪法相一致的精神予以解释。

中华人民共和国宪法的修改不得限制或者剥夺本法所规定的各项人权。

第一百零三条 全国人民代表大会人权保障委员会负责解释本法的各项组织工作。

As to the constitutional and statutory rights not set out in this law, every alien, stateless person or other person who is not a citizen of the People's Republic of China residing within the borders of the People's Republic of China enjoys the protection of the Constitution and the law of the People's Republic of China pursuant to the requirements of national treatment set out in the general principles of international law.

Article 97 The Government of the People's Republic of China and the organs of the People's Republic of China stationed abroad have the obligation to take all necessary steps for the protection of the human rights enjoyed on the basis of this law by citizens of the People's Republic of China residing and living abroad.

The human rights of residents of the Hong Kong Special Administrative Region, the residents of the Macau Special Administrative Region and Taiwan compatriots who reside and live abroad will be accorded protection on the same footing with citizens of the People's Republic of China.

Article 98 Diplomatic missions and diplomatic personnel stationed in China who violate, within the borders of the People's Republic of China, any of the human rights set out in this law may not enjoy diplomatic immunity.

Article 99 Organs of the People's Republic of China Government stationed abroad and their diplomatic personnel violating any of the human rights set out in this law abroad shall accept the jurisdiction of the State where the violation was committed, except where matters of State sovereignty or major State interests are affected.

Article 100 The Government of the People's Republic of China actively promotes international exchange and cooperation of human rights information, education and other aspects in the field of human rights protection and safeguards the lawful rights and interests of institutions and staff who engage in human rights information and education within the borders of the People's Republic of China.

Article 101 No organization or individual within the borders of the People's Republic of China may, on account of realizing the protection of the human rights set out in this law, engage in activities violating provisions of the Constitution or laws of the People's Republic of China.

Chapter 10 Supplementary Provisions

Article 102 The human rights set out in this law shall be interpreted in a spirit consistent with the Constitution of the People's Republic of China.

Amendments of the Constitution of the People's Republic of China may not limit or deprive of any human rights set out in this law.

Article 103 The Human Rights Protection Committee is responsible for the interpretation of the organizational work under this law.

全国人民代表大会常务委员会根据全国人民代表大会人权保障委员会提出的解释本法的建议，依据法定程序作出正式解释。

第一百零四条 全国人民代表大会人权保障委员会下设《中华人民共和国人权保障法》专家小组作为日常办公咨询机构，负责对本法的解释和本法实施中的重大问题进行研究 and 论证，提出有关决策意见。

《中华人民共和国人权保障法》专家小组应当由从事人权研究和教育的专家和学者以及从事人权保障事务的政府官员、法官、检察官、律师和外交官组成。

第一百零五条 本法生效后，凡是法律、法规、规章中与本法规定不一致的地方，以本法规定和对本法所作出的法律解释的规定为准。

第一百零六条 本法自 年 月 日起正式生效。

The Standing Committee of the People's Republic of China issues a formal interpretation pursuant to the statutory procedure and according to the proposal of an interpretation of this law submitted by the Human Rights Protection Committee of the National People's Congress.

Article 104 The "People's Republic of China Human Rights Protection Law" Expert Group, established under the Human Rights Protection Committee of the National People's Congress as an advisory organ for day-to-day work, is given responsibility to study and discuss the interpretation of this law and major issues of the implementation of this law and to put forward suggestions on policy decisions.

The "People's Republic of China Human Rights Protection Law" Expert Group shall be composed of experts and scholars who engage in human rights research and education as well as of government officials, judges, procurators, lawyers and diplomats who engage in affairs of human rights protection.

Article 105 When parts of laws, regulations and rules, after this law enters into force, conflict with the provisions of this law, the provisions of this law and the provisions of the legal interpretations of this law shall be applied as a standard.

Article 106 This law enters formally into force on (year, month, and day).

Translated by *Björn Ahl*.