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A Beautiful China

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A Constitutional Blueprint for China

***Xu Zhiyong's Note:** This is a study of China's future constitutional system. The section on citizens' fundamental rights is based on the 2004 recommendations of many constitutional scholars on how to amend the constitution. The section on the design of other institutions is the result of a five-month series of biweekly discussions by dozens of constitutional scholars in 2011. The essential institutions of modern democracy are among the most important things that human civilization has learned over the centuries. These institutions are neither "Eastern" nor "Western", neither "capitalist" nor "socialist." This knowledge of how to constrain power and realize freedom and justice belongs to all of humanity. Responsible Chinese citizens should think deeply, reach a broad consensus, and design a rational system to build a better future for China.*

Our Basic Values

A dictatorship sees and treats the country as its own property. The belief is that "political power grows out of the barrel of a gun" and that "to the victor belong the spoils". Once a territory is occupied through force, the people of that land are treated as mere appendages who become slaves to those in power. This is the naked logic of pirates.

In a democracy, everything is done for the common good. The people, or the collective citizenry of the state, are the sovereigns of the land who establish the state by compact for the common freedom, security, and welfare. Those who govern are authorized to do so by the people, for a limited time, through direct, free, and fair elections.

Human freedom shall be the fundamental purpose and value of the state and the law. The state shall respect and protect pluralistic values and be committed to protecting

and expanding human freedom. State power shall be exercised only when authorized by law, and citizens should be free to do anything that is not prohibited by law.

Human rights are based on the universal consensus of human society. Universal values become the rights of citizens through the law. Based on the universally recognized norms of the international community, such as the Universal Declaration of Human Rights, as well as on the common agreement of all citizens, these rights are so important that they shall be enshrined in the Constitution and solemnly proclaimed.

Everyone shall be equal before the law, and it shall be forbidden to restrict the rights of citizens on the basis of race, ethnicity, language or religion. Equality of opportunity, appropriate powers and responsibilities, and restraints on the strong and safeguards for the weak shall be elements of a just system established by the state in which everyone has his or her rightful place.

The rule of law is not a tool for the few to rule over others, but a cornerstone of liberty and justice for all. The Constitution shall be the supreme law of the land. The law shall be above any individual or organization. The rule of law shall be the ultimate means of resolving all disputes, including disputes over political power. A democratic legislative process shall represent the good faith intentions of the greatest number of people. Law enforcement shall be rigorous and free of extrajudicial privilege. The judicial process shall be impartial, and disputes shall be adjudicated according to law and conscience.

There shall be separation between the powers of the state and between the powers of the central government and local governments. Political power shall be equally open to all members of society and shared by all members of society. People should live in harmony with each other, and the interests of individuals, organizations, society, and the state should be fairly balanced. There should be mutual tolerance and harmony in society as a whole.

In order to establish a democratic state governed by the rule of law, in which freedom, justice, and happiness are enjoyed by all, the people shall enact a Constitution that does the following: sets out the fundamental values and policies of the state; defines its governmental structure; sets out the powers of the legislative, executive, and judicial branches; and proclaims certain fundamental rights that are enshrined in the Constitution.

The Basic State System

A state that truly belongs to the people shall have the following basic institutional system, which reflects the lessons learned in the course of human civilization's progress.

Universal suffrage: Legislatures and governments at all levels shall be elected by regular, direct elections.

The state shall establish an independent electoral commission to set electoral rules and guarantee free and fair elections.

Power shall derive from the people and must be guaranteed by a set of democratic institutions that ensure that the people have the opportunity to make real choices. Regular, direct, free, and fair elections to all levels of government and legislature are a necessary process of democracy (representing a popular mandate), and no country can be an exception.

Tripartite separation of powers: The powers of the state shall be, by their nature, divided into legislative, executive, and judicial branches. These branches shall be vested in the legislature, the government, and the courts, respectively, which shall each be independent and subject to mutual checks and balances.

This “tripartite separation of powers” divides the powers of the state according to their nature, with no one branch being able to override the other two. This is an inherent and necessary system of constitutional democracy. In the various models of democracy, such as constitutional monarchy, parliamentary cabinet systems, or council systems, the three branches are kept separate and the judiciary is independent. The only difference is in the nature of the constraining relationship between executive and legislative power.

The legislative branch enacts laws that represent the interests of the greatest number of people, based on the principles of democracy and balance of interests. The executive branch enforces the law in the public interest. The judicial branch resolves disputes and upholds justice as a neutral adjudicator.

Judicial independence: The power of adjudication shall be exercised only by the courts. Judges shall be independent, faithful to the law and to their conscience, and free from interference by the executive branch, political parties, social organizations, or individuals.

Of the three branches of government, the judiciary shall be relatively weak, and its independence must be institutionally guaranteed. Judges shall not be subordinated to the executive branch or used as a tool of any party.

Once the judiciary loses its independence and becomes the “sword” of a particular political party, society will no longer be able to rely on it as the final guarantor of justice, meaning anyone can become a victim.

The armed forces as a state institution: Powerful organs financed by the state, such as the military and the police, shall be state institutions and shall perform their duties in accordance with the law without being dominated by any political party or other interest group.

No family, political party, or interest group shall be allowed to possess an armed military force. Once the national armed forces comes under the possession of a particular political party or interest group, no one can prevent it from usurping the people's sovereignty, overriding the state and the people, reversing the master-servant relationship with the people, and becoming an occupying master instead of a humble servant.

The armed forces shall be commanded by a democratically elected head of government. Their functions shall be to prevent foreign invasion, enforce the law, and maintain peace and justice in the world.

A party in power elected by the people shall be qualified to lead the armed forces on the basis of the authority the people have given to civilian government positions, not on any idea of possession. A political party's status as a party in power shall depend on the votes of the people, not on its ability to control the "barrel of a gun." While political parties compete and rotate, the armed forces always belong to the state and the people.

The armed forces shall be separate from political parties, and no political party shall recruit members from the armed forces. The armed forces shall not interfere in domestic political contests and shall not be used as an instrument of any political organization.

Multi-party competition. All political parties shall be equal before the law and compete in a civilized manner within the legal framework.

No political party or interest group may be equated with the nation or the people unless its membership is the entire nation (which is impossible), nor may its interests be equated with the interests of the nation or the people.

One of the most fundamental manifestations of national sovereignty is the power of the people to choose those who govern. The prerequisite for this choice is multi-party competition.

Any political party that monopolizes the power of the state, forces the people to accept its "services", places itself above the state and the people, and makes "party leadership" the highest norm of the nation's political life, is bound to become a special interest group that transcends the state. In this case, the people will no longer

be the masters of the state, but the slaves of those in power.

In modern civilized countries, political parties are groups that promote political ideals and public services. Services made available in an environment without competition are bound to be low quality and high priced, and political parties without competition are bound to be corrupt. This is a basic law of nature. Everyone shall have the right to form political parties that compete peacefully with each other, and the people shall vote to decide who will exercise the powers of government.

Local autonomy: The central government and local governments shall be separate under the rule of law. The Constitution shall define the powers vested in the central government, such as national defense, foreign affairs, the administration of justice, and the issuance of currency. The remaining powers shall be vested in local governments. Local autonomy shall not violate the Constitution and laws ensuring national unity and shall not infringe upon the fundamental rights and freedoms of citizens.

Top-down appointment of officials who are accountable to their superiors rather than to the local people leads inevitably to conflicts of interest between those in power and the people. Unelected, appointed officials lack the communication and coordination skills of modern politicians who face the public. “Detachment from the masses” is an incurable disease of authoritarian bureaucratic systems.

In a democratic system, governments and legislatures at all levels are elected by citizens, and the principle of national sovereignty shall extend to both central power and local governments.

Private rights are sacred. Private property, state property, and property under other forms of ownership shall be equally protected by law.

Rural land shall be privatized on the basis of contractual rights. The owner of a house shall have the right to the corresponding land.

Private property shall be sacred and inviolable. For necessary public interests, the expropriation and requisition of property shall be carried out in accordance with legal procedures and with fair and just compensation.

Private property is the fundamental driving force behind the growth of material wealth and social progress, the cornerstone of personal freedom, and the ultimate sanctuary of human dignity. A rational social system should establish and protect private property, which is the basis for the establishment of effective public services and, moreover, the purpose of wealth creation and distribution in human society.

The state shall not subjectively establish the ratio of private property rights and public property rights, except where necessary for public services and social equity. Property rights shall be defined by the market on the basis of relative costs and benefits. Inappropriate and unnecessary state property should be privatized as fairly as possible without undermining market efficiency.

Market economy: The state shall protect all market entities equally, ensure orderly competition in a nationally unified free market, and eliminate all kinds of regional and administrative monopolies. Government macroeconomic regulation shall use economic means to the maximum extent possible to avoid unnecessary and inappropriate intervention in the market.

Everyone creates wealth in the pursuit of wealth, so equal opportunities and freedoms should be guaranteed for everyone. A modern market economy with macroeconomic regulation is suitable for the progress of modern human material civilization.

Fair welfare system: The state shall establish a fair social security system. Regardless of industry, status, or household registration, the state shall provide everyone with an equal basic pension, with reasonable additional benefits based on individual contributions.

Equality of opportunity and outcome are both legitimate aspirations rooted in human nature. Free competition brings prosperity, but it also creates a gap between rich and poor. The state has a responsibility to reduce the gap between rich and poor through taxation, transfer payments, and social security, in order to maintain a balance between efficient growth and equitable outcomes. There shall be a system of relief for the unemployed, free medical treatment for serious illnesses, and a decent life and dignity for the poorest.

The Structure of the State

To maximize the protection of human rights and freedoms at the lowest cost, the state shall establish the necessary governance structure, rationally dividing central and local powers according to the principles of democratic rule of law.

The state shall be composed of provinces, centrally administered municipalities, and special administrative regions.

The historical differences in power between the various administrative regions will continue for a long time to come. Each administrative region of mainland China shall exercise local autonomy and abide by the division between central and local powers as stipulated in the Constitution and laws. The right to autonomy of the Hong Kong and Macau Special Administrative Regions shall be governed by existing laws. The

special status of Taiwan and other regions shall be determined through consultation in accordance with democratic rules.

Autonomy shall be defined as local autonomy, not ethnic or racial autonomy. Autonomous regions based on ethnicity or race violate the principles of freedom of movement and racial equality and are unnecessary. Within the community of Chinese civilization, ethnicity is a historical and cultural concept and has no significance for the purposes of administrative division or governance.

Local administrative divisions should follow historical boundaries as closely as possible, without the need to expand, contract, or redefine them according to culture or custom. While the boundaries of cultural communities are defined by individuals who can freely join and leave them, human society needs geographical boundaries to manage public affairs. Administrative divisions are the governance boundaries of public power, not the boundaries of cultural communities. The existence of cultural regions with different languages, cultures, and customs is no reason to redefine administrative divisions.

Unlike in ancient times, in an informatized society there is no necessary correlation between the size of a territory and the cost of administering it. There is no need to redraw provincial boundaries for the sake of government efficiency.

The central government shall be responsible for formulating the constitution and laws and supervising their implementation; the structure of the state, territorial boundaries and administrative divisions; the organization of the legislative, executive, and judicial systems of the state; the formulation and implementation of rules for a unified market, such as currency issuance, foreign exchange, customs, and finance and monetary policy; important projects, such as nuclear energy, weapons, aerospace, military, and national defense; diplomacy and international treaties; and the domestic and foreign policies of the state.

To better protect civil liberties and rights, the legislature may enact laws to increase or decrease central power.

The central and local governments jointly administer the implementation of the constitution and laws; the protection of citizens' basic rights; taxation, education, science, culture, and other undertakings; the division and management of things such as state property, natural resources, roads, and energy; social security, such as unemployment insurance and medical care; the protection of nature preserves and historical relics; and the fight against natural disasters.

Provided that it does not violate the Constitution or the law, there shall be local autonomy in enacting regulations, delegating governmental powers, and electing

legislators and heads of administration. Changes to administrative divisions shall be determined by the national legislative body in accordance with legal procedures.

Ethnic self-determination is a historical concept. It is unscientific to homogenize the multiple characteristics of a person into a single ethnicity and, based on that designation, make decisions that affect the freedoms and rights of the individual or that do not recognize the rights of other ethnic groups in the region.

The state shall enact laws to protect territorial unity and borders without violating local autonomy or infringing upon the fundamental rights of citizens.

In areas that refuse to implement the national Constitution and laws, or when the territory faces an emergency of secession, the president may, with the approval of the national legislature, declare a state of emergency in the necessary administrative area(s) and restrict local autonomy and citizens' fundamental rights in accordance with the law.

Below the central government, the state structure shall be divided from top to bottom into provinces (including municipalities directly under the central government and special administrative regions), counties (including cities), and towns and villages. All three levels shall exercise democratic self-government. Each level shall adopt either separate legislative and executive bodies or decision-making and management systems that integrate legislative and executive functions, as appropriate.

The administrative division of prefecture-level cities shall be abolished. Cities divided into districts may become independent cities directly under provincial jurisdiction, like counties.

County-level governments shall have judicial organs, public security organs, educational institutions, etc. The autonomous units below the county level may be designated villages, towns, or cities. The division into counties, cities, villages, and towns has nothing to do with administrative hierarchy and is only a necessary division for the performance of public functions. There is a large gap between the eastern and western parts of China, and the division of powers among the provincial, county, and village and town governments shall be determined by laws enacted by each province based on their actual circumstances.

Legislative Bodies

The national legislative organ is the representative legislative body of the country. The people need a representative body that they themselves have empowered to govern the country. This legislative body must consider the breadth of its representation and must have its own checks and balances.

The legislature shall be divided into two chambers, the Senate and the House of Representatives.

Each province, municipality directly under the central government, and special administrative region shall have an equal number of seats in the Senate. For the House of Representatives, districts shall be drawn so as to contain approximately equal populations, with one seat per district and at least one representative per province, municipality directly under the central government, or special administrative region. The number of seats in the House of Representatives and the Senate shall be stipulated by law.

To ensure balance despite the smaller population of border provinces is also part of the system of checks and balances between the two legislative chambers aimed at avoiding a “tyranny of the majority”. The House of Representatives more directly represents the demands of the people, while the Senate represents mature politicians, which helps to maintain checks and balances and reason.

The number of representatives shall be based on population rather than party affiliation.

In a proportional representation system, voters vote for political parties, not directly for members of parliament, following the same logic of indirect electing prime minister in many countries. It creates a distance between politicians and voters and tends to make politics more bureaucratic. It helps to promote the coexistence of multiple parties and the formation of cabinets through multi-party negotiations. This is appropriate for mature democracies. Because it limits the success of independent candidates and reduces the possibility of charismatic politicians promoting reforms, this system suits the political context of “old Europe” but not emerging democracies.

Members of the House of Representatives shall be directly elected by the voters. The method of electing senators shall be decided by each province, municipality directly under the central government, and special administrative region. All legislative bodies below the provincial level shall be directly elected by the voters.

Members of the national legislature shall serve on a full-time basis. The same person may not be a member of both the Senate and the House of Representatives concurrently. Members of the national legislature may not hold positions in other state organs or engage in any paid activities other than teaching, scientific research, or other creative activities.

Members of the House of Representatives shall be elected for a two-year term and senators for a six-year term, both with the possibility of re-election.

Legislative terms of office shall be set up in a rational manner to achieve the purpose of democracy.

To ensure that public opinion is reflected promptly, the term of office for legislators should not be too long, as this would also encourage the legislature to become excessively bureaucratic. Because governments need stability and policy continuity, the term of office of legislators should also not be too short. Elections should not be too frequent, as this would waste social resources. Having a rhythm to democratic life is itself part of ensuring stability. Holding elections at odd intervals would disrupt the stable expectations of democratic life. The timing of elections should be coordinated to promote a balance between executive and legislative powers.

Considering the above five factors, there are basically only two models to choose from. One is a six-year term for the president, a six-year term for senators, and a three-year term for representatives. The other is a four-year term for the president, a six-year term for senators, and a two-year term for representatives. Considering that the future is likely to bring advances in society's ability to organize itself and more convenient communication and decision-making, a six-year presidential term seems a bit too long. The model of four years for the president, six years for senators, and two years for representatives is more balanced.

Serving six-year terms, senators are usually more mature politicians. They shall be responsible for personnel matters and treaty-making and represent the image of a stable government. Representatives, with two-year terms, are able to reflect public opinion in a more timely manner. This is a reasonable division of labor.

The Senate shall have the power to approve changes to the boundaries between administrative regions; ratify international treaties; approve the president's appointment of Supreme Court justices, government ministers, and the head of the central bank; and impeach the president.

The House of Representatives shall have the power to introduce bills relating to financial issues, initiate investigations into specific matters, and initiate the impeachment of the president.

Both the Senate and the House of Representatives shall have the power to approve bills. Either chamber may propose legislation, which must be submitted to the other chamber for consideration within seven days of being passed by one chamber. The two chambers shall also share the power to approve of the government's fiscal budget and presidential orders to declare a state of emergency or war.

Unless otherwise provided by law, the decisions of both chambers shall be made by a

majority of those present. Legislation passed by both chambers shall be sent to the president for signature and promulgation. If the president vetoes the bill, both chambers shall reconsider the bill, which shall be signed and promulgated by the president if it is approved by at least two-thirds of the members of both chambers.

The President

The president shall be directly elected by the people for a fixed term. As head of state, head of government, and commander-in-chief of the armed forces, the president upholds the Constitution and enforces the laws.

Constitutional monarchies have a unique tradition of limiting the power of the monarchy, with a weak head of state and a strong parliament. Because of the stability of the head of state and the maturity of the administrative system, cabinet changes such as those in Japan do not fundamentally affect the social stability of the country.

A council system like Switzerland's requires a mature political system and a developed economy and society. Another factor for Switzerland is neutrality in international affairs.

In non-monarchical constitutional systems with responsible cabinets, the president nominally represents the country to the outside world but has neither real power nor the traditional authority of a monarch. Because it does not act as a check and balance on other powers, there is little point in creating this position separately. The prime minister holds actual power but is not directly elected by the people. Instead, he or she is chosen by the parliament. This can easily lead to a scenario where a prime minister remains in power for many years despite popular dissatisfaction. There is also the possibility of frequent changes of prime minister and political instability.

Especially in emerging democracies, a responsible cabinet system can more easily lead to political instability. China learned this profound lesson during the Republican period.

In countries with a long history of autocracy, it is unrealistic to try to counter the autocratic tradition with a cabinet system. Instead, time-tested institutional checks and balances should be implemented in a way that is consistent with cultural traditions.

Based on human nature and the reality of the national situation, and taking into consideration the future trend of human development, the presidential system is suitable for China.

The presidential system is more suitable for large countries. The country needs symbols of unity, such as the constitution, the national flag, celebrations, and

leadership figures. The people elect competent and charismatic individuals to represent them and the nation, entrust them with the power to run the country, and hold them directly accountable to the people. This is a psychological need of the people, as well as a need for administrative stability and efficiency.

The legislative, judicial, and executive branches are inherently separate, and a division of labor within the executive power is sufficient rather than further separation of powers. The mechanisms that constrain the president are regular elections, the legislature, the judiciary, and an open media, as well as multiparty competition and a free and pluralistic society.

A more fundamental constraint comes from the political culture and people's hearts and minds. Logically, the design of the U.S. political system is not perfect. But it works well. The key lies in the good political culture and traditions established by some of America's founding fathers.

Democratic concepts have taken root in the hearts of the people, and within the context of human political civilization, the direct election of presidents and the great powers vested in them, including the power to command the armed forces, are not in themselves a problem. There is no need to sacrifice administrative efficiency for the sake of excessive protection against the power of the armed forces.

The president shall be elected by direct universal suffrage in accordance with a specific electoral procedure established by law. The person receiving more than half of the votes shall be elected. If no candidate receives more than half of the votes in the first round of elections, a second election shall be held within one month, with the top two candidates as candidates. The person receiving more votes in that second round shall be elected.

The term of office of the president is four years, and no one may serve for more than two terms in a lifetime.

In human society, there are limited models of state power to choose from. Each country has tried to emphasize the characteristics of their own political systems, yet lacked a truly scientific design. They did not have the kind of closed-door debate that took place in the United States in 1787, when legal elites and politicians spent three months drafting a constitution.

Who we learn from is less important than whether the system is devised rationally and whether it can solve our problems.

It is important that the terms of the president and legislators converge to form a rhythm in the democratic life of the country.

The president nominates and, with the approval of the national legislature, appoints government ministers, Supreme Court judges, the prosecutor general, the head of the central bank, and ambassadors, and has the power to dismiss government ministers and ambassadors. The president's powers also include issuing and enforcing decrees and orders; proposing bills to the national legislative body; signing and promulgating laws; directing foreign policy and signing treaties and international instruments; directing the country's armed forces and responding to military threats; requesting the national legislature to declare a state of emergency; and conferring national honors and high military ranks.

The procuratorate shall be independent in the exercise of its powers. It shall prosecute criminal and civil cases on behalf of the state and shall also receive complaints of corruption and initiate related investigations and judicial proceedings.

If the president is temporarily unable to perform his or her official duties, the vice-president shall act in his or her place. The president's exercise of his or her functions may be prematurely terminated in case of resignation, permanent incapacity to exercise the functions of the president due to health reasons, or resignation from office. In such cases, presidential elections shall be held within three months of the early termination of the exercise of power.

If the president is suspected of high crimes such as treason or bribery, the House of Representatives shall propose articles of impeachment, and the Senate shall try and convict. A two-thirds majority of both chambers shall be required to initiate and consider impeachment. Only the Supreme Court may preside over the trial of a president suspected of criminal offenses.

The Courts

Judicial power may be exercised only by the courts. The judiciary uses professional rationality and moral force to apply the law, adjudicate disputes, uphold justice, check and balance executive and legislative power, and ensure the unity of the rule of law.

The judiciary is a fundamental guarantor of social justice and must be independent of the executive and legislative branches of government. Judges shall be independent and shall render decisions faithfully according to the law and their conscience, without interference from any administrative body, political party, social organization, or individual.

The Supreme Court shall exercise the highest judicial power in the country. No separate constitutional court shall be established.

Constitutional courts are really a form of judicial decentralization because they divide and limit the judicial power of the Supreme Court. This means that the Supreme Court becomes an appellate court that deals with specific disputes, while the constitutional court, which is the real Supreme Court, does not have the power to decide some of the most important civil and criminal disputes.

In reality, it is difficult to distinguish which cases should be heard by the constitutional court. The fact that the power to deal with major disputes has been divided into two, and that the two courts are sometimes in conflict, undermines the authority of the judiciary and the unity of the rule of law.

In the United States, the Supreme Court enjoys a high degree of authority. Even so, its nine justices do not have enough authority to hear a presidential impeachment case. A constitutional court, which hears only constitutional disputes, lacks the prestige of the Supreme Court and is even less able to take on such a major responsibility as impeaching the president.

The Supreme Court shall have a constitutional tribunal with nine justices responsible for constitutional review. Criminal and civil tribunals shall be established as needed, with the justices organized into groups to handle cases such as death penalty review and civil cases.

From a global perspective, supreme courts have evolved from resolving specific disputes to resolving typical, difficult and important individual disputes, thus manifesting their functions at the macro level of jurisprudence formation, legal system unification, and judicial policy.

When the judicial system is perfected and society has made its transition, the Supreme Court will deal with fewer and fewer specific disputes. Once the death penalty is also abolished, it will be sufficient for the Supreme Court to maintain its role as a constitutional court.

The Supreme Court shall have the highest final authority in serious and important cases of constitutional review, constitutional litigation, constitutional interpretation, and criminal, civil, and administrative litigation. When the functions of the Supreme Court are defined, the entire judicial system becomes clear.

There shall be established a Supreme Court, provincial high courts, intermediate courts and basic courts. The judicial system shall be harmonized within each province. After having passed an examination or being vetted by a specialized body, judges shall be nominated by the president and approved by the Senate. Basic court judges may also be elected by local voters.

The courts shall have the authority to hear criminal, civil, and administrative cases of all kinds in accordance with the Constitution, laws and local regulations. They may also review, on a case-by-case basis, whether international treaties, laws, local regulations, government policies, or decrees violate the Constitution or conflict with higher law. The courts shall also settle disputes between the organs of state power and between the various administrative districts.

Local courts shall hear cases of first instance, while intermediate and higher courts shall only accept cases of first instance under special regulations. The Supreme Court does not accept cases of first instance but has the power to refer cases to local courts at all levels and to decide whether to hear petitions.

It shall be up to the provinces to decide whether to have juries in judicial hearings.

Judges must have attained certain qualifications and age limits. Judges' salaries may not be reduced during their term of office. The retirement age of judges shall be set by law. They may not be removed or suspended, except by procedure and on grounds established by law. Judges shall be entitled to special legal protections, even so far as to be written into the Constitution itself. The status of judges shall be determined directly by the people and not by the legislature or the executive branches.

The status of judges is inviolable, except when he or she reaches retirement age, is physically incapacitated, voluntarily resigns, or is impeached.

The courts shall be financed entirely from the central treasury. The national legislature shall ensure the financing of the courts at all levels in accordance with the law. Fiscal harmonization is necessary to ensure that the country has a unified judicial system and that judges are not subject to interference by local powers.

Trials shall be held in public. Court hearings may be held in private if the judges hearing the case unanimously consider there to be matters detrimental to public order or morality. However, trials shall be held in public in cases of political crimes, crimes related to publication, or cases concerning the fundamental rights of citizens.

The Fundamental Rights of Citizens

The power of the people must be realized in the rights of each individual citizen. Only then will sovereignty truly belong to the people.

The protection of the rights of the individual citizen is so important that the people, through the Constitution, define the powers of the state and the basic political system and declare certain fundamental rights to be sacrosanct.

The Constitution enumerates the fundamental rights to which citizens are entitled and directly validates and limits the powers of the state as vested in the legislative, executive, and judicial branches.

These enumerated rights shall not be construed to exclude other rights and freedoms of citizens.

Based on the United Nations Declaration of Human Rights and other internationally recognized norms, as well as a common agreement among all citizens, these fundamental rights include, among others: the rights to life, human dignity, and personal freedom; the rights to privacy, freedom and privacy of communication, and freedom of movement; the rights to freedom of belief, freedom of expression, freedom of association, and freedom of assembly, procession, and demonstration; the rights to vote, to private property, to work, and to education; the rights of vulnerable groups; and the rights of the accused.

The right to life. Citizens have the right to life, security, and health. The death penalty, as an extreme measure of punishment for particularly serious crimes such as murder, must be subject to strict due process. Usage of the death penalty should be progressively reduced until it is ultimately abolished.

As the primary right of human existence, the right to life has been better protected in practice. But it is, after all, the most fundamental right of human beings, and respecting life and maximizing the protection of each life is the state's primary purpose.

The right to human dignity. The human dignity of citizens shall be inviolable. Torture and other measures and punishments that undermine human dignity are prohibited. No one shall be subjected to medical, scientific or other experiments without his or her free consent.

The dignity of the human person shall be inviolable in all circumstances and shall be respected even in the case of prisoners whose rights have been restricted. Torture shall be prohibited in all circumstances.

The right to personal liberty. A citizen's personal liberty shall not be infringed except by due process of law. No citizen may have his or her personal freedom restricted for more than 48 hours without a court decision. If a state organ restricts or deprives a citizen of his or her personal freedom in accordance with the law, it shall immediately notify the person concerned and his or her designated relatives or friends.

Only a court of law may ultimately impose a penalty of restriction or deprivation of

personal liberty, and no other body shall have this power. The power to impose a 48-hour limit is necessary given that, in practice, the investigating authorities are required to investigate and punish crimes.

Family members shall be given timely notice of the restriction of a citizen's personal liberty. It shall be unconstitutional for any provision of law to establish conditions under which timely notice may be withheld from such family members.

The right to privacy. Citizens have the right to the inviolability of their private lives and of their personal and family secrets, as well as to the preservation of their honor and good reputation. No organization or individual may, by any means, collect, record, disseminate, or publish information that a citizen has communicated through channels such as telephone, mail, or Internet, and that he or she does not wish to make public, unless it is necessary for the purposes of a specific criminal case that has already been filed for investigation and for which the due process established by law has been followed.

A balance must be sought in the paradoxical relationship between citizens' right to privacy and the security of the nation and society. In modern high-tech societies, citizens' right to privacy is more vulnerable to violation by public power in the name of "security". Therefore, for the sake of citizens' human rights, public power must be strictly limited by law.

The right to freedom and privacy of communication. Citizens have the right to freely receive and impart information through various means, such as the telephone and the Internet, and regardless of national borders. Citizens' rights to communication, access to the Internet, and so forth, shall be inviolable except on the basis of a court decision.

The right to be secure against unwarranted search or entry. The homes of citizens shall be inviolable. Unlawful search or entry into a citizen's home shall be prohibited. Except in cases where a crime is in the process of being committed, any person may, in the manner he or she deems appropriate and necessary, refuse entry to his or her home to any agent of the state exercising police powers if there is no court-issued warrant stating the grounds for such entry.

The right to freedom of movement. Citizens shall have the right to freedom of movement, to travel, to choose their place of residence, and to enter and leave the country freely. This right may be restricted by law only when necessary to prevent epidemics, in case of natural disasters or serious accidents, to protect juveniles from abandonment, or to prevent crime.

Freedom of belief. Citizens' freedom of religion and belief shall be inviolable. The

beliefs and moral attitudes of each person are an integral part of his or her personality and dignity, and each person has the freedom to seek spiritual belonging through religion.

No state organ, public organization, or individual may force citizens to profess or not to profess a religion or a philosophical or moral position, or discriminate against their religions and beliefs.

Freedom of belief must include the freedom of believers to engage in a range of religious activities that express thought through word and deed. A citizen's freedom of religion or belief includes the freedom to manifest one's religion or belief through worship, observance, or practice provided that such activities do not directly threaten the fundamental rights of others or public order.

Churches shall be separated from the government, no religion may be established as a state religion, and the state shall protect every religion equally.

There shall be no distinction between orthodox and heterodox religions, and there shall be no “right” or “wrong” belief. Religion belongs to the realm of consciousness, and the state cannot judge it by scientific standards.

The establishment of a state religion or any official, orthodox ideology is unfair to other ideas and beliefs and serves as a convenient door for the state to impose ideological tyranny and create “prisoners of thought and conscience”.

Freedom of expression. Citizens have freedom of expression in speech, publication, artistic creation, and so on.

No one shall be compelled to express or to renounce his or her opinions or beliefs. Everyone shall have the right to collect, acquire, transmit, produce, and disseminate information by any lawful means, and the list of information constituting state secrets shall be established by law.

People shall have the freedom to publish newspapers and to establish radio and television stations, websites and other commercial entities for the dissemination of information, and censorship shall be prohibited.

Citizens' freedom of expression may not be restricted unless there is a direct violation of the fundamental rights of others or of public order, as determined by a court of law.

Freedom of expression includes freedom of speech, freedom of the press, and freedom of artistic creation, as well as, by extension, the freedom to disseminate information and journalistic freedom. Human free will dictates that one's inner thoughts are purely

personal and cannot be legally verified or disproved, and that one's pluralistic thinking cannot be controlled or evaluated by secular power.

Free competition in the marketplace of ideas allows the most valuable to rise to the top. To suppress freedom of thought is to suppress social progress. The Italian cosmologist Giordano Bruno was burned at the stake, but his theories about the universe were correct. Human beings are ignorant of the ultimate right and wrong, and can only humbly face a plurality of ideas, even if they consider them heretical.

Punishing ideas is too costly and can easily lead to political persecution and ideological tyranny. A modern state governed by the rule of law must guarantee absolute freedom of thought. While the dissemination of certain ideas and beliefs may be associated with specific acts that endanger others and society, the law should punish the perpetrators of those specific acts, not the ideas themselves.

Only the outward expression of ideas may come under the jurisdiction of the law. Citizens' acts of expression may affect others, such as insult, defamation, or incitement to violent hatred, and these acts may harm others or pose a real and imminent danger to the social order. The Constitution therefore places appropriate limits on freedom of expression, but these limits must be minimal.

Restrictions on a citizen's freedom of expression should be targeted at speech that causes direct, substantial, and imminent harm to the fundamental rights of others or to public order. It is for the courts to determine whether the harm is such as to require state intervention.

Freedom of the press and the establishment of newspapers, radio and television stations, and websites are necessary components of the expression of opinion. Without independent, public means to voice opinion, power is bound to act arbitrarily in a black box.

Censorship of speech, in which a few people decide what the public can and cannot know, serves to cover up the truth. It is a corruption of conscience, a suppression of legitimate interests, a violation of the rights of the speaker, and a trampling on the human dignity of ordinary citizens.

Anyone may start a media outlet, and the plurality of voices in free competition represents, in the aggregate, the voice of the people. In a free and open society, credible voices will naturally emerge through market competition. Under dictatorship, on the other hand, there are more irresponsible rumors [due to the suppression of information].

The people monitor and constrain the government through the media, which has been

called the “Fourth Estate,” separate from the legislative, executive, and judicial branches of government.

Freedom of association. Citizens shall have freedom of association. Any person may form or join any social organization for the pursuit of his or her interests and welfare. This includes the right to form trade unions to protect their rights and interests and of political parties to participate in politics. No one shall be compelled to join any group or to remain in any group.

Freedom of association is also a natural extension of citizens' freedom of expression and personal liberty.

Freedom of assembly, procession, and demonstration. Citizens have the freedom of peaceful assembly, procession, and demonstration.

Assemblies, processions, and demonstrations are more intense forms of expression by citizens and by their nature have a certain impact on social order. Restrictions on such intense forms of expression may be appropriately higher than those on freedom of speech or publication, for example, by prohibiting weapons and requiring peaceful conduct.

The right to vote. Citizens who have reached the age of 18 shall have equal rights to vote and to stand for election and to participate in referendums, regardless of sex, race, religion, level of education, amount of property, or place of residence.

There shall be equality in the right to vote and the right to be elected. The state belongs to everyone, and everyone has the right to vote and to seek public office.

The right to information. Citizens have the right to information about major events and decisions of the state, as well as about archival materials of interest to them.

Every citizen shall have the right to complain, sue, denounce, or demand the dismissal of another citizen in connection with the enactment, repeal, or amendment of laws, decrees, and regulations, as well as in connection with the affairs of any state organs and the activities of their personnel. Citizens shall have the right to participate in public affairs, including hearings and legislative discussions.

The government shall have a responsibility to make timely announcements of emerging disasters or events. Citizens shall have the right to be informed about the government's financial situation and major decisions. This is an essential requirement of open government and a necessary condition for monitoring power and building a clean and efficient government.

While freedom of expression and the right to vote already entail participation in public affairs, the advent of the information age offers modern representative democracy more opportunities for civic engagement than ever before.

The right to private property. The right of citizens to own private property shall be protected by law. The right to inherit property shall also be protected by law. No one shall be deprived of his or her property except by a court decision. Compensation shall be paid in advance for eminent domain exercised in the public interest.

The right to work. Everyone shall have the right to freely dispose of his or her labor power and to choose an occupation. Forced labor shall be prohibited. Citizens shall have the right to collective settlement of labor disputes in accordance with the law, including the right to strike. Workers shall have the right to rest, and the state shall establish rest days and holidays by law.

The right to education. The state shall guarantee the right of everyone to equal access to education. The government may not establish a hierarchy in public schools for basic education. Compulsory education shall be free of charge. Universities shall enjoy academic and managerial freedom free from government interference. The public shall be encouraged to organize schools freely.

The state shall provide equal basic education for all children, rich and poor, urban and rural, in order to lay a solid foundation for equality for all. Private education, through which wealthy families provide a higher level of education for their children, is a matter of individual freedom. Higher education should be free of bureaucratization.

Rights and interests of vulnerable groups: The state shall enact laws to protect vulnerable groups, including children and the disabled. The sick shall have the right to receive assistance, and the state shall establish a medical insurance and assistance system. Victims of natural disasters shall have the right to receive assistance from the state, and the state shall establish a disaster warning and relief system. The state shall support volunteer work for social security and the development of charity.

Due to the differences in people's natural physical abilities, there are significant differences in wealth and living standards among people under conditions of equal opportunity. For the sake of the dignity and happiness of everyone, the vulnerable shall receive special care.

Rights of the accused: Everyone shall be presumed innocent until proven guilty by a court decision. Everyone charged with a criminal offense shall have the right to defend themselves and to appoint representatives to defend them at a fair and prompt hearing by an independent tribunal.

No one shall be sentenced multiple times for the same offense. The accused shall not be denied the right of appeal. Laws that create or increase liability shall not apply retroactively. Citizens shall have the right to seek compensation from the state for damages caused by the official acts of government officials.

When a person is accused by the state authorities, he or she is in a position of weakness and his or her human rights are in danger. Therefore, the constitution should declare certain fundamental rights as inviolable.