Civil Code of the People's Republic of China — Book IV: Personality Rights

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Chapter I — General Provisions

Article 989 — This Book regulates the civil relations arising from the enjoyment and protection of personality rights.

Article 990 — Personality rights are the rights enjoyed by civil subjects, including the rights to life, body, health, name, title, image, reputation, honor, and privacy. In addition to the personality rights provided in the preceding paragraph, a natural person enjoys other personality rights and interests arising from personal freedom and human dignity.

Article 991 — The personality rights of a civil subject shall be protected by law and may not be infringed upon by any organization or individual.

Article 992 — Personality rights may not be waived, transferred, or inherited.

Article 993 — A civil subject may allow another to use his or her name, title, or image in accordance with the law or the agreement of the parties, provided that the use does not violate mandatory provisions of the law or public order and good customs.

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Article 994 — Where the name, image, reputation, honor, privacy, or remains of a deceased person are infringed upon, the spouse, children, and parents of the deceased shall have the right to bring a claim in accordance with the law; where the deceased has no spouse or children and both parents have died, other close relatives shall have the right to bring a claim.

Article 995 — Where personality rights are infringed upon, the victim shall have the right to request the infringer to bear civil liability in accordance with this Code and other laws. The provisions regarding the statute of limitations shall not apply to a claim for cessation of the infringement, removal of the nuisance, elimination of the danger, elimination of adverse effects, rehabilitation of reputation, or extension of an apology.

Article 996 — Where an infringement of the personality rights of a party causes mental distress, and the party also claims compensation for the mental distress, the people's court shall handle the claim in accordance with the law.

Article 997 — Where a civil subject has evidence to prove that an actor is committing or is about to commit an illegal act that infringes upon his or her personality rights, and that irreparable damage will result if the act is not stopped in time, the civil subject shall have the right to apply to the people's court for an order that the actor cease the relevant act.

Article 998 — When determining the civil liability that an infringer of personality rights other than the rights to life, body, and health shall bear, the court shall consider the occupations of the infringer and the victim, the scope of influence, the degree of fault, and the purpose, method, and consequences of the act.

Article 999 — Where a person's name, title, image, or personal information is used for the public interest in connection with news reporting or public opinion supervision, the use shall not constitute a tort, provided that the person's personality rights are reasonably respected.

Article 1000 — Where an actor shall bear civil liability for infringement of personality rights, including elimination of adverse effects, rehabilitation of reputation, and extension of an apology, the method and scope of such liability shall be commensurate with the specific circumstances of the infringement. Where an actor refuses to bear such liability, the people's court may publish an announcement or the effective judgment document in a newspaper or online, and the expenses incurred shall be borne by the actor.

Article 1001 — The relevant provisions of Books I and IV of this Code regarding the protection of personality rights, and the relevant provisions of other laws, shall apply to the protection of the personality rights of a legal person or an unincorporated organization.

Chapter II — Rights to Life, Body, and Health

Article 1002 — A natural person shall enjoy the right to life. The life safety and dignity of a natural person shall be protected by law. No organization or individual may infringe upon the right to life of another.

Article 1003 — A natural person shall enjoy the right to body. The physical integrity and freedom of movement of a natural person shall be protected by law. No organization or individual may infringe upon the right to body of another.

Article 1004 — A natural person shall enjoy the right to health. The physical and mental health of a natural person shall be protected by law. No organization or individual may infringe upon the right to health of another.

Article 1005 — Where the right to life, body, or health of a natural person is infringed upon or is in danger, the organization or individual that is obligated to provide aid in accordance with the law shall promptly render aid.

Article 1006 — A person with full capacity for civil acts shall have the right to decide to donate his or her body or any part of his or her body in accordance with the law. A donation shall be voluntary and without compensation. A person with full capacity for civil acts who agrees to donate his or her body shall make the consent in writing or may make a will. Where a natural person, during his or her lifetime, has not expressed opposition to donation, upon the death of the natural person, the spouse, adult children, and parents may jointly decide to make the donation, which shall also be in writing.

Article 1007 — Any form of sale or purchase of human cells, human tissues, human organs, or human remains is prohibited. Any sale or purchase conducted in violation of the preceding paragraph is void.

Article 1008 — Where a clinical trial of a new drug or a new medical device is to be conducted, or a new treatment method is to be tested, the approval of the relevant ethics committee and the informed consent of the subject shall be obtained in accordance with the law. The subject or the subject's guardian shall be informed of the purpose, method, and possible risks. No fees may be charged from the subject for a clinical trial.

Article 1009 — A medical or scientific research activity related to human genes, human embryos, or the like shall be conducted in compliance with laws, administrative regulations, and relevant provisions of the State, and shall not endanger human health, violate ethics, or damage the public interest.

Article 1010 — Sexual harassment against the will of another by means of words, texts, images, or physical acts is prohibited; a person who suffers sexual harassment shall have the right to request the actor to bear civil liability. State organs, enterprises, schools, and other organizations shall take reasonable measures to prevent and stop sexual harassment, accept complaints, and investigate and handle cases of sexual harassment. Where a person takes advantage of his or her authority or position to sexually harass another, the organization may take disciplinary or other measures.

Article 1011 — Where a person unlawfully deprives another of personal freedom or unlawfully searches the body of another, the victim shall have the right to request the actor to bear civil liability.

Chapter III — Rights to Name and Title

Article 1012 — A natural person shall enjoy the right to name, and shall have the right to decide on, use, change, or allow another to use his or her name in accordance with the law, provided that such use does not violate public order and good customs.

Article 1013 — A legal person or an unincorporated organization shall enjoy the right to title, and shall have the right to decide on, use, change, or allow another to use its title in accordance with the law.

Article 1014 — No organization or individual may infringe upon the right to name or right to title of another by means such as interference, misappropriation, or false impersonation.

Article 1015 — A natural person shall adopt the surname of either the father or the mother, provided that a natural person may adopt a surname other than those of the father or mother in any of the following circumstances: (1) adopting the surname of a lineal elder relative; (2) adopting the surname of the caregiver as the natural person is supported by a person other than the statutory caregiver; (3) where there is any other legitimate reason not contrary to public order and good customs. A natural person of an ethnic minority may adopt a surname in accordance with the cultural tradition and customs of his or her ethnic group.

Article 1016 — A natural person who decides on or changes his or her name, and a legal person or unincorporated organization that decides on or changes its title, shall complete the registration formalities with the relevant authority in accordance with the law. Where a civil subject changes his or her name or title, a civil legal act performed before the change shall be legally binding on the civil subject.

Article 1017 — A pseudonym, stage name, screen name, translated name, trade name, or the like that has a degree of social popularity and is used by another in a manner that is likely to cause public confusion shall

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be protected with reference to the relevant provisions on the protection of the right to name and the right to title.

Chapter IV — Right to Image

Article 1018 — A natural person shall enjoy the right to image, and shall have the right to create, use, publish, or allow another to use his or her image in accordance with the law. “Image” as used in this Book refers to the external likeness of a specific natural person that is reflected in a video recording, photograph, sculpture, or the like and that is identifiable.

Article 1019 — No organization or individual may infringe upon the right to image of another by means such as distortion, defacement, or use of information technology means such as deep synthesis. Unless otherwise provided by law, no image of a person may be created, used, published, or otherwise used without the consent of the person or the person’s guardian.

Article 1020 — The following acts may be performed without the consent of the person whose image is used: (1) use of an image of a person that is necessary for personal study, classroom instruction, or scientific research, within the necessary scope, where the image has already been published; (2) creation, use, or publication of an image of a person that is inevitable for news reporting, within the necessary scope; (3) use of an image of a person that is inevitable for the performance of duties by a State organ, within the necessary scope; (4) use of an image of a person that is inevitable for demonstrating a specific public environment; (5) other acts for the protection of the public interest or the lawful rights and interests of the person. Reasonable measures shall be taken to avoid damage to the personality rights of the person whose image is used.

Article 1021 — Where the parties have a dispute over the interpretation of a clause regarding the use of an image in a contract, the interpretation shall be made in favor of the person whose image is used.

Article 1022 — Where the parties have not agreed upon a term for the use of an image or the term agreed upon is unclear, either party may rescind the contract at any time, provided that the other party is given reasonable advance notice. Where the parties have expressly agreed upon a term for the use of an image, the person whose image is used may rescind the contract before the expiry of the term where there is a legitimate reason, and shall compensate the other party for any damage caused.

Article 1023 — The relevant provisions of this Chapter shall apply, mutatis mutandis, to the protection of the voice of a natural person. Where the law provides otherwise, such provisions shall prevail.

Chapter V — Rights to Reputation and Honor

Article 1024 — A civil subject shall enjoy the right to reputation. No organization or individual may infringe upon the right to reputation of another by means such as insult or defamation. “Reputation” refers to the social evaluation of the moral character, prestige, talent, and credibility of a civil subject.

Article 1025 — Where an actor, for the purpose of public interest in news reporting or public opinion supervision, affects the reputation of another, the actor shall not bear civil liability, unless the actor commits any of the following acts: (1) fabricating or distorting facts; (2) failing to fulfill the reasonable duty of verification of the seriously inaccurate content provided by another; (3) using insulting language to disparage the reputation of another.

Article 1026 — In determining whether an actor has fulfilled the reasonable duty of verification, the following factors shall be considered: (1) the credibility of the source of the content; (2) whether sufficient investigation has been conducted into the content that is clearly likely to cause controversy; (3) the timeliness of the content; (4) the relevance of the content to public order and good customs; (5) the likelihood that the victim’s reputation would be degraded; and (6) the actor’s ability to verify and the cost of verification.

Article 1027 — Where a literary or artistic work published by an actor depicts a specific person and contains insulting or defamatory content that infringes upon the right to reputation of another, the victim shall have the right to request the actor to bear civil liability. Where the work does not depict a specific person but only some of the plot is similar to the circumstances of the person, the actor shall not bear civil liability.

Article 1028 — Where a civil subject has evidence to prove that the content of a report published by a newspaper, periodical, or online media is inaccurate and infringes upon his or her right to reputation, the civil subject shall have the right to request the media to promptly take necessary measures, including correction or deletion.

Article 1029 — A civil subject may, in accordance with the law, inquire into his or her own credit report. Where a civil subject discovers that the credit report is inaccurate or omits information and raises an objection, the credit reporting agency shall verify the information and take prompt measures, including correction or deletion, where necessary.

Article 1030 — The relationship between a civil subject and a credit reporting agency and the handling of the civil subject's credit information shall be governed by the relevant provisions of this Book regarding the protection of personal information and other relevant laws and administrative regulations.

Article 1031 — A civil subject shall enjoy the right to honor. No organization or individual may unlawfully deprive another of an honorary title or defame or degrade the honor of another. Where an honor that a natural person has acquired should be recorded, the natural person may request that the honor be recorded; and where the honor recorded is inaccurate, the natural person may request correction or deletion.

Chapter VI — Rights to Privacy and Personal Information

Article 1032 — A natural person shall enjoy the right to privacy. No organization or individual may infringe upon the right to privacy of another by means such as prying into, intruding upon, disclosing, or publishing the private information of another. "Privacy" refers to the peace of private life of a natural person and the private space, private activities, and private information that the natural person does not wish to be known to others.

Article 1033 — Unless otherwise provided by law or expressly consented to by the person entitled to the right, no organization or individual may commit any of the following acts: (1) intruding upon the peace of another's private life by means such as telephone calls, text messages, instant messaging tools, emails, or leaflets; (2) entering, taking photographs of, or peeping into another's private space such as a residence or hotel room; (3) taking photographs of, peeping at, eavesdropping on, or publishing the private activities of another; (4) taking photographs of or peeping at a private part of another's body; (5) handling another's private information; (6) infringing upon another's right to privacy by other means.

Article 1034 — The personal information of a natural person shall be protected by law. "Personal information" refers to all kinds of information recorded in electronic form or otherwise that can identify a specific natural person, either alone or in combination with other information, including the natural person's name, date of birth, identification number, biometric information, address, telephone number, email address, health information, and whereabouts information. The provisions on the right to privacy shall apply to the private information contained in personal information; in the absence of such provisions, the relevant provisions on the protection of personal information shall apply.

Article 1035 — The handling of personal information shall comply with the principles of lawfulness, legitimacy, necessity, and good faith, and shall not be excessive. Personal information shall be handled in accordance with the following conditions: (1) the consent of the natural person or his or her guardian, unless otherwise provided by laws or administrative regulations; (2) the rules for the handling of information shall be published; (3) the purpose, method, and scope of the handling of information shall be expressly stated; (4) no violation of laws or administrative regulations or any agreement between the parties. The handling of

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personal information includes the collection, storage, use, processing, transmission, provision, and publication of personal information.

Article 1036 — The following acts shall not constitute a tort: (1) acts reasonably performed by the guardian of a natural person for the protection of the lawful rights and interests of the natural person; (2) reasonable handling of information that has been lawfully published by the natural person or has been otherwise lawfully published, unless the natural person expressly refuses or the handling of the information infringes upon a material interest of the person; (3) other acts performed for the public interest or the lawful rights and interests of the natural person that are reasonable.

Article 1037 — A natural person may, in accordance with the law, access or make copies of his or her personal information from the information handler. Where a natural person discovers that the information handler has handled his or her personal information in violation of laws or administrative regulations or the agreement of the parties, the natural person shall have the right to request the information handler to promptly take measures, including deletion. Where a natural person discovers that the information handler has handled his or her personal information in error, the natural person shall have the right to request correction.

Article 1038 — No information handler shall disclose or tamper with the personal information it has collected or stored. Without the consent of the natural person, no information handler shall lawfully provide the personal information of the natural person to others, unless the information cannot be identified as belonging to a specific person and cannot be restored after processing. An information handler shall take technical measures and other necessary measures to ensure the security of the personal information it has collected and stored.

Article 1039 — State organs, statutory bodies, and their staff shall keep confidential the private information and personal information of natural persons that they have come to know in the course of performing their duties, and shall not disclose such information or unlawfully provide it to others.

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