

Differences between the Legal Systems of Shenzhen and Chinese Hong Kong through the Lens of People-centred Justice and Elite Justice: From Case Filing to Judgment Enforcement

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Abstract: Shenzhen and Chinese Hong Kong, both situated in the Guangdong-Hong Kong-Macao Greater Bay Area, have developed two distinct judicial models owing to their different historical trajectories, legal traditions and social needs. Shenzhen is grounded in people-centred justice, with an emphasis on easy access to courts, predictable costs, active use of judicial powers and effective enforcement of final judgments. Chinese Hong Kong, by contrast, continues the common law tradition, placing greater weight on procedure, lawyer-led litigation, strict cost allocation rules and party-driven proceedings. These differences are therefore not merely a matter of rules on paper, but of the way judicial services are delivered. In one model, the court more actively lowers barriers to access for the public; in the other, litigation depends more heavily on professional legal services and party choice. This article compares the two systems across access to courts, lawyers' fees, allocation of costs, leave to appeal, time limits, court-initiated evidence gathering, the burden of proof in administrative litigation and enforcement of final judgments, with a view to providing a more practice-oriented institutional framework for cross-border legal services in the Greater Bay Area.

1. Introduction

Although separated only by a river, Shenzhen and Chinese Hong Kong possess two markedly different legal cultures. The legal system in Chinese Hong Kong represents a highly professionalized, lawyer-led and procedurally refined common law tradition. The rule-of-law practice in Shenzhen, by contrast, places greater emphasis on enabling ordinary litigants to access justice, understand litigation procedures and bear predictable litigation costs. Each model has its own institutional logic. The Chinese Hong Kong model allows complex disputes to be handled through refined and professional legal services, while the Shenzhen model seeks to embed dispute resolution in a more efficient and accessible system of public service. This article does not attempt to rank the two models but instead examines the procedural stages that most directly shape litigants'

experience and asks how the two systems respond to the competing expectations of professionalism and accessibility.

2. Multi-Dimensional Institutional Comparison

2.1 Ease of Access to Courts

Shenzhen courts have continuously lowered the barriers for ordinary citizens to file lawsuits. Courts at both levels in Shenzhen have rolled out an online litigation-service appointment platform through which litigants and their representatives may schedule litigation services. As early as 2015, the Bao'an District People's Court established the country's first 24-hour self-service court facility, and by 2017 it had extended filing, document review, fee payment, mediation referral, case triage, file inspection, document generation and service into an online process [1-3]. The Mainland court fee system is also designed to be highly affordable and litigant-friendly. Where a case is concluded via mediation or withdrawn, the case acceptance fee is payable at half the standard rate, and some Shenzhen courts have issued practice guidance allowing lower fees or exemption in specified pre-litigation, pre-trial mediation or court-referred mediation scenarios [4-6]. By contrast, civil litigation in Chinese Hong Kong remains fundamentally lawyer-led; parties usually need solicitors and barristers to commence and advance proceedings, and ordinary citizens may find it difficult to conduct complex civil litigation on their own. This distinction shapes the ease and cost of entering the justice system in the two places.

2.2 Regulation of Lawyers' Fees

Chinese mainland imposes clear maximum percentage caps on contingency fee arrangements for lawyers. Pursuant to the Opinion on Further Regulating Lawyers' Service Fees jointly issued in 2021 by the Ministry of Justice, the National Development and Reform Commission and the State Administration for Market Regulation, aggregate contingency fees are capped by tiers according to the amount in dispute: no more than 18% for the portion below RMB 1 million, 15% for the portion from RMB 1 million to RMB 5 million, 12% for the portion from RMB 5 million to RMB 10 million, 9% for the portion from RMB 10 million to RMB 50 million, and 6% for the portion above RMB 50 million [7]. In Shenzhen practice, lawyers often use "no more than 18% of the amount in dispute" as a rough shortcut to help clients quickly understand the possible cost of a contingency fee arrangement. Lawyers' fees in Chinese Hong Kong are mainly market-based; fixed-fee and hourly-fee arrangements are common in commercial litigation, and fees for senior barristers can be substantial. Hourly fees of tens of thousands of Chinese Hong Kong dollars are not unusual [8-9].

2.3 Allocation of Lawyers' Fees

This is one of the most significant differences between the two jurisdictions. Chinese Hong Kong civil litigation generally follows the "costs follow the event" principle. The losing party bears its own legal costs and may also have to pay the recoverable portion of the successful party's legal costs after taxation or assessment. The amount recoverable depends on the applicable basis of costs, the complexity of the case and the outcome of assessment [10-11]. In Chinese mainland, legal representation is not mandatory and courts play a more active role in fact-finding and applying the law, so the general rule is that each party bears its own lawyers' fees unless otherwise provided by law or agreed by the parties. This divergence fundamentally shapes how parties approach litigation. Cost rules in Chinese Hong Kong can deter frivolous claims but may also further disadvantage parties of weaker means; the Mainland principle that each party bears its own costs lowers the

economic threshold for claiming rights, but may also leave room for abusive or strategic litigation.

2.4 The Leave Requirement for Appeals

Chinese Hong Kong imposes a strict leave-to-appeal screening mechanism on certain appellate pathways. Appeals from District Court judgments and interlocutory decisions of the High Court require prior leave before they may proceed; an appeal to the Court of Final Appeal must further demonstrate that the case involves a point of law of great general or public importance. According to 2024 data, 572 civil applications for leave to appeal before the Court of Final Appeal were disposed of, of which 536 were dismissed under Rule 7 of the Chinese Hong Kong Court of Final Appeal Rules [12-14]. Chinese mainland adopts a two-instance system in which the second-instance judgment is final: a party dissatisfied with a first-instance judgment may appeal directly without any prior leave procedure. The leave-to-appeal system is a typical reflection of Chinese Hong Kong's "elite justice", preserving judicial resources by selecting cases at the front end and ensuring that final appellate resources are reserved for cases that genuinely require further review. By contrast, appeals as of right in Chinese mainland place greater emphasis on the parties' right to obtain a further remedy.

2.5 Time Limits for Adjudication

The Civil Procedure Law in Chinese mainland imposes relatively strict adjudication time limits on courts at each level. A first-instance case tried under the ordinary procedure must be concluded within six months, and one tried under the summary procedure within three months; an appeal against a judgment must be concluded within three months, and an appeal against a ruling within thirty days. Any extension must be approved by the court president or a higher court [15-17]. Chinese Hong Kong civil litigation has no comparable statutory time-limit system. Instead, case progress is controlled mainly through listing targets and case management. Each year, under Head 80 of the Judiciary's expenditure estimates in the Budget, the Chinese Hong Kong Judiciary publishes target average waiting times for courts at different levels. These targets operate as publicly stated service standards rather than statutory deadlines and exceeding them does not affect the validity of a judgment. "Waiting time" refers to the period between completion of pre-trial steps and entry of a case into the civil fixture list, on the one hand, and the actual hearing date fixed by the court, on the other; it reflects the available trial resources and listing pressure faced by the courts. According to information submitted by the Chinese Hong Kong Government to the Legislative Council on 6 May 2026, in 2025 the average waiting time was 113 days for the Civil Fixture List in the District Court and 151 days for the Civil Fixture List in the Court of First Instance of the High Court. Over the same period, the average waiting time for civil cases in the Court of Appeal, measured from application for fixing a hearing date to the hearing, was 73 days, below the target of 90 days. In the Court of Final Appeal, the average waiting times for civil applications for leave to appeal and civil appeals, measured from issuance of the hearing notice to the hearing, were 30 days and 94 days respectively, also below the corresponding targets of 35 and 120 days [18]. It should be noted, however, that these waiting-time figures do not represent the entire period from commencement of proceedings to final judgment. Once pre-trial steps, trial, judgment writing and possible multi-level appeals are taken into account, complex cases may take several years to reach final resolution. Overall, the time-limit system in Chinese mainland institutionalises the objective of resolving disputes expeditiously, whereas Chinese Hong Kong's listing and case-management framework, while still managing efficiency, preserves greater procedural space for complex cases.

2.6 Court Inquiry and Procurement of Evidence

The Civil Procedure Law in Chinese mainland provides that the court shall investigate and collect evidence where the parties or their agents are unable to do so for reasons beyond their control, or where the court deems such evidence necessary for adjudicating the case. Court inquiry and procurement of evidence operate in two modes: investigation upon a party's application (where the party cannot collect the evidence on its own), and investigation on the court's own motion, involving state interests, public interests and personal status [19-20]. Under the common law system in Chinese Hong Kong, the court usually maintains a more passive adjudicative role. Evidence is primarily obtained by the parties through discovery and disclosure procedures, and the court intervenes only under specific procedural rules. The Mainland system helps address imbalances in the capacity of the litigants to obtain evidence and is an important mechanism through which people-centred justice protects weaker parties.

2.7 Burden of Proof in Administrative Litigation

In Mainland administrative litigation, the burden of proof rests on the defendant. Under Article 34 of the Administrative Litigation Law, the defendant, namely the administrative authority, bears the burden of proving the legality of the administrative act it has taken, and must provide the evidence and normative documents on which that act was based. If the defendant fails to do so, or provides them late without justified reasons, it will be treated as having no evidence supporting the administrative act [21-22]. By contrast, in Chinese Hong Kong judicial review proceedings, the burden of proof rests primarily on the applicant, who must show that the challenged administrative act is unlawful, irrational or procedurally improper. Even at the stage of applying for leave to commence judicial review, the applicant must meet the threshold of an "arguable case". In Chinese mainland, case filing in administrative litigation is mainly subject to formal review, while the reversed burden of proof serves as an institutional correction for the inherent imbalance of power between persons affected by administrative action and administrative authorities.

2.8 Differences at the Enforcement Stage

The enforcement stage perhaps best illustrates the different roles assigned to the courts in the two systems. In Shenzhen, civil enforcement is led by the Enforcement Bureau of the court. Although the applicant may provide information about assets, the court is required to investigate the identity and assets of the judgment debtor through the Online Enforcement Inquiry-and-Control System, issuing investigation orders and other methods, and may take measures such as sealing up, seizing, freezing, transferring, auctioning or selling assets, restricting consumption and placing the debtor on the List of Dishonest Judgment Debtors [23-24]. In practical terms, once a successful party enters enforcement, the Mainland court performs much of the integrated work of locating the debtor, identifying assets, controlling those assets and converting them into payment. The overall feature is court-led enforcement, under which the applicant usually does not need to bear the same level of time, information-gathering and procedural costs as in a party-driven model. Chinese Hong Kong is closer to a party-driven model. The judgment creditor normally has to choose and apply for specific enforcement tools, such as a Writ of Fieri Facias (bailiff execution against goods), examination of the judgment debtor, a Garnishee Order, or a Charging Order [25-27]. If the creditor does not know what assets the debtor has, it may first have to use an examination procedure before deciding which enforcement tool to pursue. Enforcement in Chinese Hong Kong therefore often feels less like an administrative continuation of the judgment and more like a distinct set of ancillary proceedings that must be strategically designed and advanced, often requiring legal representation. For ordinary

litigants, this can substantially increase time costs and legal expenses.

3. The Roots of the Differences

The institutional differences outlined above are ultimately rooted in different legal cultures and traditions of social governance. The elite-justice model in Chinese Hong Kong emerged from the English common law tradition and is supported by case law, adversarial procedure and a professional legal community. Law is regarded as a highly professional field, and the realization of justice depends heavily on the professional competence of lawyers and judges. The people-centred justice model in Shenzhen, by contrast, is rooted in the socialist rule-of-law path with Chinese characteristics. Lowering litigation barriers, improving adjudicative efficiency and minimizing disparities in parties' practical capacities are often prioritised in institutional design. The two models respond to different expectations of the judicial system. The Chinese Hong Kong model stresses judicial professionalism and procedural rigour, while the Shenzhen model emphasises efficient, accessible and practically effective dispute resolution. The difference itself does not imply superiority or inferiority; rather, it reflects the projection of different social needs within judicial institutions.

4. Conclusion: The Possibility of Mutual Learning

Divergence does not equate to hierarchy. The elite-justice model in Chinese Hong Kong and the people-centred model in Shenzhen are not positioned at opposite ends of a single evaluative hierarchy; rather, each responds to the needs of different stages of social development and the core concerns of different social groups. As cross-border civil and commercial interaction within the Greater Bay Area deepens, the two models have begun to influence one another. The Shenzhen Qianhai Court has taken the lead in establishing mechanisms such as the selection of people's assessors from Chinese Hong Kong and has issued working guidelines on the alignment of cross-border commercial litigation rules, providing a normative basis for practices such as evidence disclosure and witness appearance [28]. Chinese Hong Kong has also continued to advance civil justice reform, using case management, listing targets and electronic filing systems to improve litigation efficiency [29-30]. What is truly worth looking forward to is the possibility that "people's justice" may absorb the procedural refinement of "elite justice" while preserving access to justice, and that "elite justice" may rediscover the value of judicial accessibility while maintaining professional rigour. Such mutual learning may provide sustained momentum for the development of the rule of law in the Greater Bay Area.

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