



People's Republic of China expresses henceforth willingness to continue dialogue, exchange and cooperation on human rights with all the partners on the basis of equality and mutual respect so as to share information, enhance mutual understanding and deepen cooperation in the field of fundamental human rights and freedoms. At the same time People's Republic of China voices full support towards solving the challenges occurring in the continuously altering field of human rights and freedoms. After an in-depth analysis of the 2<sup>nd</sup> draft proposed by Forum for 21st century let People's Republic of China annotate it and include suggestions as well:

## **New concept of fundamental human rights and freedoms**

### **In Notes:**

- 🍷 The People's Republic of China concurs on that human rights are not formed only by civil, political, economical, social and culture rights. The very basic of the concept of human rights is a decent standard of living, adequate nutrition, health care, education, decent work and protection against calamities for every human being.
- 🍷 Complex harmonization or unification of the human rights on the international level is impossible due to the culture and traditions that differ in every single nation or civilization. Due to different national conditions, different cultures and historical development, countries have adopted different approaches and models on human rights. It is undesirable to impose a uniform model in the promotion and protection of human rights. Decisive factor influencing the ensuring of human rights is the political system. Each nation defines the human rights in a different way. The result is a relative perception of the term "human rights" and therefore different laws ensuring them. The dominant discourse on international human rights is based on two misconceptions. The first is that the only way to implement human rights treaties is by according enforceable rights and by relying on law. The second is that international human rights law requires states in the East and the global South to give up their traditions and institutions to make way for the Western values and institutions which are supposed to underlie human rights. Both public international law



and human rights treaties leave it to the states to determine how to implement their obligations. In addition, states are not supposed to sacrifice their culture or their values when they sign up to human rights treaties. Culture and the existing social institutions of Eastern and Southern countries can actually contribute to meeting international human rights obligations. By relying on local socio-cultural arrangements during the implementation stage human rights protection will be enhanced and reinforced rather than diminished. Western activists, government officials and academics often take the view those human rights treaties ought to be implemented through recognizing or according individual, enforceable rights or by using other legal means. Chinese society, which has a communal nature, prefers other social institutions than rights to provide texture to society. In the West this reluctance to translate human rights obligations into rights is often seen as a failure to implement them. So the main responsibility of insuring human rights and the most suitable way how to implement them is in competency of national states that are sovereigns over their population. Domestic application is thus the most convenient way how to ensure the promotion and observance of human rights and freedoms in state.

- 🔗 Domestic application is an obligation of result rather than an obligation of means. Therefore, the implementation of treaties, including human rights conventions, is a matter of domestic primacy. The principle of domestic primacy has been reconfirmed by the implementation clauses of international human rights treaties. Thus, Article 2 (2) of the International Covenant on Civil and Political Rights (hereafter: the Covenant) obliges the states parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. In its General Comment No. 31, the Human Rights Committee, although noting that incorporation may enhance the protection of the Covenant guarantees, made clear that Article 2(2) CCPR does not require it. Therefore, also under Article 2(2), the states parties enjoy discretion with regards to the means they would like to employ to meet their treaty obligations, be they laws or other social institutions.
- 🔗 Relationships that have long been established within a certain culture or subculture are difficult to change instantly by legislative measures. In other words, in order to bring about social change, the legislation should add to rather than replace the existing customs. One cannot, therefore, simply assume that informal rules will budge. Reformers will have to



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make an effort to play into them. If social institutions are inadequate from a human rights point of view, they should be reformed rather than replaced.

- 🌐 The People's Republic of China expresses expectations in mutual understanding of concept of human rights based on respecting cultural traditions and variations and emphasizes the importance of local culture and social arrangements for implementing human rights obligations at the national level, such as family, kinship, solidarity, education, awareness-raising, community and solidarity. Many social arrangements which are already in place to implement human rights obligations provide better compliance with comprehended concept of human right than laws and societies need to use them to their benefit and subsequently to build on those if additional efforts would be required.



### In section Proposes:

- Chinese government does not acquiesce with the proposal to enact the tribunal within the Security Council of the UN. The People's Republic of China presumes that it would be supererogatory step. There is already existing inter-governmental body within the UN system - The Human Rights Council, responsible for strengthening the promotion and protection of human rights around the globe. Among the elements that have been adopted so far, is the new Universal Periodic Review mechanism which will assess the human rights situations in all 192 UN Member States. Other features include a new Advisory Committee which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues and the revised Complaints Procedure mechanism which allows individuals and organizations to bring complaints about human rights violations to the attention of the Council. Hence Chinese government considers creating of a new system within UN as a redundant step, which will only lead to doubling the existing agenda and squandering resources. These resources should be used to strengthen already existing mechanism and its agenda. In this existing framework we should focus more on creating functional discussion forum on professional and expert level, where can be shared all ideas, working experiences, different approaches to the subject of human rights, influence of local values on implementation, different methods of assuring of basic human needs, etc.
- Chinese government cannot present its position on the matter regarding the creation of The Groups of States, because the subject needs to be worked more comprehensively, before Chinese government will render its position regarding this issue. People's Republic of China suggests elaborating this subject providing more details on how will be the procedures, functional mechanism, divisions of states and overall function.
- People's Republic of China urges the need of creating a new approach on subject how to measure and compare the level of abundance of human rights and freedoms. There ought to be formed universally accepted measurements and statistical monitoring that would enable to parallel between states.



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- 🌐 People's Republic of China supports the idea of creating a mechanism supporting the work of NGOs to monitor states' compliance with human rights standards and to coordinate public opinion on subject and to set up the international platform for cooperation of NGOs and governments within the agenda of the ministry of foreign affairs of every state or the body of an intergovernmental regional organization. Chinese government stakes a claim on identifying the body responsible for supervising, monitoring and coordination the activities and projects aiming to foster human rights. This mechanism should be the part of existing Human Rights Council, which would provide the basis for discussion, exchange of knowledge and statistical revision of received NGO's data. Chinese government agrees on issuing yearbook of statistical data, implementation of human rights and evaluation of national action plan on human rights and freedoms. People's Republic of China stresses the need of releasing white books, blue books evaluating the progress in this field.