

# ORGANIC LAW OF THE PEOPLE'S COURTS OF THE PEOPLE'S REPUBLIC OF CHINA

(Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, and revised according to the Decision Concerning the Revision of the Organic Law of the People's Courts of the People's Republic of China adopted at the Second Meeting of the Sixth National People's Congress on September 2, 1983)

## CHAPTER I GENERAL PROVISIONS

[Article 1] The people's Courts of the People's Republic of China are the judicial organs of the state.

[Article 2] The judicial authority of the People's Republic of China is exercised by the following people's Courts:

(1) Local people's courts at various levels;

(2) Military courts and other special people's courts (revised on September 2, 1983); and

(3) The Supreme People's Courts.

The local people's courts at various levels are divided into: basic people's courts, intermediate people's courts and higher people's courts.

(Paragraph 3 was deleted on September 2, 1983.)

[Article 3] The task of the people's courts is to try criminal and civil cases and, through judicial activities, to punish all criminals and settle civil disputes, so as to safeguard the system of dictatorship of the proletariat, maintain the socialist legal system and public order, protect socialist property owned by the whole people, collective property owned by working people and the legitimate private property of citizens, the citizens' right of the person and their democratic and other rights, and ensure the smooth progress of the socialist revolution and socialist construction in the country.

The people's courts, in all their activities, educate citizens in loyalty to their socialist motherland and voluntary observance of the Constitution and the law.

[Article 4] The people's courts shall exercise judicial power independently, in accordance with the provisions of the law, and shall not be subject to interference by any administrative organ, public organization or individual. (Revised on September 2, 1983.)

[Article 5] In judicial proceedings in the people's courts, the law is applied equally to all citizens, regardless of ethnic status, race, sex, occupation, family background, religious belief, education, property status or length of residence. No privilege whatsoever is allowed.

[Article 6] Citizens of all nationalities have the right to use the spoken and written languages of their own nationalities in court proceedings. The people's courts shall provide translation for any party to the court proceedings who is not familiar with the spoken or written languages commonly used in the locality. In an area where people of a minority nationality live in concentrated communities or where a number of minority nationalities live together, the people's courts shall conduct hearings in the language or languages commonly used in the locality and issue judgments, notices and other documents in the language or languages commonly used in the locality.

[Article 7] All cases in the people's courts shall be heard in public, except for those involving state secrets, private affairs of individuals and the commission of crimes by minors.

[Article 8] The accused has the right to defence. Besides defending himself, the accused has the right to delegate a lawyer to defend him. He may also be defended by a citizen recommended by a people's organization or his place of employment, by a citizen approved by the people's court, or by a near relative or guardian. The people's court may also, when it deems it necessary, appoint a counsel to defend him.

[Article 9] (Deleted on September 2, 1983.)

[Article 10] The people's courts adopt the collegial system in the administration of justice.

Cases of first instance in the people's courts shall be tried by a collegial panel of judges or of judges and people's assessors; simple civil cases, minor criminal cases and cases otherwise provided for by law may be tried by a single judge. (Revised on September 2, 1983.)

Appealed or contested cases in the people's courts are handled by a collegial panel of judges.

The president of the court or the chief judge of a division appoints one of the judges to act as the presiding judge of the collegial panel. When the president of the court or the chief judge of a division participates in the judicial proceedings, he acts as the presiding judge.

[Article 11] People's courts at all levels set up judicial committees which practise democratic centralism. The task of the judicial committees is to sum up judicial experience and to discuss important or difficult cases and other issues relating to the judicial work.

Members of judicial committees of local people's courts at various levels are appointed and removed by the standing committees of the people's congresses at the corresponding levels, upon the recommendation of the presidents of these courts. Members of the Judicial Committee of the Supreme People's Court are appointed and removed by the Standing Committee of the National People's Congress, upon the recommendation of the President of the Supreme People's Court.

The presidents of the people's courts preside over meetings of judicial committees of the people's courts at all levels; the chief procurators of the people's procuratorates at the corresponding levels may attend such meetings without voting rights.

[Article 12] In the administration of justice, the people's courts adopt the system whereby the second instance is the last instance.

From a judgment or orders of first instance of a local people's courts, a party may bring an appeal to the people's court at the next higher level in accordance with the procedure prescribed by law, and the people's procuratorate may present a protest to the people's court at the next higher level in accordance with the procedure prescribed by law.

Judgments and orders of first instance of the local people's courts at various levels become legally effective judgments and orders if, within the period for appeal, none of the parties has appealed and the procuratorate has not protested.

Judgments and orders of second instance of intermediate courts, higher people's courts and the Supreme People's Court and judgments and orders of first instance of the Supreme People's Court are all judgments and orders of last instance, that is, legally effective judgements and orders.

[Article 13] Cases involving sentences of death, except for cases with sentences imposed by the Supreme People's Court, shall be submitted to the Supreme People's Court for approval. The Supreme People's Court may, when it deems it necessary, authorize higher people's courts of provinces, autonomous regions, and municipalities directly under the Central Government to exercise the power to approve cases involving the imposition of death sentences for homicide, rape, robbery, causing explosions and others gravely endangering public security and disrupting social order. (Revised on September 2, 1983.)

[Article 14] If the president of a people's court finds, in a legally effective judgment or order of his court, some definite error in the determination of facts or application of law, he must submit the judgment or order to the judicial committee for disposal.

If the Supreme People's Court finds some definite error in a legally effective judgment or order of the people's court at a lower level or if the people's court at a higher level finds such error in a legally effective judgment or order of the people's court at a lower level, it has the authority to review the case itself or to direct the lower-level people's court to conduct a retrial.

If the Supreme People's Procuratorate finds some definite error in a legally effective judgment or order of a people's court at any level or if the people's procuratorate at a higher level finds such error in a legally effective judgment or order of any people's court at a lower level, it has the authority to lodge a protest in accordance with the procedure of judicial supervision.

The people's courts at all levels shall hold themselves responsible for seriously handling a petition lodged by party to a case against a legally effective judgment or order.

[Article 15] If a people's court considers that the principal facts of a case in which a people's procuratorate has initiated a public prosecution are not clear and the evidence is insufficient, or there are illegalities in the prosecution, the court may remand the case to the people's procuratorate for supplementary investigation or notify the people's procuratorate to rectify them.

[Article 16] If a party to a case considers that a member of the judicial personnel has an interest in the case or, for any other reason, cannot administer justice impartially, he has the right to ask that member to withdraw. The president of the court shall decide whether the member should withdraw.

If a member of the judicial personnel considers that he should withdraw because he has an interest in the case or for any other reason, he should report the matter to the president of the court for decision.

[Article 17] The Supreme People's Court is responsible to and reports on its work to the National People's Congress and its Standing Committee. Local people's courts are responsible to and report on their work to the local people's congresses at corresponding levels and their standing committees.

The judicial work of people's courts at lower levels is subject to supervision by people's courts at higher levels.

(Paragraph 3 was deleted on September 2, 1983.)

## CHAPTER II ORGANIZATION, FUNCTIONS AND POWERS OF THE PEOPLE'S COURTS

[Article 18] Basic people's courts are:

(1) county people's courts and municipal people's courts;

(2) people's courts of autonomous counties; and

(3) people's courts of municipal districts.

[Article 19] A basic people's court is composed of a president, vice-president and judges.

A basic people's court may set up a criminal division, a civil division and an economic division, each with a chief judge and associate chief judges.

(Revised on September 2, 1983.)

[Article 20] A basic people's court may set up a number of people's tribunals according to the conditions of the locality, population and cases. A people's tribunal is a component part of the basic people's court, and its judgments and orders are judgments and orders of the basic people's courts.

[Article 21] Except for cases otherwise provided for by laws or decrees, a basic people's court adjudicates criminal and civil cases of first instance.

When a basic people's court considers that a criminal or civil case it is handling is of major importance and requires trial by the people's court at a higher level, it may request that the case be transferred to that court for trial.

[Article 22] Besides trying cases, a basic people's court undertakes the following tasks:

(1) settling civil disputes and handling minor criminal cases that do not need to be determined by trial;

(2) directing the work of people's mediation committees. (Revised on September 2, 1983.)

(Item (3) was deleted on September 2, 1983.)

[Article 23] Intermediate people's Courts are:

- (1) intermediate people's courts established in prefectures of a province or autonomous region;
- (2) intermediate people's courts established in municipalities directly under the Central Government;
- (3) intermediate people's courts of municipalities directly under the jurisdiction of a province or autonomous region; and
- (4) intermediate people's courts of autonomous prefectures.

[Article 24] An intermediate people's court is composed of a president, vice-presidents, chief judges and associate chief judges of divisions, and judges.

Each intermediate people's court shall set up a criminal division, a civil division, an economic division, and such other divisions as are deemed necessary. (Revised on September 2, 1983.)

[Article 25] An intermediate people's court handles the following cases:

- (1) cases of first instance assigned by laws and decrees to their jurisdiction;
- (2) cases of first instance transferred from the basic people's courts;
- (3) cases of appeals and of protests lodged against judgments and orders of the basic people's courts; and
- (4) cases of protests lodged by the people's procuratorates in accordance with the procedures of judicial supervision.

When an intermediate people's court considers that a criminal or civil case it is handling is of major importance and requires trial by the people's court at a higher level, it may request that the case be transferred to that court for trial.

[Article 26] Higher people's courts are:

(1) higher people's courts of provinces;

(2) higher people's courts of autonomous regions; and

(3) higher people's courts of municipalities directly under the Central Government.

[Article 27] A higher people's court is composed of a president, vice-presidents, chief judges and associate chief judges of division, and judges.

A higher people's court shall set up a criminal division, a civil division, an economic division, and such other divisions as are deemed necessary.

[Article 28] A higher people's court handles the following cases:

(1) cases of first instance assigned by laws and decrees to their jurisdiction;

(2) cases of first instance transferred from people's courts at lower levels;

(3) cases of appeals and of protests lodged against judgments and orders of people's courts at lower levels; and

(4) cases of protests lodged by people's procuratorates in accordance with the procedures of judicial supervision.

[Article 29] The organization, functions and powers of special people's courts shall be prescribed separately by the Standing Committee of the National People's Congress.

[Article 30] The Supreme People's Court is the highest judicial organ of the state.

The Supreme People's Court supervises the administration of justice by the local people's courts at various levels and by the special people's courts.

[Article 31] The supreme People's Court is composed of a president, vice-presidents, chief judges and associate chief judges of divisions, and judges.

The Supreme People's Court shall set up a criminal division, a civil division, an economic division, and such other divisions as are deemed necessary.

[Article 32] The Supreme People's Court handles the following cases:

(1) cases of first instance assigned by laws and decrees to its jurisdiction and which it considers should itself try;

(2) cases of appeals and of protests lodged against judgments and orders of higher people's courts and special people's courts; and

(3) cases of protests lodged by the Supreme People's Procuratorate in accordance with the procedures of judicial supervision.

[Article 33] The Supreme People's Court gives interpretation on questions concerning specific application of laws and decrees in judicial proceedings.

### CHAPTER III JUDICIAL AND OTHER PERSONNEL OF PEOPLE'S COURTS

[Article 34] Citizens who have the right to vote and to stand for election and have reached to age of 23 are eligible to be elected presidents of people's courts or appointed vice-presidents of people's courts, chief judges or associate chief judges of divisions, judges or assistant judges; but persons who have ever been deprived of political rights are excluded.

Judicial personnel of people's courts must have an adequate knowledge of the law. (The paragraph was added on September 2, 1983.)

[Article 35] Presidents of local people's courts at various levels are elected by the local people's congresses at corresponding levels, and their vice-presidents, chief judges and associate chief judges of divisions, and judges are appointed and removed by the standing committees of the local people's congresses at corresponding levels.

Presidents of intermediate people's courts established in prefectures of provinces or in municipalities directly under the Central Government are elected by the people's congresses of the provinces and municipalities directly under the Central Government, and their vice-presidents, chief judges and associate chief judges of divisions, and judges are appointed and removed by the standing committees of the people's congresses of the provinces and municipalities directly under the Central Government.

Presidents of local people's courts at various levels established in national autonomous areas are elected by local people's congresses at corresponding levels in these areas, and their vice-presidents, chief judges and associate chief judges of divisions, and judges are appointed or removed by the standing committees of local people's congresses at corresponding levels in these areas.

The President of the Supreme People's Court is elected by the National People's Congress, and its vice-presidents, chief judges and associate chief judges of divisions, and judges are appointed or removed by the Standing Committee of the National People's Congress.

[Article 36] The term of office of presidents of people's courts at all levels is the same as that of people's congresses at corresponding levels.

People's congresses at all levels have the power to remove from office the presidents of people's courts elected by them. If the standing committee of a people's congress deems it necessary to replace the president of a local people's court at the corresponding level when the congress is not in

session, it shall report the matter to the people's court at the next higher level for submission to the standing committee of the people's congress at the next higher level for approval.

[Article 37] People's courts at all levels may, according to their needs, be staffed with assistant judges, who shall be appointed or removed by the people's courts themselves. (Revised on September 2, 1983.)

Assistant judges help the judges in their work. Upon the recommendation of the president of the court and with the approval of the judicial committee, an assistant judge may provisionally exercise the functions of a judge.

[Article 38] Citizens who have the right to vote and to stand for election and have reached the age of 23 are eligible to be elected people's assessors, but persons who have ever been deprived of political rights are excluded.

During the period of the exercise of their functions in the people's courts, the people's assessors are members of the divisions of the courts in which they participate, and enjoy equal rights with the judges.

[Article 39] During the period of the exercise of their functions, the people's assessors continue to receive wages as usual from their regular place of employment; people's assessors who are not wage-earners are given reasonable allowances by the people's courts.

[Article 40] People's courts at all levels have clerks to keep records of the court proceedings and to take charge of other matters concerning the trials.

[Article 41] Local people's courts at various levels have marshals to carry out the execution of judgments and orders in civil cases and the execution, in criminal cases, of the parts of judgments and orders concerned with property.

Local people's courts at various levels have forensic physicians.

People's courts at all levels have a certain number of judicial policemen.

[Article 42] (Deleted on September 2, 1983.)