




Judicial Reform in China



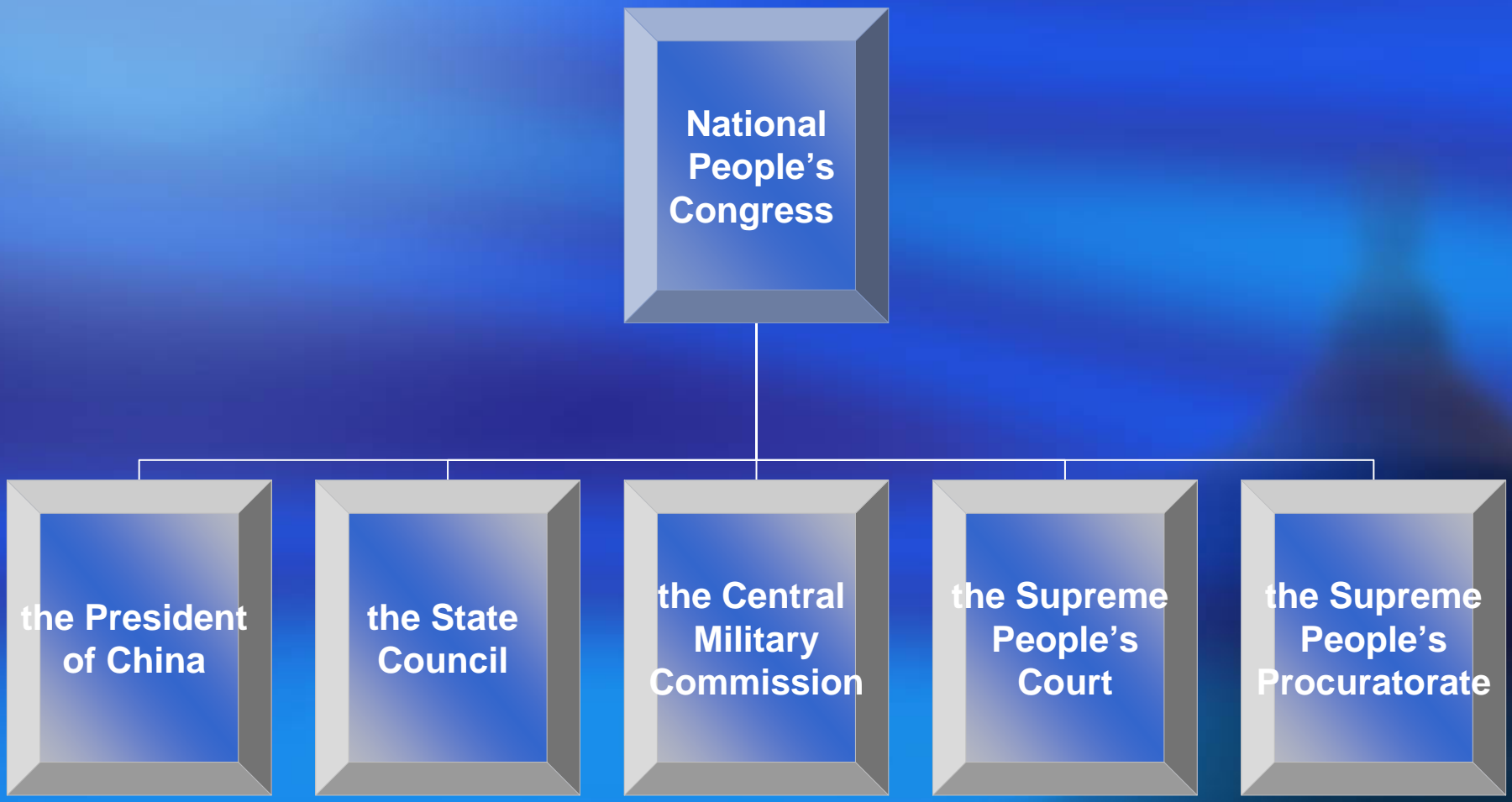
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I The structure of Chinese government, especially the judiciary.

A: The system of people's congresses and the central state organs.



- I The structure of Chinese government, especially the judiciary.
- B-1: The internal structure of the Supreme People's Court (SPC).

The divisions and offices of the Supreme People's Court:

- Case-filing Division
- Criminal Divisions (5)
- Civil Divisions (3)
- Intellectual Property Right Division
- Administrative Division
- Judicial Supervision Division
- Enforcement Office
- Research Office
- General Office
- Department of Judicial and Administrative Equipment Management.
- Judicial Reform Office Foreign Affairs Division
- Human Resource

I The structure of Chinese government, especially the judiciary.

B-1: The internal structure of the Supreme People's Court.

The independent institutions under the Supreme People's Court:

- National Judge College
- Chinese Institute of Applied Jurisprudence
- the Newspaper Office of People's Court Daily
- the People's Court Press

I The structure of Chinese government, especially the judiciary.

B-2: The function and power of the Supreme People's Court.

- Judicial work

 - the quantity of cases handled in 2006:

 - the SPC: 3668

 - all the national courts: about 8.1 million

- Judicial interpretation

 - Article 32 of “the Organic Law of the People's Courts” provides: The Supreme People's Court gives interpretation on questions concerning specific application of laws and decrees in judicial proceedings.

 - In 2006, SPC published 12 pieces of judicial interpretation.

 - On march 23, 2007, “Provisions of the Supreme People's Court on the Judicial Interpretation Work” was published by SPC.

 - Four forms of judicial interpretation:

 - interpretation, provision, written reply, decision.

- Judicial administration

I The structure of Chinese government, especially the judiciary.

C: The setting of organization of the people's courts in China:

longitudinal direction: level

transverse direction: nature of cases accepted

	common courts		special courts			total
	supreme	local	railway courts	maritime courts	military Courts	
the supreme people's court	1					1
the higher people's courts		31			1	32
the intermediate people's Courts		404	14	10	about 11	441
basic people's courts		3135	57		about 77	3267
total	1	3570	71	10	89	3741

II The development of the people's courts: history and present

A: The evolution of the people's court.

1. 1949-1954: The people's courts at all levels were the component parts of the corresponding government.
2. 1954-1966: The principle of independent justice was confirmed in 1954.
3. 1966-1979: The judicial organs and work were damaged for the Great Cultural Revolution.
4. 1979- The judicial work has been resumed as of 1979 and the principle of independent justice was confirmed in 1979 again.

II The development of the people's courts: history and present

B: The quantity of the staff member of the people's courts in the whole country.

	Total	Judges (including assistant judges)
1979	about 58,000	
1991	194,836	138,459
2006	about 300,000	about 190,000

II The development of the people's courts: history and present

C: The quantity of cases of all of the people's courts

	The quantity of cases (of all of the people's courts)
1986	1.61 million (filed case)
1995	5.24 million (handled case of first instance)
2006	8.10 million (handled case)

Note: The data above are from the work report of the Supreme People's Court of the current year.

III The Social Background and stage of judicial reform of the people's courts.

A: The social background

1. The set-up and development of the socialist market economy.
2. The establishment of the fundamental tactic of rule the country according to law (rule of law).
3. The improvement of the people's legal consciousness.

III The Social Background and stage of judicial reform of the people's courts.

B: The stages of judicial reform of the people's courts.

1. the late 1970s—the early 1980s: Restoration of judicial system
2. the late 1980s—the mid 1990s: Construction of judicial system
3. the late 1990s—present: Enhancement of judicial system
 - (1) First five-year plan
 - (2) Second five-year plan

IV Major progresses of judicial reform of the people's courts

A: The progress of the system of public trial

1. The principle of public trial is confirmed by the Constitution, the organic law of the people's courts, the civil, criminal and administrative procedure law.
2. The relevant judicial interpretations enacted by SPC in recent years
 - (1) Several Provisions of the Supreme People's Court on Strictly Enforce the Systems of Public Trial (enacted on March 8, 1999)
 - (2) Measures of Supreme People's Court on the Management of Publication of Judgment Documents (effective as of June 15, 2000)
 - (3) Several Opinions of the Supreme People's Court on Strengthening the Work on Judicial Openness in the People's Courts (enacted on June 15, 2007)

IV Major progresses of judicial reform of the people's courts

A: The progress of the system of public trial

3. The highlights of the system of public trial

(1) Open court to public

(2) Open court to media

(3) The system of press spokesman has been set up.

(4) The public access to judgment document is more and more convenient.

(5) The argumentation level of judgment document has been improved.

IV Major progresses of judicial reform of the people's courts

B: The reform and progress of the trial organization

B-1: Trial organization of the people's courts

Trial organization	Composition	Member quantity	Function and power
the sole judge system	judge (including assistant judge, the following is same)	1	to handle simple civil cases, minor criminal cases and cases of first instance otherwise provided by law
the collegial system	a collegial panel of judges or of judges and people's assessors	3, 5 or 7	to handle some cases of first instance, all of appealed or contested cases
the judicial committee system	generally includes: president, vice presidents, chief judges of divisions, and special members	depends on the specific circumstance	to sum up judicial experience and to discuss important or difficult cases and other issues relating to judicial work

IV Major progresses of judicial reform of the people's courts

B-2: The reform and progress of the trial organization

1. The trial responsibility for individual judges and judicial panels has been strengthened.
2. The adjudication committees have become more professional and the process and methods by which adjudication committees hear cases have been changed from a system of meetings to one of hearings.
3. The management system for people's assessors has been reformed and perfected.

IV Major progresses of judicial reform of the people's courts

C: The reform and progress of judges system

C-1: The history evolution of judges system in China

Period	The point of judges system in China
1949-1954	The people's courts at all levels were the component parts of the corresponding government, person trying cases was called "trial officer"(审判员), not judges(法官).
1954-1966	The Constitution of 1954 confirmed the principle of independent justice for the first time.
1966-1979	The judicial organs and work was damaged for The Great Cultural Revolution.
1979-1995	The judicial work has been resumed as of 1979. The organic law of the people's courts was adopted in 1979 again and was revised in 1983. The revision of 1983 provided that judicial personnel of people's courts must have an adequate knowledge of the law.
1995-2001	The judges law was enacted in 1995 for the first time, the construction of the professionalization of judges in China came into a new stage.
2001-	The judges law was revised in 2001, more higher requirements for the professionalization of judges were put forward.

IV Major progresses of judicial reform of the people's courts

A: The reform and progress of judges system

A-2: The progress of judges system after reform

1. To improve the professional requirement of the qualifications for a judge

The 2001 revision of the judges law:

One is that persons to be judges should be graduates in law specialties or non-law specialties but possessing the professional knowledge of law, and have done legal work for provided time.

The other is that persons to be appointed judges (including procurators, lawyers)for the first time shall be selected from persons who have passed the state uniform judicial examination.

2. To construct a scientific selection mechanism of judges that conforms to the nature of the judicial profession.

One measure of the 2 five-year program for reform of the people's courts:

In the past: clerks → assistant judges → judges

From now on: judges of the lower courts → judges of the higher courts
outstanding legal personnel from outside → judges

3. To construct responsibility systems for judges to independently decide cases.

V The goals and challenges of Chinese judicial reform.

A: The goals of judicial reform of the people's courts.

The goal of the judicial reform of the people's courts is:

to maintain justice for the interest of the people, to construct a socialist judicial system with fairness, high efficiency and authority, to play the functions and roles of judicial system in maintaining fairness and justice, and to provide forceful judicial guarantee for establishing a socialist harmonious society.

V The goals and challenges of Chinese judicial reform.

B: The challenges of judicial reform of the people's courts.

1. With the increase in the number of cases, especially the increase of the knotty cases and new-type cases, the judicial ability of judiciary is not enough to successfully complete the judicial work.
2. Litigation procedure have much room for improvement in order to meet the procedure justice need of the people and to protect human right.
3. With the development of market-economy, the reform of judicial structure system is required to further explore.