**Question: Discuss the Composition Chinese Judicial System**

**Answer**

China's judicial system institutionally comprises of three parts: people's court system, the people's procuratorate system, the public security system. Corresponding to this, judicial structure in the Chinese broad sense does not only refer to courts, but also to procuratorates and public security organs.

**Composition and Powers and Functions**

1. **The Supreme People's Court**: The Supreme People's Court is the highest judicial organ of the State. The president of the Supreme People's Court is elected by the NPC and its standing committee. His term of office is five years and he may serve for no more than two consecutive terms. The NPC standing committee appoints or dismisses vice-presidents, head and associate heads of divisions, and judges.

The Supreme People's Court has a criminal division, a civil division, and an economic division. It may have such other divisions, as it deems necessary. Generally, it has jurisdiction over the cases such as -- Cases of first instance assigned by laws and other cases that it considers it should try itself; Appealed and protested cases against judgments and other orders of higher people's courts and special people's courts;

1. **The Higher People's Courts**: The Higher People's Courts are courts of provinces, autonomous regions and municipalities directly under the Central Government. The internal structure is almost the same as that of the Supreme People's Court according to the definition of the organic Law.

A higher people's court deals with cases of the first instance assigned by laws and decrees, cases of the first instance transferred from people's courts at the next lower level, cases of appeals and of protests lodged against judgments and orders of people's courts at the next lower level.

1. **The Intermediate People's Courts**: They are the courts established in capitals or prefectures in the provincial level. The scope of jurisdiction by an intermediate people's court covers cases of first instance assigned by laws and decrees, cases of first instance transferred from the basic people's courts, and appealed and protested cases from the lower court.
2. **The Basic People's Courts**: The basic courts, as the lowest level, are normally located at the county, municipal districts and autonomous counties. A basic people's court may set up a number of people's tribunal according to the conditions of the locality, population and cases involved.
3. **The Special Courts**: The special courts include military courts, railway courts and maritime courts. The military court that is established within the PLA is in charge of hearing criminal cases involving servicemen. This is a relatively closed system.

**Procuratorate**

People’s procuratorate is a unique institution of China. It existed according to the old Constitution as well. It exercises procuratorial authority over all departments of the state administration. Its organizational structure resemble to that of People’s Courts. At the apex is the Supreme People’s Procuratorate and below it stands the local and special people’s procuratorates.

 **Public Security Organs**

Public security branches lead and direct the people's police, as functional departments of the people's governments. They are responsible for maintaining social and public order and State security, and also for conducting investigations, arrest and preliminary hearings in criminal cases. According to the Constitution, leaders of public security are appointed by the people's congresses or by their standing committees when the congresses are not in session, at the corresponding level.

**Question: Discuss the Features of Chinese judicial system**

**Answer**

This article throws light upon the seven salient features of the Chinese judicial system. The features are: 1. Judiciary is a Part of the Administration 2. A Committed Judiciary 3. System of People’s Justice 4. System of People’s Assessors 5. Elected Courts 6. Use of Different Languages by Various Nationalities 7. System of Procuratorate.

1. **Judiciary in China is not an independent institution:** Like all other socialist systems, Judiciary in China is not an independent institution. It is a branch of state administration. There is no such thing as separation of the judiciary from the executive in China.It is under strict guidence ad supervision of the National People’s Congress or its Standing Committee.
2. **A Committed Judiciary:** The Judiciary in China has been assigned a role in the development of the socialist system. It is machinery for easy and speedy decision of cases, and for educating the citizens in the direction of the socialist system. Like all other government departments, the aim of the Judiciary is to uphold and strengthen the socialist system in a spirit of dedication to the socialist ideology. It is the duty of the courts in China to inculcate in the citizens the spirit of devotion to the cause of socialism, to observe the norms of socialism, to abide by the Constitution and the Law, to safeguard the unity and integrity of the nation, and to help the state in suppressing counter revolutionaries, reactionaries and other enemies of the socialist system.
3. **Lack of Judicial Review:** The legislature is the supreme body in China. It represents the peasants and wrking classes of China which is considered as the core sources of power in Chinse poleitical system. Therefore, unlike USA and India the judical system of China can enjoy the power of judicial review. It cannot reject any law passed by the National people’s Congress as unconstititional.
4. **System of People’s Justice:** The courts in China administer people’s justice i.e. justice in the interest of the socialist aspirations of the people. This principle is opposed to the principle of individual justice. Under the latter, the courts protect the rights and personal freedoms of the individual vis-a-vis the state. However, under the former, the courts protect the collective interests of the people vis-a-vis the individual interests.
5. **System of People’s Assessors:** The People’s courts hear the cases. Representatives of the people participate in the administration of justice. In cases pertaining to counter ­revolutionary crimes and also in criminal cases, the masses are drawn in for discussions and suggestions. All citizens who have the right to vote and contest elections are eligible to be elected as people’s assessors. Their tenures and methods of election are decided by the Ministry of Justice. These assessors enjoy equal rights with the judges of the courts in which they work.
6. **Elected Courts:** Chinese courts are elected by the congresses i.e. by social assemblies at different levels. These are responsible before their respective congresses. The judges report to the congress which elects them. The congress can also remove a judge.
7. **Use of Different Languages by Various Nationalities:** All the citizens of all nationalities possess the right to use their own spoken and written languages in court proceedings.
8. **Not Independent:** The judicial system of China is not independent. It cannot perform its duty independently like the judiciary of America and India. The Judiary of China has to follow some precribed procedure laid down by the government or Communist Party. The courts are considered as the subordinate organs government.
9. **No Goernment Lawers:** There is no provison of private lawers in China. All the lawers are considered as the lawers of government. The clients can choose any lawer to conduct his case from the list of government lawers.
10. **Accountability:** The judiciary of is responsible to the People’s Congresses for their functions. For misconduct and mismanagenet the Congresses can remove any judge from their post before their retierement.
11. **System of Procuratorate:** The courts in China function in close cooperation with the people’s procuratorates which are at work at different levels. The procuratorates work under the Supreme People’s Procuratorate. These are instruments of state control over all the courts and government departments.

Thus, the Judiciary in China is neither an independent nor a powerful part of the constitutional system. It works as a system for eliminating the enemies of socialism. The judges are committed to the ideology of the Communist Party and their foremost task is to punish all those who work, directly or indirectly, against the interests and ideology of the Communist Party of China.