

## Declaration of the Rights of Man and of Citizens (1789)<sup>1</sup>

The representatives of the people of France, formed into a National Assembly, considering that ignorance, neglect, or contempt of human rights, are the sole causes of public misfortunes and corruptions of Government, have resolved to set forth in a solemn declaration, these natural, imprescriptible, and inalienable rights: that this declaration being constantly present to the minds of the members of the body social, they may be for ever kept attentive to their rights and their duties; that the acts of the legislative and executive powers of government, being capable of being every moment compared with the end of political institutions, may be more respected; and also, that the future claims of the citizens, being directed by simple and incontestible principles, may always tend to the maintenance of the Constitution, and the general happiness.

For these reasons, the National Assembly doth recognise and declare, in the presence of the Supreme Being, and with the hope of his blessing and favour, the following *sacred* rights of men and of citizens:

community. All citizens have a right to concur, either personally, or by their representatives, in its formation. It should be the same to all, whether it protects or punishes; and all being equal in its sight, are equally eligible to all honours, places, and employments, according to their different abilities, without any other distinction than that created by their virtues and talents.

VII. No man should be accused, arrested, or held in confinement, except in cases determined by the law, and according to the forms which it has prescribed. All who promote, solicit, execute, or cause to be executed, arbitrary orders, ought to be punished, and every citizen called upon, or apprehended by virtue of the law, ought immediately to obey, and renders himself culpable by resistance.

VIII. The law ought to impose no other penalties but such as are absolutely and evidently necessary; and no one ought to be punished, but in virtue of a law promulgated before the offence, and legally applied.

IX. Every man being presumed innocent till he has been convicted, whenever his detention becomes indispensable, all rigour to him, more than is necessary to secure his person, ought to be provided against by the law.

I. Men are born, and always continue, free and equal in respect of their rights. Civil distinctions, therefore, can be founded only on public utility.

II. The end of all political associations, is the preservation of the natural and imprescriptible rights of man; and these rights are liberty, property, security, and resistance of oppression.

III. The nation is essentially the source of all sovereignty; nor can any individual, or any body of men, be entitled to any authority which is not expressly derived from it.

IV. Political liberty consists in the power of doing whatever does not injure another. The exercise of the natural rights of every man, has no other limits than those which are necessary to secure to every *other* man the free exercise of the same rights; and these limits are determinable only by the law.

V. The law ought to prohibit only actions hurtful to society. What is not prohibited by the law, should not be hindered; nor should any one be compelled to that which the law does not require.

VI. The law is an expression of the will of the

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X. No man ought to be molested on account of his opinions, not even on account of his *religious* opinions, provided his avowal of them does not disturb the public order established by the law.

XI. The unrestrained communication of thoughts and opinions being one of the most precious rights of man, every citizen may speak, write, and publish freely, provided he is responsible for the abuse of this liberty, in cases determined by the law.

XII. A public force being necessary to give security to the rights of men and of citizens, that force is instituted for the benefit of the community and not for the particular benefit of the persons to whom it is intrusted.

XIII. A common contribution being necessary for the support of the public force, and for defraying the other expenses of government, it ought to be divided equally among the members of the community, according to their abilities.

### NOTE

1. Prefixed to the French Constitution of 1791. The translation is by Thomas Paine as it appears in his *Rights of Man*.

## Notes and Questions

1. Compare the Virginia Declaration of Rights with the French Declaration of the Rights of Man and of Citizens. How are they alike or different? Are both equally susceptible to Bentham's criticisms?
2. Compare the Virginia Declaration with the U.S. Bill of Rights or the U.N. Declaration of Rights. (See Appendix.) How are they alike or different? Do the same criticisms apply? Do they serve different functions?

### Virginia Declaration of Rights (1776)

**A Declaration of Rights Made by the Representatives of the Good People of Virginia, Assembled in Full and Free Convention; Which Rights Do Pertain to Them and Their Posterity, as the Basis and Foundation of Government**

*Sec. 1.* That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of

society, they cannot by any compact deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

*Sec. 2.* That all power is vested in, and consequently derived from, the people; that magistrates are the trustees and servants, and at all times amenable to them.

*Sec. 3.* That government is, or ought to be insti-

tuted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

*Sec. 4.* That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services; which, not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

*Sec. 5.* That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members to be again eligible or ineligible, as the laws shall direct.

*Sec. 6.* That elections of members to serve as representatives of the people in assembly, ought to be free; and that all men having sufficient evidence of permanent common interest with, and attachment to the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented for the public good.

*Sec. 7.* That all power of suspending laws, or the execution of laws, by an authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

*Sec. 8.* That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impar-

tial jury of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

*Sec. 9.* That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

*Sec. 10.* That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

*Sec. 11.* That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

*Sec. 12.* That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments.

*Sec. 13.* That a well-regulated militia, composed of the body of the people trained to arms, is the proper, natural and safe defence of a free state; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

*Sec. 14.* That people have a right to uniform government; and, therefore, that no government separate from, or independent of the government of Virginia, ought to be erected or established within the limits thereof.

*Sec. 15.* That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

*Sec. 16.* That religion, or the duty which we owe our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.