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The Implementation of Article 4: In The Legislative Perspective

**---- Shadow Report to the United Nations Committee on the
Elimination of Racial Discrimination**

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I. Introduction

1. China submitted 13 periodic reports under Article 9 of International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter "the Convention" or "CERD") since it ratified the Convention on 29 December 1981.

2. In the official record, there are 56 ethnic groups in China. Han Chinese accounts 91.59% of the total population.¹ The rest of 55 ethnic groups are treated as ethnic minorities in China.

3. This shadow report would mainly examine the State obligations under Article 4 in the legislative perspective, and analyze the related legislations in China according to the requirement of this Article. It would also analyze the deficiency in the implementation of CERD by China and make some recommendations based on the Convention, General Recommendations of Committee on the Elimination of Racial Discrimination (hereinafter the Committee), and Durban Declaration and Programme of Action (DDPA) which was adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001. Relevant articles in Chinese laws and regulations are listed in the appendix to this report.

2. Implementation of Article 4 of the Convention

2.1 The significance of Article 4

4. Article 4 of the Convention is regarded as central to the struggle against racial discrimination, and implementation of article 4 is now of increased importance.² As the Committee underlined, the implementation of this article should be "obligatory" under the Convention.³

¹ The thirteenth periodic report of States parties due in 2007: China, CERD/C/CHN/10-13, Para 5.

² General Recommendation No. 15 of CERD: Organized violence based on ethnic origin (Art. 4), 23/03/93, Gen. Rec. No. 15, Para 1.

³ General Recommendation No. 1 of CERD: States parties' obligations (Art. 4), 25/02/72. Gen/Rec/No.01. Para.1

2.2 State Obligations under Article 4

5. Under Article 4 of the Convention, the State parties shall "condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form", and "undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination". In particular, the State parties shall "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another color or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof", and shall "declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law".⁴ These obligations should be dealt with in conjunction with Article 5 of the Convention.

6. The Committee states that Article 4(a) of the Convention stipulates four categories of misconduct which should be penalized by law by the State parties, and it also penalizes the financing of racist activities.⁵ Article 4(b) prohibits obviously any organizations and movements and all other propaganda activities which promote or incite the racial superiority or hatred.

7. According to this Article, the measures adopted by State parties should be "immediate and positive", and should include but not limit to legislative

⁴ Article 4 of CERD.

⁵ "including: (i) dissemination of ideas based upon racial superiority or hatred; (ii) incitement to racial hatred; (iii) acts of violence against any race or group of persons of another color or ethnic origin; and (iv) incitement to such acts", in General Recommendation No. 15 of CERD: Organized violence based on ethnic origin (Art. 4), 23/03/93.Gen. Rec. No. 15, Paras. 3 and 5.

measures. "To satisfy these obligations, States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced".⁶

2.3 Positive Aspects of Implementation of Article 4

8. National equality and prohibition of national discrimination is regarded as one of the principles of legislation in China. This principle has been broadly embodied in the Constitution, laws and regulations of China.

9. Article 4 of the Constitution stipulates that "all nationalities in the People's Republic of China are equal. The state protects the lawful rights and interests of the minority nationalities and upholds and develops a relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited; any act which undermines the unity of the nationalities or instigates division is prohibited."

10. Article 9 of Law on Regional National Autonomy stipulates that "discrimination against and oppression of any nationality shall be prohibited; any act which undermines the unity of the nationalities or instigates national division shall also be prohibited."

11. The Criminal Law stipulates in Article 249 that "those provoking ethnic hatred or discrimination, if the case is serious, are to be sentenced to three years or fewer in prison, put under criminal detention or surveillance, or deprived of their political rights. If the case is especially serious, they are to be sentenced to three to ten years in prison", and in Article 250 that "persons directly responsible for publishing materials that discriminate or insult ethnic minorities, if the case is serious and results in grave consequences, are to be

⁶ General Recommendation No. 15 of CERD: Organized violence based on ethnic origin (Art. 4), 23/03/93, Gen. Rec. No. 15, Para 2.

sentenced to three years or fewer in prison, or put under criminal detention or surveillance".

12. Article 47 of Law on Public Security Administration Punishments stipulates that "a person who incites national hatred or national discrimination, or publishes contents about national discrimination or humiliation in publications or computer information networks shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan."

13. Some laws prohibits any discrimination based on "ethnic" and "racial" reasons, such as Article 9 of Education Law, Article 5 of Compulsory Education Law, Article 3 of Military Service Law, Article 13 of Labour Law, Article 3, Paragraph 3 of Law on the Protection of Minors, Article 3 of Electoral Law on the National People's Congress and Local People's Congresses, Article 8 of Organic Law of the Urban Residents Committee, Article 12 of Organic Law of the Villagers Committees, and Article 7 of Advertising Law, and so on.

14. Some laws and regulations prohibit the discrimination based on ethnic identity, such as Article 10 of Trademark Law, Article 4 of Regulations on Registration and Administration of Social Organizations, Article 26 of Regulations on the Administration of Publication, Article 25 of Regulations on the Administration of Movies, Article 32 of Regulations on Broadcasting and Television Administration, Article 3 of Regulations on the Administration of Audio and Video Products, and so on.

15. Some of these above mentioned regulations also stipulate that the infringement of relevant articles could lead to the criminal responsibilities, such as Article 35 of Regulation on Registration and Administration of Social Organizations, Article 56 of Regulations on the Administration of Publication,

Article 56 of Regulations on the Administration of Movies, Article 49 of Regulations on Broadcasting and Television Administration, Article 40 of Regulations on the Administration of Audio and Video Products, and so on.

2.4 Deficiency in Legislation

16. Comparing with the requirements of Article 4 of the Convention, there are still rooms for improvements in the implementation in the relevant Chinese legislations.

17. Despite the Committee recommended China to "review its legislation to ensure the adoption of a definition of discrimination in accordance with the Convention"⁷, it is obvious from above laws and regulations that there is not a uniform definition of racial discrimination that is in fully conformity with the Convention.

18. Article 4 of the Convention protects any race or group of persons of one colour or ethnic origin. While Chinese legislation emphasis the protection of ethnic minorities and in some cases the prohibition of racial discrimination, it does not expressly prohibit discrimination on the base of colour.

19. According to the Article 4 of the Convention, "any assistance to racist activities, including the financing" should be punishable by law. However, these activities are not penalized by the Criminal Law in China.

20. As stated in Article 4 (b) of the Convention, illegal misconducts should cover all propaganda activities. However, the Criminal Law in China only includes publishing materials that discriminate or insult ethnic minorities. Even though some government regulations aim to cover all propaganda activities,

⁷ Report of the Committee on the Elimination of Racial Discrimination, General Assembly Official Records, Fifty-sixth Session, Supplement No. 18 (A/56/18), Para 241.

they are ranked in a lower level than Criminal Law in the legal system in China, and the violations of these regulations will not be regarded as criminal offences.

21. According to the Convention, organized and all other propaganda activities should also be subjects of crimes related to the racial discrimination. But in Article 250 of Criminal Law, "only persons directly responsible for publishing the materials" would be punishable by law.

3. Recommendations

3.1 Improvement in Legislation

22. Considering that the State obligations under Article 4 of the Convention are not only the obligation of results, but also the obligation of means or actions, and that the Committee also recommended "those States parties whose legislation does not satisfy the provisions of article 4 (a) and (b) of the Convention take the necessary steps with a view to satisfying the mandatory requirements of that article"⁸, China should amend the relevant laws according to the requirements under Article 4 of the Convention immediately and positively. The National People's Congress and its Standing Committee should play the primary role "in adopting appropriate legislation, overseeing its implementation and allocating the requisite financial resources"⁹. And as a pre-requisite before the amendment of the relevant laws, China should make a thorough investigation whether its national law and its implementation meet the requirement of Article 4 of the Convention.¹⁰

3.2 Application of the Convention by the Judiciary

23. In viewing of the gap between domestic law in China and the Convention

⁸ General Recommendation No. 7 of CERD: Legislation to eradicate racial discrimination (Art. 4), 23/08/85, Gen. Rec. No. 7.

⁹ Durban Declaration and Programme of Action, Para. 114.

¹⁰ General Recommendation No. 15 of CERD: Organized violence based on ethnic origin (Art. 4), 23/03/93, Gen. Rec. No. 15, Para 2.

as well as the extremely importance and exigency to eliminate the racial discrimination according to CERD, this report recommends that, before the relevant laws have fully meet with the requirements of Article 4 of the Convention, the domestic courts in China apply the Convention directly in some racial-related cases.

3.3 Enactment and Implementation of National Action Plan against All Forms of Racial Discrimination

24. The Committee holds that Article 4 (c) of the Convention outlines the obligations of public authorities at all administrative levels, and the States parties must ensure that they observe these obligations.¹¹ The National Human Rights Action Plan of China of 2009 says nothing about the issue of elimination of all forms of racial discrimination and the corresponding roles of relevant authorities. It's recommended that the future plan can take fully consideration of China's obligation under Article 4 of the Convention and to stipulate practical measures in this regard.

3.4 Promotion of Human Rights Education

25. The legislation under the Convention is not the end of itself, but just the precondition for fighting against the racial discrimination. The human rights education related to the Convention and relevant domestic laws could promote the implementation of the law, the enjoyment of the human rights by everyone and the dissemination of human rights values. The education on CERD needs to receive more public attentions on various levels of education.

3.5 Establishment of National Human Rights Institution

26. As the Committee recommended, National Human Rights Institutions could

¹¹ General Recommendation No. 15 of CERD: Organized violence based on ethnic origin (Art. 4), 23/03/93, Gen. Rec. No. 15, Para 7.

"monitor legislative compliance with the provisions of the Convention"¹². The establishment of National Human Rights Institutions (NHRIs) is necessary to facilitate the implementation of the Convention in the legislation. The NHRIs could also assist their respective States to monitor the follow-up to the concluding observations and recommendations of the Committee.¹³ This independent NHRIs should be established in accordance with the Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights (hereinafter "Paris Principle") which was adopted unanimously by the General Assembly resolution 48/134.

27. The promotion and protection roles of the NHRIs are being well recognized by many Chinese scholars in recent years. A Feasibility Study Report for the establishment of a National Human Rights Institution in China was first prepared by an expert team led by Prof. Xianming Xu from China University of Political Science and Law in 2007. This exercise involves various stakeholders ranging from the National People's Congress, governmental agencies and the courts to big national NGOs in China. The proposal to establish a NHRI in China receives positive reactions from different stakeholders. More details need to be treated with a great consideration of the Chinese social, political and legal realities.

¹² The NHRIs should serve for following purpose: "(a) to promote respect for the enjoyment of human rights without any discrimination, as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; (b) to review government policy towards protection against racial discrimination; (c) to monitor legislative compliance with the provisions of the Convention; (d) to educate the public about the obligations of States parties under the Convention; (e) to assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination." General Recommendation No. 17: Establishment of national institutions to facilitate implementation of the Convention, 25/03/93. Gen. Rec. No. 17, Para.1.

¹³ General Recommendation No. 28: The follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: 19/03/2002. Gen. Rec. No. 28. Para. 2(a).

APPENDIX:

Relevant Articles in Chinese Laws and Regulations

1. Constitution of People's Republic of China, adopted in 1982, amended in 2004

Article 4. All nationalities in the People's Republic of China are equal. The state protects the lawful rights and interests of the minority nationalities and upholds and develops a relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited; any act which undermines the unity of the nationalities or instigates division is prohibited.

The state assists areas inhabited by minority nationalities in accelerating their economic and cultural development according to the characteristics and needs of the various minority nationalities.

Regional autonomy is practised in areas where people of minority nationalities live in concentrated communities; in these areas organs of self-government are established to exercise the power of autonomy. All national autonomous areas are integral parts of the People's Republic of China.

All nationalities have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs.

Article 34. All citizens of the People's Republic of China who have reached the age of 18 have the right to vote and stand for election, regardless of ethnic status, race, sex, occupation, family background, religious belief, education, property status or length of residence, except persons deprived of political rights according to law.

**Law on Regional National Autonomy of People's Republic of China,
adopted in 1984, amended in 2001**

Article 9. State organs at higher levels and the organs of self-government of national autonomous areas shall uphold and develop the socialist relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality shall be prohibited; any act which undermines the unity of the nationalities or instigates national division shall also be prohibited.

**Criminal Law of People's Republic of China, adopted in 1979, amended in
2009**

Article 249. Whoever incites national hatred or national discrimination shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Article 250. If a publication carries contents involving discriminating or insulting minority nationalities, persons directly responsible for the crime shall, if the circumstances are flagrant and serious consequences are caused, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Law of the People's Republic of China on Public Security Administration
Punishments, adopted in 2005**

Article 47. A person who incites national hatred or national discrimination, or publishes contents about national discrimination or humiliation in publications or computer information networks shall be detained for not less than 10 days

but not more than 15 days and may, in addition, be fined not more than 1,000 yuan.

Education Law of the People's Republic of China, adopted in 1995

Article 9. Citizens of the People's Republic of China shall have the right and obligation to receive education. All citizens, regardless of ethnic group, race, sex, occupation, property status or religious belief, shall enjoy equal opportunities for education according to law.

Compulsory Education Law of the People's Republic of China, adopted in 1986, amended in 2006

Article 5. All children who have reached the age of six shall enroll in school and receive compulsory education for the prescribed number of years, regardless of sex, nationality or race. In areas where that is not possible, the beginning of schooling may be postponed to the age of seven.

Military Service Law of the People's Republic of China, adopted in 1984, amended in 1998

Article 3. All citizens of the People's Republic of China, regardless of ethnic status, race, occupation, family background, religious belief and education, have the obligation to perform military service according to the provisions of this Law.

Labour Law of the People's Republic of China, adopted in 1994

Article 12. Labourers shall not be discriminated against in employment, regardless of their ethnic community, race, sex, or religious belief.

Law of the People's Republic of China on the Protection of Minors, adopted in 1991, amended in 2006

Article 3. Minors may equally enjoy rights according to law regardless of their

gender, ethnic status, race, family property status, religious belief, etc.

Electoral Law of the People's Republic of China on the National People's Congress and Local People's Congresses, adopted in 1979, amended in 2004.

Article 3. All citizens of the People's Republic of China who have reached the age of 18 shall have the right to vote and stand for election, regardless of ethnic status, race, sex, occupation, family background, religious belief, education, property status or length of residence.

Organic Law of the Urban Residents Committee of the People's Republic of China, adopted in 1989

Article 8. The chairman, vice-chairman (vice-chairmen) and members of a residents committee shall be elected by all the residents of a residential area who have the right to elect or by the representatives from all the households; on the basis of the opinions of the residents, they may also be elected by the elected representatives of residents groups numbering 2-3 from each. The term of office of the residents committee shall be three years, and its members may continue to hold office when reelected. Any resident of an residential area who has reached the age of 18 shall have the right to elect and stand for election, regardless of his ethnic status, race, sex, occupation, family background, religious belief, education, property status and length of residence, with the exception of persons who have been deprived of political rights in accordance with the law.

Organic Law of the Villagers Committees of the People's Republic of China, adopted in 1998

Article 12. Any villager who has reached the age of 18 shall have the right to elect and stand for election, regardless of his ethnic status, race, sex, occupation, family background, religious belief, education, property status and

length of residence, with the exception of persons who have been deprived of political rights in accordance with law. The name list of the villagers who have the right to elect and stand for election shall be made public 20 days prior to the date of election.

Advertising Law of the People's Republic of China, adopted in 1994

Article 7. Contents of advertisements should be good for the physical and mental health of the people, and be able to promote the quality of commodities or services, protect the legitimate rights and interests of consumers, conform to the social, public and professional ethics and safeguard the dignity and interests of the State. An advertisement should not contain any of the following contents:

1. National flag, national emblem and national anthem of the People's Republic of China;
2. Names of government organs or government functionaries;
3. Words such as State level, highest level or the best etc.;
4. Anything that would be injurious to social stability, personal and property safety and social public interests;
5. Anything that would jeopardize social and public order and violate good social conventions;
6. Contents that are obscene, superstitious, terrorizing, violent and evil;
7. Contents that are discriminative against nationalities, races, religions and sex;

Trademark Law of the People's Republic of China, adopted in 1983, amended in 2001

Article 10. The following marks may not be used as trademarks:

- 1) those identical with or similar to the national name, national flag, national emblem, military flag or medals of the People's Republic of China, as well as those identical with the names of the specific sites or the names and designs

of the symbol buildings of the places where the central government agencies are located;

2) those identical with or similar to the national name, national flag, national emblem or military flag of any foreign country, except with the consent of the government of that country;

3) those identical with or similar to the name, flag, or emblem of any intergovernmental international organization, except with the consent of that organization and those unlikely to mislead the public;

4) those identical with or similar to the official marks, inspection marks that indicate the controlling or providing guarantee, except with authorization;

5) those identical with or similar to the name or symbol of the Red Cross or the Red Crescent;

6) those having the nature of discrimination against any nationality;

Regulation on Registration and Administration of Social Organizations, adopted in 1998

Article 4. Social organizations must observe the constitution, state laws, regulations and state policy; must not oppose the basic principles of the constitution, harm the unity, security or ethnic harmony of the state, or interests of the state and society, or the lawful interests of other organizations or citizens, or offend social morality. Social organizations may not undertake profit seeking activities.

Article 35. If a social organization engages in preliminary activities without approval, or if it carries out activities in the name of a social organization without being registered, or if a social organization whose registration has been cancelled continues to carry out activities in the name of the social organization, then the registration and management agency will close the organization down and confiscate its illegal assets; in criminal cases, criminal penalties will be applied in accordance with the law; in non criminal cases, a

public security sanction may be imposed in accordance with the law.

Regulations on the Administration of Publication, adopted in 2001

Article 26. The following contents are prohibited from being included in any publication:

- (1) Those which object the basic principles determined in the Constitution;
- (2) Those which endanger the unity of the nation, sovereignty or territorial integrity;
- (3) Those which divulge secrets of the State, endanger national security or damage the honor or benefits of the State;
- (4) Those which incite the national hatred or discrimination, undermine the solidarity of the nations, or infringe upon national customs and habits;
- (5) Those which propagate evil cults or superstition;
- (6) Those which disturb the public order or destroy the public stability;
- (7) Those which propagate obscenity, gambling, violence or instigate crimes;
- (8) Those which insult or slander others, or infringe upon the lawful rights and interests of others;
- (9) Those which endanger public ethics or the fine folk cultural traditions;
- (10) Other contents prohibited by laws, administrative regulations or provisions of the State.

Article 56. In case of any of the following acts that is in violation of the Criminal Law, the party concerned shall be investigated for criminal liabilities in accordance with the relevant provisions in the Criminal Law; if the case is not serious enough for criminal punishments, it shall be ordered by the administrative department for publication to cease the business within a time limit for rectification, and its publications and illegal proceeds shall be confiscated; if the amount of illegal operating fund is no less than 10,000 Yuan, it shall be imposed upon a fine of no less than 5 times but no more than 10 times the amount of illegal operating fund in addition; if the amount of illegal

operating fund is less than 10,000 Yuan, it shall be imposed upon a fine of no less than 10,000 Yuan but no more than 50,000 Yuan in addition; if the case is serious, its license shall be revoked by the original organ issuing the license:

(1) Publishing or importing publications which include any content prohibited by Articles 26 and 27 of these Regulations;

(2) Printing/reproducing or distributing a publication on the condition that it knows clearly or ought to know there is any content prohibited by Articles 26 and 27 of these Regulations;

(3) Selling or transferring in any other form the name, book number, serial number, publisher's code, layout of its own, or leasing the name or serial number of its own on the condition that it knows clearly or ought to know there is any content prohibited by Articles 26 and 27 of these Regulations in the publication of another.

Regulations on the Administration of Movies, adopted in 2001

Article 25. The following contents are prohibited from being recorded in a film:

(1) that which defies the basic principles determined in the Constitution;

(2) that which endangers the unity of the nation, sovereignty or territorial integrity

(3) that which divulges secrets of the State, endangers national security or damages the honor or benefits of the State;

(4) that which incites the nation hatred or discrimination, undermines the solidarity of the nations, or infringes upon national customs and habits;

(5) that which propagates evil cults or superstition;

(6) that which disturbs the public order or destroys the public stability;

(7) that which propagates obscenity, gambling, violence or instigates crimes;

(8) that which insults or slanders others, or infringes upon the lawful rights and interests of others;

(9) that which endangers public ethics or the fine folk cultural traditions;

(10) other contents prohibited by laws, regulations or provisions of the State.

The technical quality of movies shall be in conformity to the State standards.

Article 56. Whoever produces a film containing any content prohibited by Article 25 of these Regulations, or processes, imports, distributes or projects a film containing any content prohibited by Article 25 of these Regulations that he/it knows clearly or ought to know, shall be investigated for criminal liabilities in accordance with the relevant provisions in the Criminal Law; if the case is not serious enough for criminal punishments to be imposed upon him/it, the administrative department for films shall order him/it to cease the business for rectification and shall confiscate his/its film under illegal operation and his/its illegal proceeds; if the amount of illegal proceeds is no less than 50,000 Yuan, a fine of no less than 5 times but no more than 10 times the amount of illegal proceeds in addition shall be imposed upon him/it; if there is no illegal proceed or the amount of illegal proceeds is less than 50,000 Yuan, a fine of no less than 200,000 Yuan but no more than 500,000 Yuan in addition shall be imposed upon him/it; if the case is serious, his/its license shall be revoked in addition by the original organ issuing the license. Regulations on Broadcasting and Television Administration

Regulations on Broadcasting and Television Administration, adopted in 1997

Article 32. Broadcasting stations and television stations should improve the quality of broadcasting and television programmes, increase the number of excellent Chinese programmes and ban the production and broadcast of programmes containing any of the following contents:

- (1) that which endangers the unity, sovereignty and territorial integrity of the country;
- (2) that which endangers state security, honour and interests;
- (3) that which instigates nationality separation or disrupts nationality solidarity;
- (4) that which divulges state secrets;

- (5) that which slanders or insults others;
- (6) that which propagates obscenity, superstition or plays up violence; and
- (7) other contents prohibited under provisions of laws and regulations.

Article 49. Production, broadcasting and providing to users abroad of programmes containing contents prohibited by the provisions of Article 32 of these Regulations in violation of the provisions of these Regulations shall be directed to stop the production, broadcasting and providing to users abroad with its programme carriers surrendered and taken over, and be concurrently imposed a fine more than RMB 10,000 Yuan and less than RMB 50,000 Yuan; where the circumstances are serious, the original approval organ shall revoke its license; violators of public security provisions shall be penalized for public security violations by the public security organ according to law; where the offence constitutes a crime, criminal responsibilities shall be investigated according to law.

Regulations on the Administration of Audio and Video Products, adopted in 2001

Article 3. People engaged in the publication, manufacture, reproduction, import, wholesale, retail, and lease of audio and video products shall abide by the Constitution and the relevant laws and regulations, adhere to the orientation of serving the people and serving socialism and disseminate ideas, morals and scientific, technical and cultural knowledge beneficial to economic development and social progress. The following contents are prohibited from being recorded in audio and video products:

- (1) that which objects the basic principles determined in the Constitution;
- (2) that which endangers the unity of the nation, sovereignty or territorial integrity;
- (3) that which divulges secrets of the State, endangers national security or damages the honor or benefits of the State;

- (4) that which incites the nationality hatred or discrimination, undermines the solidarity of the nationalities, or infringes upon nationality customs and habits;
- (5) that which propagates evil cults or superstition;
- (6) that which disturbs the public order or destroys the public stability;
- (7) that which propagates obscenity, gambling, violence or instigates crimes;
- (8) that which insults or slanders others, or infringes upon the lawful rights and interests of others;
- (9) that which endangers public ethics or the fine folk cultural traditions;
- (10) other contents prohibited by laws, regulations or provisions of the State.

Article 40. Whoever publishes the audio and video products containing any content prohibited by Paragraph 2, Article 3 of these Regulations, or manufactures, reproduces, wholesales, retails, leases or projects the audio and video products containing any content prohibited by Paragraph 2, Article 3 of these Regulations that he/it knows clearly or ought to know, shall be investigated for criminal liabilities in accordance with the relevant provisions in the Criminal Law; if the case is not serious enough for him/it to be imposed upon criminal punishments, the administrative department for publication, the administrative department for cultural affairs and the public security department shall, upon their respective powers, order him/it to cease the business for rectification, confiscate his/its audio and video products under illegal operation and his/its illegal proceeds; if the amount of illegal operating fund is not less than 10,000 Yuan, he/it shall be also imposed upon a fine of not less than 5 times but not more than 10 times the amount of illegal operating fund in addition; if the amount of illegal operating fund is less than 10,000 Yuan, he/it may be imposed upon a fine of not more than 50,000 Yuan in addition; if the case is serious, his/its license shall be revoked in addition by the original organ that issued the license.