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## Why I Research China's Supreme People's Court

Because it keeps evolving  
and it matters

By [Susan Finder](#)

Some say it is my fate in life (缘分) to research China's Supreme People's Court (SPC). I was set on this unlikely path in the late 1980s, when I was introduced to a series of Chinese judges who were open enough to meet with a young American and answer my many questions about the epic changes just beginning at their courts. One meeting led to another, and eventually enabled me to write my 1993 article, "[The Supreme People's Court of the People's Republic of China](#)," the first systematic study of the court by a scholar from inside or outside of China. I concluded in my article that thirteen years of economic and social reforms had given the SPC more autonomy, increased specialization, and a focus on issuing legal (judicial) rules, particularly in the area of commercial law. I wrote in 1993 that I saw the appointment of Ren Jianxin as SPC president (from 1988) and secretary of the Central Political-Legal Committee (from 1992) as symbolizing the greater importance of the law and judiciary in formulating Chinese Communist Party

(Party) policies that would guide China's shift to a socialist market-oriented economy.

The SPC today is much bigger and more professional, with hugely greater capacities in almost every way. At the same time, I see many fascinating points of continuity with its former self. The court's impact on the world outside of the People's Republic of China is clearly much greater than before. It now attracts many academic studies, in contrast to the early 1990s when I was told that I was wasting my time researching the SPC. Ironically, the academic attention has not translated into easily accessible work for those seeking to understand the role of China's highest court. Here are a few of the most important things that non-specialists outside of China should understand.

*[T]he SPC is institutionally both more and less powerful than other apex courts.*

First, the SPC is a unique institution among national supreme courts with some special functions and modes of operation. It operates as a cross between a Party-state organ and a court. It has commonalities and differences with other apex courts, and with other central Party and state organs. It is more important to the Party leadership in the Xi Jinping "New Era" in its [governance of China](#) than it was in the 1990s in multiple ways, especially as related to societal and economic development.

Second, like other Party and state organs, the SPC is organized in an administrative pyramid, and its judges have bureaucratic

ranks. The highest-ranking judges are primarily focused on administrative and Party matters, both internal and external to the court system, although they must decide some substantive case matters. They have greater decision-making power with respect to cases than an ordinary judge but that does not mean they were involved in deciding all or even most of the more than [35,773 matters decided by the SPC in 2020](#). (A substantial number of those matters were applications to the SPC for retrial or reconsideration of a decision in an administrative case; most were rejected. Under [a recently announced reform](#) pilot adjusting the respective roles of the four levels of Chinese courts, the number of cases that the SPC considers is anticipated to drop.) The Party leadership announces general targets for the SPC and other political-legal institutions to fulfill. Since 2016, Party inspection groups inspect the SPC, as they do all central Party and state institutions and state-owned enterprises, to [ensure](#) that it complies with central Party requirements.

Third, because CCP leadership now values the role of the SPC and the court system in national governance, it is more involved in approving major changes to the court system, such as two rounds of court reforms implemented since 2015. Top leadership involvement also means that judicial reforms that involve commitments by other powerful ministries, such as the Finance Ministry's commitment to ensure judges are paid more than civil servants of an equivalent rank, must be implemented.

Fourth, the SPC is institutionally both more and less powerful than other apex courts. It has more functions, such as issuing quasi-legislation entitled “judicial interpretations” (司法解释) to fill in gaps left by broadly drafted legislation. Whether those interpretations bind institutions other than lower level courts is unclear and [in theory, the NPC Standing Committee can order the SPC to amend or annul a judicial interpretation](#). The SPC also issues judicial policy documents, some entitled “opinions” (意见), to transform Party and state policy into practical measures for implementation. It [cooperates](#) with other institutions through inter-ministerial conferences and joint conference mechanisms. Its power to invalidate ministerial rules means that it is often called upon to review drafts behind the scenes.

Fifth, the SPC treats judicial decision-making as an institutional function, making the role of the individual judge or panel of judges less important and less visible. Although those of us who have heard SPC judges speak on legal issues can attest that some are as capable as their counterparts abroad, they are not well known even at home. Chinese law students may be more familiar with the names of some US Supreme Court justices and other prominent foreign judges than those on the SPC.

*[W]hat the SPC decides is already having an impact on the world outside China.*

Sixth, what the SPC decides is already having an impact on the world outside China. That will only increase because the Party leadership has decided China needs to have a greater impact on the law outside China, including tools for responding when Chinese interests abroad are affected by the laws of other jurisdictions. One recent example is the [2020 order](#) issued by the SPC's Intellectual Property Court in *Huawei v. Conversant*. The court issued an [anti-suit injunction against Conversant](#), a German patent holding entity, ordering it not to enforce a judgment of a Dusseldorf court against Huawei. Informed commentators predict that Chinese courts are likely to decide what global licensing rates for standard essential patents for mobile phones are considered “fair, reasonable, and non-discriminatory,” simply because so much mobile phone manufacturing is done in China. Recent Party and [SPC policy](#) calls for expanding the influence of Chinese law abroad, and SPC judges have written about the policy implications.

From these points, it is clear that the SPC actively uses its unique authority to serve the needs of the Party and the country. Those needs currently include exercising its jurisdiction over a larger variety of cross-border cases. We can expect Chinese courts to exercise their authority robustly. Whether this bolsters or weakens international confidence in the Chinese judiciary remains to be seen.

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