

## VISUAL LAW—THREE COURTS IN SHENZHEN, CHINA

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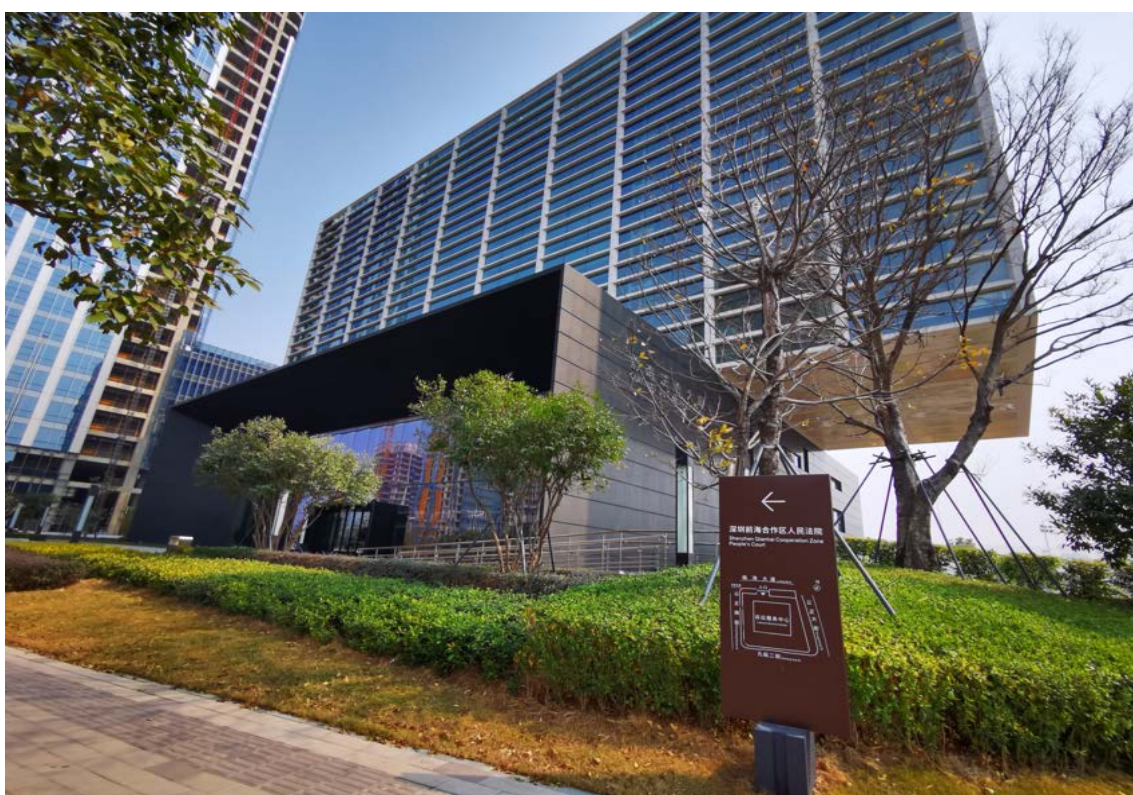
Situated in southern China, neighbouring Hong Kong, Shenzhen has become one of the most rapidly growing urban areas in the world, following its establishment in 1979 as China's first Special Economic Zone. With an official population of some 12 million—and unofficial estimates suggesting that 20 million is a more accurate figure—Shenzhen has grown exponentially as an experimental centre for China's economic reforms and engagement with the outside world. In its efforts to integrate China's socialist system with a market economy and international investment and trade, it has grown into a major component of the Greater Bay Area (Pearl River Delta) and is also an arena for significant judicial innovation in response to China's economic transformation. It is a key centre for technological and financial innovation and is sometimes characterized as China's Silicon Valley, and at other times as China's Manhattan. A billboard celebrating the former Chinese leader and initiator of economic reform, Deng Xiaoping, continues to be on display more than 20 years after his death. Shenzhen enjoys very close business, trade and social ties with Hong Kong<sup>1</sup> and has become a strategically important arena for handling the Hong Kong–mainland relationship.

Within Shenzhen itself there is an innovative pilot project intended to foster these ties and officially called the Qianhai Shenzhen–Hong Kong Modern Service Industry Cooperation Zone. The basic-level People's Court, established in December 2014 in Qianhai, exercises jurisdiction over Shenzhen's commercial cases that involve Hong Kong, Macau, Taiwan or foreign parties. It is the most used forum for handling Hong Kong-related cases in the whole of China. The Qianhai Court has attempted to put into place innovative and important judicial reforms. These

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<sup>1</sup> For an excellent analysis of Shenzhen's development see O'Donnell & Ors (2017). See also my studies of the consumer protection in Shenzhen: Zhou 2017, 2020a, 2020b, 2020c and, more generally, 2020d.

include: firstly, allowing Hong Kong residents to join its three-member collegiate panel (as people's assessors) to deal with Hong Kong-related cases; secondly, employing Hong Kong legal and other practitioners as mediators for handling Hong Kong-related cases; and, thirdly, allowing parties (where there is mutual agreement) to choose to apply Hong Kong law for the handling of Hong Kong-related cases. As it has an important role in the resolution of cross-border cases, the Qianhai Court carries out a great deal of research into foreign law, appoints judges who have received degrees from universities in common law jurisdictions and has established partnerships with arbitration and mediation institutes in Hong Kong and also Belt and Road Initiative<sup>2</sup> jurisdictions.



*The Qianhai basic-level People's Court*

As part of a robust programme of judicial reform, in January 2015 China's Supreme People's Court (SPC) established its First Circuit Court in Shenzhen. This Circuit Court has a broad geographical jurisdiction, covering the provinces of Guangdong, Guangxi and Hainan. Cases decided by the Circuit Court are deemed to have been decided by the SPC itself, and the purpose of such courts is to try to avoid unwelcome local pressures on judicial decision-making. Indeed, in its early years, some potential plaintiffs and appellants misunderstood the court to be part of the Central Inspection Team of the Communist Party and therefore sent

<sup>2</sup> On China's Belt and Road initiative, see, for example, OECD 2018.

in petitions and other requests that fell well outside the Circuit Court's jurisdiction. The Circuit Court's jurisdiction is narrower than that of the SPC itself, focusing on handling first instance and administrative, criminal and commercial appeal cases, and foreign, Hong Kong, Macau and Taiwan-related cases requiring judicial assistance—but cases of a sensitive nature, concerning, for example, review of death penalty, state compensation, execution of judgments and intellectual property, remain the responsibility of the SPC in Beijing.

As a major addition to the family of 'international commercial courts' around the world, the SPC also established a China International Commercial Court (CICC), in effect competing with tribunals such as the Dubai International Financial Centre (DIFC), the Singapore International



*Lawsuit Service Centre of the Supreme People's Court First Circuit Court in Shenzhen*





*The CICC under construction*

Commercial Court (SICC) and the Astana International Financial Centre (AIFC). However, unlike DIFC, SICC and AIFC, as a branch of the SPC of China, CICC does not welcome the idea of hiring international judges, while nevertheless using English, where possible, in the handling of cases. Thus, CICC judges need to be proficient in both English and Chinese, and, with parties' agreement, materials prepared in English may be submitted directly to the court without translation.<sup>3</sup> Among its special innovations are provisions which allow determination of disputes over the validity of arbitration agreements, saving parties' time by removing the need to go through lower-level courts. The CICC is intended to handle international commercial cases, especially for Sino-foreign disputes on international trade and investment, or Belt and Road project disagreements. Currently, the CICC is lodged in the same building at the SPC First Circuit Court, in Luohu District, but in due course the two courts will move to their own grand premises in Qianhai.

<sup>3</sup> See Holloway (2020) for further details of the CICC and its comparative significance.

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