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Threat to Family Stability or Social Stability? Domestic Violence Protection Orders in Two Chinese Courts

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Abstract

In this examination of domestic violence protection orders in two lower-level Chinese courts, the interpretation of gender violence with respect to political concerns for social stability plays an essential role in the law's effectiveness. In an urbanized coastal area court, judges see gender violence as a direct threat to social stability. To maintain stability, they facilitate claims against gender violence. Conversely, in a rural court, judges view gender violence as a direct threat to family stability. To maintain family stability, which is closely linked to social stability, they suppress claims against gender violence. This study proposes that, when global discourses are reformulated, new forms of cultural and political appropriation emerge. It highlights the complexities that arise when law, culture, and politics intermingle in the process of law and globalization. Understanding these complexities is crucial for addressing challenges in implementing global legal reforms at the local level and ensuring protection against gender violence.

Under the influence of globalization, China has promulgated a series of laws that incorporate some of the world's best mechanisms for combating gender violence. Yet gender violence remains widespread (Chen 2020). Numerous studies have pointed to the inadequate judicial protections for victims. Scholars offer various explanations: Xin He (2021), for example, focuses on the institutional constraints facing judges (see also Michelson 2022; Yu 2022); some point to how the state has reconfigured its statecraft and undermined rural women's rights by reinforcing patriarchal norms (Li 2022, 5–7); others note the inadequacies of the legislation (Palmer 2017) or the exceedingly high evidential standards of the courts (Ng 2022). While these studies

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have provided insights to the local-global interface in the implementation of legal reforms concerning violence against women, they share a common assumption: the practices seem homogenous across the country. Yet, as abundantly demonstrated, regional variations factor prominently in the operation of China's legal system and the realization of rights (He 2011; Ng and He 2017a). We know very little about exactly how the local-global conflict unfolds and is negotiated and settled in such a vast country.

This article investigates the implementation of the Personal Safety Protection Order Mechanism, a column of the Anti-Domestic Violence Law (ADVL), in two basic-level courts: one is located in the more developed coastal Guangdong Province, and the other in the western Shaanxi Province.¹ Even though the two courts are subject to the same laws, their implementation of the mechanism offers a stark contrast. The Guangdong court takes a facilitative attitude toward the mechanism, while the Shaanxi court is resistant. I argue that the interpretation of gender violence in light of political concerns for social stability plays a crucial role in the varied legal implementations in Chinese courts. As documented in multiple studies (Liebman 2011; Ng and He 2017a; Feng and Zeng 2022; Clarke 2022; He 2025), the concern for social stability significantly affects court operations. However, judges in the Guangdong court and the Shaanxi court interpret gender violence differently when addressing this concern.

In the Guangdong court, judges view gender violence as a direct threat to social stability. They adhere to a conception of marriage informed by international norms and national laws, where marriage is a partnership between two equal individuals and should be dissolved if one party can no longer tolerate the other. Personal liberty and individuality are prioritized over family stability. To maintain social stability, judges in this court handle claims against gender violence swiftly and decisively. In contrast, judges in the Shaanxi court interpret gender violence as a direct threat to family stability. They believe that implementing protection orders may overprotect women and ultimately undermine social stability. Influenced by traditional norms of marriage that prioritize lineage continuation as the primary goal, they view family endurance as being more important than addressing gender violence. As a result, they suppress claims against gender violence. In this perspective, social stability is maintained through the protection of family integrity rather than individual rights.

Gender violence has been a critical vantage point for assessing the impact of globalized legal reform on local practices (Lazarus-Black 2001; Hirsch 2003; Lazarus-Black and Merry 2003; Merry 2003). This study extends this inquiry to China, the most populous country and one that is experiencing significant cultural and social changes. While previous studies have found that global legal regulations of gender violence do not promote homogeneity across different countries (Lazarus-Black 2001; Hirsch 2003), this study uncovers varied practices within a single country at the local level. Crucially, this disparity is closely related to how local judges interpret the role of gender violence in achieving social stability, which is the paramount political goal of the state. While earlier studies have documented various forms of cultural resistance, they rarely have found that political concerns play such a significant role in the

¹ Anti-Domestic Violence Law of the People's Republic of China, promulgated on December 27, 2015, effective on March 1, 2016 (ADVL).

globalization process. As global discourses are reformulated, new forms of cultural and political appropriation emerge. While judges are expected to enforce the law, some resist enforcement, revealing the complexities when law, culture, and politics intertwine in the process of law and globalization. This study highlights the importance of understanding these complexities and the role of political concerns in shaping the implementation of globalized legal reforms.

The politics of gender violence

Law and society literature has long noted that gender violence cannot be understood beyond specific cultural systems. According to Jean Comaroff and John Comaroff's (1991) classic definition, culture is regarded not as static or fixed but, rather, as a historic product, constantly being made and remade and rife with internal conflicts and differences. After all, violence is not just a category of injury, pain, and death; fundamentally, it is a cultural construct (Scheper-Hughes and Bourgois 2004, 1). Societies define that some forms of violence are abusive and punishable, while others may be reasonable, acceptable, and even heroic. Similarly, the meaning of gender violence depends on the gendered identities, which are often used to explain and justify the violence. Such identities are located in different social contexts, including particular sets of social relationships and structures of power.

Historically, fights against gender violence have been regarded as a threat to family integrity in the United States. Linda Gordon (1988, 3) observes that gender violence became visible with the rise of feminism but lost public interest when the unity of the traditional family continued to be the norm. Inside the courtroom, in a time when the family should have been held together at all costs and the unity of spouses was prioritized, judicial inaction and indifference to wife battery was the pattern in the United States (Dobash and Dobash 1979, 218–22; Schechter 1982; Eaton 1986; Pleck 1987; Fineman and Mykitiuk 1994). Indeed, many judges have regarded gender violence as a matter of the family, so much so that Kathleen Daly (1987) called it “familial-based justice.” Christina Pratt (2000, 16–17) found that many New York judges subscribe to familism, which defers to the religious and cultural ideals of family. Ronit Dinovitzer and Myrna Dawson's (2007, 666) empirical analysis finds a similar pattern: serious domestic violence offenders of intact relationships receive shorter sentences. Public prosecutors, believing that gender violence is a family matter, are reluctant to pursue cases against gender violence offenders when victims seek restraining orders in court (Hirschel and Hutchison 2001, 47).

Most notably, Sally Engel Merry (2002) argues that the understanding of gender violence determines the shape of legal intervention. In a Hawaiian court during much of the nineteenth century, judges, shaped by the Christian missionary concern, often regarded gender violence as minor or even excusable in order to protect the integrity of marriage (Merry 2002, 81). They focused less on reforming the batterers than on maintaining marriages. Sometimes the penalties against deserting women were heavier than those against men who committed gender violence (99). Adultery to another man may not justify violence, but it would lighten the punishment. It is thus unsurprising that, when gender violence is globally regulated, it has not led to a relatively uniform understanding of the family and individual. As Mindie Lazarus-Black and Sally Merry (2003, 933) assert, “[f]rom Trinidad and Tanzania, nations do

not simply adopt new definitions of gender violence and its regulation, but contest and revise the international categories.” For example, Trinidad’s statute provided a provision for an “undertaking” in order to allow the gender violence offender a way out from the stigma of the court order (Lazarus-Black 2001). This was meant to avoid interfering in the personal matters of families. In this sense, gender violence law is not understood as a vehicle that protects individual rights but, rather, as a mode that also keeps families together (Lazarus-Black 2007).

Similar patterns have been observed in other countries. In Israel, the goals of the religious court that governs family law are to maintain the family and preserve the masculine rule (Adelman 2000, 1242–44). The maintenance of family often overrides individual complaints of violence. In the Family Court of India, women’s safety is often dispensed by the preservation of marriage (Vatuk 2001, 230). In Trinidad, Lazarus-Black (2007) found delays of the courts in offering protections against gender violence and few complainants seeking help from the courts. She explains the limit of the law’s implementation with “cultures of reconciliation,” with which family members, co-workers, and lawyers keep victims from pursuing legal remedies and buttress accommodation to everyday violence. While many factors were in play, the role of kinship ideology had considerable influence. Overall, gender violence is regarded as a matter that should be kept within the family.

China has long regarded gender violence as a family matter. Unique in China, however, is that family stability is intricately intertwined with social stability. The freedom of divorce, for example, often contradicts with the state concern for social stability (Huang 2010; Li and Friedman 2016; Palmer 2017; Li 2022). How does family stability intersect with social stability in the battles against gender violence in China, a country with ingrained patriarchal and patrilineal traditions that is undergoing dramatic socioeconomic changes? What are the stances of Chinese judges on gender violence, family stability, and social stability? How do their cultural conceptions affect judicial behavior?

While Chinese judges are supposed to apply the globalized law against gender violence consistently across the country, they may hold two different interpretations on how gender violence relates to family stability and social stability. At one end of the spectrum, judges believe that the two parties within a marriage are equal and independent and should treat each other with care and respect. Equality is a word underlying the conception of marriage, which is a result of the free choice of both parties (see Table 1). Individuals’ rights are prioritized over family stability. In line with the national law, any form of gender violence is regarded as a threat to social stability. With the Protection Order Mechanism and divorce as powerful legal weapons, the law is meant to help women who are suffering gender violence leave the man. Domestic abusers should be warned, educated, penalized, and reformed.

At the other end of the spectrum, however, marriage is regarded, first and foremost, as a vehicle for a family to continue to the next generation. Family stability should be prioritized and regarded as the precondition for social stability (Zheng 2022). The child, and, more precisely, a male heir, is the watchword underlying this conception of marriage (Qü 1981, 88). In order to have children, men, often with the support of their family, will pay an extortionate bride price to enable themselves to get married. Heavily affected by traditional Chinese culture and reinforced by the ideology of the socialist period, domestic violence has been regarded as a normal part

Table 1. Two interpretations on domestic violence in China

	Global	Traditional
Domestic Violence	Threat to social stability	Threat to family stability
Norms Behind	Globalized laws	Chinese culture and local social economic conditions
Watchword for Marriage	Equality	Child
Attitude toward Family	Dissolvable	Enduring
Protection Order	Protects the woman and shall be issued with minimum thresholds	Overprotects the woman and shall be considered only if divorce is inevitable

Source: Author's summary.

of marriage: regular, tolerable, and even desirable. Interpreted as a threat to family stability, it should be trivialized. It is the victims rather than the abusers who should be educated. The punishment of abusers is only necessary to deter more serious harm.

The protection order mechanism

While laws on gender rights evolved slowly in the West, they became enormously influential once they were globalized. The process of globalization has left indelible marks on China's legal fight against gender violence. Since the 1990s, "it was intended to bring CEDAW [UN Convention on Eliminating Discrimination against Women] principles into Chinese law" (Merry 2006, 147; *Xinhua News* 2016). According to Merry (2006, 150), who attended the first international conference on violence against women held in Beijing in 2002, the participants spoke of the need to catch up with the United States, Canada, the Nordic countries, and Japan.² Indeed, CEDAW was the result of global culture production, offering universal norms and mechanisms for implementing laws (Merry 2003, 2006): "The process of ratification, preparing reports, and presenting and discussing reports fosters new cultural understandings of gender and violence" (Merry 2003, 943). As late as 1990, China still denied that it had a gender violence problem (Liu and Chan 1999). Yet the international conference on women in Beijing in 1995 galvanized public awareness of gender violence (*Xinhua News* 2016). A 2013 United Nations (UN) study found that 50 percent of men in China "had used physical or sexual violence against an intimate partner" (quoted in Fincher 2016, 146). China has gradually switched its position and admitted that gender violence is a serious problem. Chinese official statistics report that a quarter of women have been the victims of domestic abuse (*China Daily* 2003; CCTV 2017).

With the penetration of globalization, China has promulgated an avalanche of legal provisions fighting against domestic violence (Runge 2015). In 2015, China promulgated the standalone ADVL, and many provinces issued detailed regulations for implementing the law. Most visibly, the Protection Order Mechanism (人身安全

² Convention on the Elimination of All Forms of Discrimination against Women, 1979, 1249 UNTS 13 (CEDAW).

保护令) was included in the ADVL. The ADVL broadly defines domestic violence as physical or mental harm occurring between family members. The Supreme People's Court (SPC) (2017) stresses that "no excuse for committing domestic violence is acceptable."³ Until 2000, no law in China had ever mentioned "domestic violence"; it then took only fifteen years to promulgate the ADVL, which coincided with the process of assimilating gender violence into the frame of universal human rights with its expression in international law (Kick and Sikkink 1998). Indeed, China never had mechanisms similar to *habeas corpus* (Kaiser 2021). It is thus somewhat strange that China has adopted the Protection Order Mechanism to safeguard the victims of domestic violence. This transplant has been heavily influenced by the outside world (Xinhua News 2016).

The ADVL went into effect on March 1, 2016. Its implementation, however, is another matter. It is true that the number of orders approved has increased steadily (see Figure 1), and the approval rate has increased from 52 percent in 2016 to 73 percent in 2021 (Wang 2022, 12). Yet the overall picture remains bleak: both the number of petitions and the number of approved orders have been extremely low (Jiang 2019, 17). Between 2016 and 2021, the courts issued only 10,917 such orders, in contrast to the at least ten million divorce cases processed during the same period. The SPC's (2024) work report indicates that, in 2023, the courts issued only 5,695 orders. Since China has about three thousand courts, this suggests that, on average, each court has issued fewer than two orders over the course of the whole year. Protection orders are also far outnumbered by the warnings issued by police (Wang 2022). In Ningxia in northwestern China, the police handled seventy thousand conflicts involving domestic violence and issued five hundred warnings from 2016 to 2018 (Na 2021, 18). But the whole region issued fewer than two hundred protection orders up to the beginning of 2022 (Wang 2022, 13). By contrast, Singapore, a country with four million people, issues three thousand such orders annually (8world 2018).

Moreover, there exist enormous regional differences. The official statistics indicate that two more developed regions—Jiangsu Province and Chongqing Municipality—have issued five times as many protection orders as in four other less developed regions combined: Tibet, Ningxia, Xinjiang (autonomous minority regions), and Hainan (the least developed coastal province) (Wang 2022, 13). Court practices even vary between big cities, such as Beijing and Shanghai (Equality 2020, 45). The situation has become a serious cause of concern for the state. On March 5, 2022, the SPC, together with six ministries, issued the Opinion on Strengthening the Implementation of the Personal Safety Protection Order Mechanism.⁴ The Protection Order Mechanism begins with the goal to "maintain equal, harmonious and civilized family relationship, facilitate family harmony and *social stability*" (emphasis added). Five months later, the SPC issued another regulation on the detailed implementation

³ Supreme People's Court (SPC), Notice of the SPC on Trying Cases Regarding Marriage and Family Disputes in Accordance of Law and Effectively Safeguarding the Parties' Lawful Rights and Interests and Personal Safety, promulgated on September 21, 2017.

⁴ Opinion on Strengthening the Implementation of the Personal Safety Protection Order Mechanism, promulgated by the Supreme People's Court, the All-China Women's Federation, the Ministry of Education, the Ministry of Public Security, the Ministry of Civil Affairs, the Ministry of Justice, and the National Health Commission, March 3, 2022.

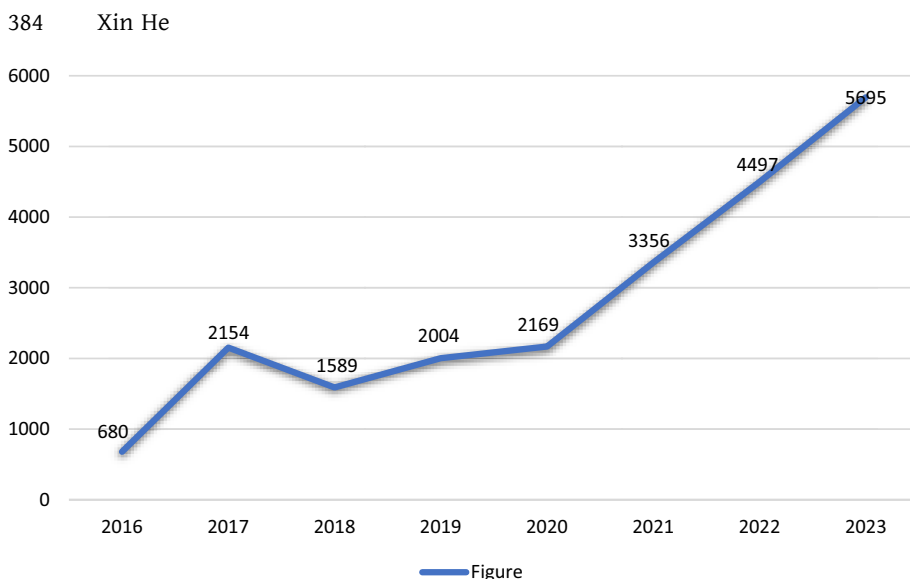


Figure 1. National statistics for protection orders issued

Notes: The figure for 2022 was calculated based on a statement of He Xiaoyong, a vice president of the SPC, that the number of protection orders issued in 2022 increased annually by 34 percent.

Source: Supreme People's Court Work Reports (2018–22, 2024).

of the mechanism.⁵ Both documents mention problems in implementation, such as a high evidential threshold for issuing protection orders and the lack of a clear division of labor among state apparatuses. The SPC also promulgated two batches of relevant guiding cases. These guiding cases clarify the types of protection orders, the scope of the victims and the applicants, and the ways in which victims can request an order. All these efforts indicate that the SPC and the government have relentlessly pushed for more use of the Protection Order Mechanism.

Data and methods

This study is based on fieldwork investigations at two basic-level courts, one located in the booming Pearl River Delta, which is the heart of coastal Guangdong Province (Court G), the other in Shaanxi Province (Court S) in the northwestern region of China. The cities where the two courts are situated contrast with each other markedly in terms of geographical location, population, and the level and nature of the economy. City S has been economically left behind since the economic reforms that began in the 1980s. By 2021, the gross domestic product (GDP) per capita reached around 53,200 yuan, which is below the average of Shaanxi Province, 75,400 yuan (National Bureau of Statistics in China 2022). Agriculture is the pillar industry because of the fertile valleys formed by the Yellow River and a climate that is congenial to the growing of wheat. Many local peasants have temporarily migrated to the cities or coastal areas for jobs and better living conditions. Because of both migration and the low birth rate, the size

⁵ SPC, Provisions on Several Issues Concerning the Application of Law in the Handling of Cases Involving the Personal Safety Protection Order, promulgated on August 1, 2022.

of the population has shrunk from 329,500 in 2016 to about three hundred thousand in 2020. In this city, which was affected by the One Child Policy that was implemented for more than three decades and the bias against baby girls, the shortage of marriageable women has become a serious matter. The men-women ratio was 112.1, which means that one of nine men cannot find a spouse from the region. The ratio lies at the high end of the spectrum of the province, which ranges from 94.4 to 118.4. This pattern is roughly consistent with the national statistics. China's overall gender gap has recently eased, but the 2020 census indicated that men still outnumber women by 17.5 million in the twenty-to-forty age group (NetEase News 2021).

In contrast, the district in which Court G is located had a population of about 1.4 million in 2021. Rice cultivation and aquaculture (breeding of freshwater fish, shellfish, mussels, and clams) were the main activities of its strong agricultural industry. But, recently, partly due to the national policy to develop the Grand Bay Areas in the Pearl River Delta, City G has undergone rapid economic development. Its GDP surged from 95,500 yuan in 2011 to 159,000 yuan in 2021, higher than most other Guangdong cities. Young migrant workers have streamed into the city, seeking employment in the city's booming industrial complexes and in the local construction companies that are building many of these new manufacturing and assembly facilities. It is a melting pot in which marriages take place between people with vastly different backgrounds.

Court G, with a staff of over five hundred people, handles approximately forty thousand cases each year, covering civil, commercial, and judgment enforcement matters. The court's workload is quite high, with judges handling an average of 330 cases annually, almost one per calendar day. Around 750 of these cases are family related, primarily divorce cases. Court G's Family and Youth Division (家少庭) is led by Judge G1, with three judges focusing on family matters and one on adolescent (mostly criminal) issues. In contrast, Court S has a smaller staff of more than two hundred individuals and receives about eight thousand cases per year, including fewer than five hundred divorce cases. Court S does not have a separate division for family issues; however, a vice division head, Judge S1, oversees family cases. This comparison illustrates the differences in the structure and caseloads of the two courts, which may impact their approach to handling family and gender violence cases.

As part of a larger study on Chinese legal systems, I visited Court G numerous times. Each visit lasted about a week. The most recent trip took place in September 2022. However, it took me a while to decide on Court S. Most courts in the region can go several years without issuing a single protection order. Some courts have issued some orders but only in 2017, right after the promulgation of the ADVL. Similar ups and downs were found in the neighboring regions, apparently linked to concerted efforts to promote the ADVL at the time (compare Na 2021, 19). In other words, judges in these courts may have no experience whatsoever in issuing orders. Since Court S has consistently issued protection orders over the last five years, the choice became clear. I stayed there for two weeks in March 2022. My fieldwork investigation took place during the COVID-19 pandemic, but, according to the judges, the pandemic did not result in any unusual patterns on divorce filings or domestic violence except that the court heard divorce cases on the Internet. Their implementing policies and institutions predated the pandemic.

In both courts, I asked for and was granted permission to look at all the cases in which protection orders were applied from 2019 to 2022. I studied the files, paying special attention to the procedures, the applications, the evidence presented, whether the orders were granted, whether a divorce was eventually filed, and the outcomes. All these factors helped in the assessment of the Protection Order Mechanism's implementation. Although Court S issued more protection orders than its neighboring courts (which is why its number is higher than the national average), the number is considerably lower compared to Court G. From the beginning of 2019 to August 2022, it received only thirteen applications (see [Table 2](#)). It approved eleven and rejected two. The judges in Court S told me that their relatively high approval rate—about 85 percent—was due to the fact that many potential applicants were dissuaded by the judges. During the same period, Court G received sixty-nine applications and approved sixty-four. It dismissed three, and two were withdrawn. The approval rate was about 93 percent. The approved cases in Court G were also more diversified, focusing not only on gender violence but also including protective orders for children, the elderly, and cohabitants. Due to the court's innovative approach to the fight against domestic violence, many of its cases were selected as representative cases by the provincial high court. In contrast, the cases of Court S were focused solely on gender violence. The number of cases that were approved by Court G was six times as great as the number approved by Court S (see [Table 3](#)).

To look in-depth into the implementation process of the protection orders, I conducted lengthy interviews with three judges in each court who had experience with protection orders. These judges were solely responsible for divorce cases. There was no clear distinction between the two groups in terms of age, education, and hometown origin. In both courts, only one judge was from the region. All of them had received a formal legal education before landing the job in court. One of the judges of Court G and two of Court S were male. I focused on the processes related to the Protection Order Mechanism and discussed individual cases with them. I also interviewed a vice president of the intermediate (appellate) court of Court G to get their perspective on a policy maker. The interviews averaged sixty to ninety minutes in length. Some lasted more than two hours. I made an effort to talk to some of the judges multiple times. I started the interviews by asking each judge to describe the protection order process. I then moved on to deeper questions, asking them about cases they had presided over that had been successful or had failed and the stories behind them. I paid special attention to the different standards and procedures that the judges adopted in issuing the orders. Furthermore, I asked their views on the families and the children as well as on domestic violence. I also asked the prevailing norms and practices of marriage in the localities, including the status of men and women in marriage. I was fascinated by the exorbitant bride price in City S and its remarkable impact on the judges' approaches to domestic violence. The average bride price reaches 130,000 yuan, which is about three times the local GDP (see [Table 4](#)). Equally fascinating is that, in Court G, the bride price plays almost no role in the process: the average price was only 29,000 yuan, about 18 percent of the local GDP. Few litigants regarded it as an issue.

The interviews provided me with a rich source of qualitative data on the Protection Order Mechanism as it is practiced. I also obtained from both courts a full list of written judgments from cases involving protection orders in 2022. These

Table 2. The number of protection order applications in Courts G and S

	Court G	Court S
2019	21	2
2020	19	7
2021	16	2
2022	13	1
Total	69	13

Source: Author's fieldwork investigations.

Table 3. Statistics related to protection orders in Courts G and S, 2019 – August 2022

	Court G	Court S
Population	1,200,000	300,000
Applications	69	13
Approved	64	11
Approval Rate	92.7%	84.6%
Divorce Filings	3205	1996
Approved Orders to Divorce Filings	1.20%	0.55%

Source: Population statistics are from the Annals of Cities G and S; other statistics are from author's fieldwork investigation.

written opinions are invaluable for studying the rationale behind issuing an order and its relationship with the divorce outcomes, if any. While examining the approved cases means that I could not locate the cases in which the litigants had been dissuaded, the approval criteria of the courts can be revealed through the levels of violence and the types of orders. Overall, the qualitative data show how courts have reacted to applicants' efforts to obtain protection orders from the courts. I also made an effort to verify the reactions of these courts with several judges in other courts or with secondary materials (see, for example, Chu 2016, quoted in Zheng 2022). In particular, I had a chance to interview a SPC judge who played a key role in launching the Protection Order Mechanism. All these materials complemented my primary sources from the two courts.

Threat to social stability or family stability?

In the early stage of Chinese legal reforms (the 1980s and 1990s), judges in western and rural areas might not have received formal legal training and thus were not always as professional as their counterparts in eastern, urban, and coastal areas (Ng and He 2017a). But the gap has narrowed remarkably since the 2014 judicial reforms and especially since the judge quota reform that separated judges adjudicating cases from other court staff (Sun and Fu 2022; He 2025). Entry-level judges have since been

Table 4. Socio-economic statistics of Cities G and S in 2021

	City G	City S
Population	1,400,000	300,000
Urbanization Rate (%)	90.76	53.67
GDP per Capita (yuan)	159,000	53,200
Average Bride Price (yuan)	29,000	150,000

Source: Annals of Cities G and S. Average bride prices were obtained by averaging various media reports.

recruited across the country: passing the unified judicial exam (which is the equivalent of the bar examination) is one of the preconditions. Indeed, when the ADVL became effective, judges across the country received training on the law (Wang 2022). In other words, all Chinese judges have been exposed to the principles of the ADVL, which promote gender equality and fight against domestic violence.

In addition, the concern with court efficiency cannot explain the difference between the two courts. If workloads were the reason for judges' reluctance to issue protection orders, as one suspects (He 2021, 137–38), this concern should have a greater impact on Court G than on Court S. Since the caseload of judges at Court G was much heavier, judges at Court G should have had more incentives to dissuade applicants from applying for orders. Yet, as will be detailed, they welcomed more applications. In contrast, Court S deterred more potential applications. It is also true that, in general, state organizations in coastal cities are more efficient than in western regions of the country. But to issue a protection order is not an administrative matter; it is a judicial remedy on which various interests have to be balanced. My interviews revealed that judges in Courts G and S have differing opinions on several questions: does domestic violence pose a direct threat to social stability or family stability; should individual rights or family protection take precedence; and what is the relationship between family stability and social stability?

The judges in Court G regarded marriage as dissolvable and family stability as dispensable. Oriented toward gender equality, Court G may be called “the equality court.” In an official document that promoted Court G's practices, the foremost idea was gender equality: “The idea of gender equality is firmly established; domestic violence must be fought. We review the extent to which the two parties are equal in the family, and whether there is a violent controlling relationship, to scientifically and lawfully protect each family member's legal rights” (Court G 2022). Highlighted are “each family members' legal rights.” In other words, to preserve the integrity of the family is no longer its top concern; it is dispensable if family members' rights are being infringed.

Judge G2 echoed such a view: “The first article of the ADVL stresses the rights protection of family members. When the law addresses the family, it emphasizes family harmony, but it does not state that one shall preserve the family. Of course, if the divorcing couple can reconcile, we are happy to help them. However, maintaining the integrity of marriage should be balanced with other considerations, most notably, family member's legal rights. The law makes clear that an equal, congenial, and civilized

family relationship shall be maintained.” This view is consistent with the position of the SPC, which often mentioned social stability in its opinions on the Protection Order Mechanism (SPC 2022). The SPC official who was behind the Protection Order Mechanism told me that the different conceptions of gender violence are a major obstacle to implementing the laws. In cases of domestic violence, judges believe that they shall first try to get the victim out of the shackles of marriage. Judge G1 said: “When a woman is mired in a marriage with a horrible man, the first thing is to get her out of that marriage. I would even encourage her to make compromises on other less urgent issues, such as property or custody.” She continued: “Once a man starts domestic violence, often it becomes repetitive and it gets more and more violent. We thus must help the victims to become aware of the protection orders and issue them as soon as possible. Delay may lead to disastrous consequences.”

So how does this court deal with the relationship between social stability and family stability? For a long time, China has been reluctant to grant divorce because the family was regarded as the basic unit of society; divorces could shake the foundation of society (Palmer 2017; Li 2022). The vice president of Court G’s appellate court said: “We live in an open and global world. Outdated ideas shall be replaced.” She explicated: “Social stability is always a concern for us. But family stability does not equal social stability. If we tolerate domestic violence, it indeed may lead to malicious incidents, such as women who kill in response to domestic violence. That will actually threaten social stability. That is why we make policy changes to allow the victims to access judicial remedies as quickly as possible.” It is clear that domestic violence has been regarded as a threat to social stability. Judge G1 stated that “delay [in issuing protection orders] may lead to disastrous consequences.” The vice president used “malicious incidents” to describe the consequence of court inaction for domestic violence. Since social stability is a top concern for Chinese judges, the preservation of marriage, or family stability, has made way for punishments against domestic violence offenders.

By contrast, the judges at Court S generally believed that family integrity should be the top concern. As long as a divorce is not inevitable, domestic violence and other problems inside the family should be tolerated. Facing claims on domestic violence, the judges’ litmus test was whether the victims were ready to initiate divorce proceedings. They often dissuaded petitioners for protection orders with the rhetorical question: “Are you determined to get a divorce, for a protection order may escalate the violence and destroy your family?” Dominated by patrilineal culture, Court S may be called “the patrilineal court.” In this light, the judges in Court S held a different view on the relationship between family stability and social stability. For them, any punishment against abusive partners could agitate the man’s family and cause further escalation of violence, which could threaten social stability. For example, the Protection Order Mechanism would restrain the man from inflicting any harm or harassment, but it may not prohibit his family members from doing so. Implementing the mechanism would not resolve disputes. It may follow the legal requirements, but it may lead to unwanted social effects. Thus, it was not feasible since it is against the judiciary’s tenet “to achieve both the social and legal effects” (Liebman 2011; Ng and He 2017a). In a word, family stability is the precondition of social stability, and, thus, domestic violence shall be tolerated.

Judge S2, who is in his mid-forties, had been an enthusiastic advocate of the Protection Order Mechanism since he received training on the ADVL in 2017. He went on to issue several protection orders. But, as he became more experienced, he grew skeptical of the mechanism and became extremely cautious, if not apathetic, in issuing protection orders. For Judge S1, when there is tension between the family and domestic violence, the family should be prioritized: “Some women apply for protection orders, claiming that they have suffered domestic violence. The fact was, however, that this woman had left for her natal home. The man requested her return and she refused. The two families had a stand-off and there was fighting.” These views are echoed by a judge from Chongqing, the most populous municipality in western China, with similar socioeconomic conditions to Shaanxi: protection orders “will eventually affect family relationships, building a formidable gulf between family members”; “[c]ourt interferences can worsen spousal relationships and result in the opposite effect”; “[w]hether to issue Personal Safety Protection Orders or not should be guided by strict criteria. Applicants shall prioritize family relationships” (Chu 2016, 7, quoted in Zheng 2022, 64–65).

This conception of marriage is closely related to the bride price, an entrenched practice of the region. Despite the fact that Chinese society has been influenced by Western norms of individualism and consumerism, the traditional practice of a bride price remains common (Yan 2009, ch. 10). According to a survey, almost three-quarters of marriages in China involve this practice (*The Standard* 2023). Generally, it is more common in northern and western China, where the local economy is less developed (Hu and Song 2022, 6). A search under the keyword “bride price” on the SPC’s official database of adjudication documents generated one hundred thousand cases from 2013 to 2018 (Y. Zhang 2020, 162). Of the 152 divorce cases taken on by a dispatched tribunal of Court S, 116 were related to bride prices (*Sohu* 2017).

The skewed gender ratio in rural areas has driven up the bride price (Erickson 2018; Liu 2022). In City S, the bride price averaged 100,000–120,000 yuan in 2015 and leapt to 150,000–180,000 yuan in 2016 (*Sohu* 2017). While the average peasant earned an annual income of around 11,291 yuan, the costs for a marriage were as high as 300,000 yuan. The bride price alone could reach 220,000 yuan. A man’s family thus has to sacrifice all their savings, sometimes combined with loans, to help him get married (Jiang and Sánchez-Barricarte 2012; *Xinhua Daily Telegraph* 2017). These men were nicknamed “marriage slaves” (*Sohu* 2017). Judge S1 shared with me a case that she recently had handled. One man spent almost 200,000 yuan on his marriage, 130,000 yuan of which was the bride price. His wife had an abortion without his and his family’s consent (the *Abortion* case). Judge S1 said:

The woman took the bride price and refused to deliver her child to the family. Did she not bring her suffering on herself? The man’s family exhausted all their savings to buy a woman. If the woman disappears or demands a divorce, the man’s whole family and all his relatives will certainly put up a desperate fight. It is understandable for any family to do so, isn’t it? Beating her is extreme, but the woman and her family are not innocent. They shall not readily invoke divorce. (Emphasis added)

In this statement, Judge S1 stresses the child and the family. When the bride price is involved, both families are aware of the expectations of the husband's family—children. “Beating” was downplayed; indeed, it was “understandable.” The judge also used the term “not innocent” to describe the woman. She was being polite. She said that local people may well regard such a woman as a swindler. The question is not whether the woman should have the right not to be treated violently; rather, it is whether the woman has fulfilled her obligations to the man in producing children.

Moreover, often fights are not just between the two people in the couple but also between the two families because “her family is not innocent” and “the [other] family will certainly put up a desperate fight.” Family members are thus deeply involved in divorce disputes and incidents of gender violence. After all, when the “child” is the priority, divorce is not just an issue between the couple; it is also a conflict that affects the whole family. Reviewing all the judgments available on the SPC site on the issue of the bride price, Yiran Zhang (2020, 184–86) found that a majority of judges decided that the parents of the bride should also be defendants. Judge S2 echoed: “It is wrong automatically to regard the quarrels and the entanglements between two families as domestic violence. Nor is it right to issue protection orders for all these entanglements. Rather than bring an end to the disputes, the orders may add more fuel to the flames.”

Since the family is privileged, the judges regard domestic violence as trivial and abused women as not being in need of a protection order. The boundary between gender violence and normal quarrels is blurred. Most types of gender violence are tolerated. The marriage itself offers a legitimate cover for many types of sexually abusive behavior. According to Judge S3, some men simply lock their wives in a room. Instead of physically or verbally abusing them, these families feed the wives well so that they can give birth to children. Few judges would regard “the imprisonment of the wife” as gender violence.⁶ When a wife runs away to her natal home, judges and most local residents find it understandable that her husband should pursue and bring her back. When the women are infertile, disputes and fights occur (He 2021, 218–20; Li 2022). Judge S2 believed that the Protection Order Mechanism overprotects women. According to him and his colleagues, some women exaggerate their suffering to get the upper hand in divorce proceedings, including the division of the marital assets and child custody (compare Wang 2022, 13). Some believed that women are “gold-diggers” seeking strategic marriages (Chang 2013).

Contrasting practices of the two courts

As a piece of national legislation, the ADVL should be applied uniformly across the country. Yet the law covers only the fundamental principles, core concepts, and basic institutions. It leaves the implementing details to the SPC and the local courts. Due to the differing interpretations on the relationship between domestic violence, family stability, and social stability, the practices of the two courts contrast with each other

⁶ Interview with Judge S1, City S, Shaaxi Province, March 10, 2022. Chinese courts' decisions are consistent in cases in areas with similar social and economic conditions. In Feng county, located in the underdeveloped north of Jiangsu province, where footage of a chained woman went viral on the Internet in early 2022 (Qi 2022), the local court recognizes hardly any claims of domestic violence in marriages, nor does it grant divorces to women who are sold as brides (Fuyi 2022).

Table 5. The processes of Courts G and S in issuing protection orders

	Court G	Court S
Procedure	Facilitative	Resistant
Evidential Threshold	Low	High
Scope of Domestic Violence	Broad	Narrow
Hearings	No	Yes
The Default Rule	Approved	Disapproved
Link between Issuing Orders and Divorce	No	Yes

Source: Author's summary.

vividly. Court G takes a facilitative attitude toward issuing protection orders while Court S is resistant to such action. This is demonstrated by the threshold on the evidence, the legal criteria for issuing protection orders, the procedures to process the application, and the default rule for issuing orders (see [Table 5](#)).

Evidential threshold

Evidence has been regarded as a major barrier to domestic violence victims obtaining judicial protection (J. Zhang [2018](#); Ng [2022](#); Yu [2022](#)). Some may not know they need evidence; many do not know what type of evidence is needed; others are not clear whether the evidence they possess is adequate. Many victims may not keep any evidence. When applicants file a petition for a protection order at Court G, they do not need to present any evidence. The only requirement is to fill out an application form. The main part of the form relates to statements on the offender's violent behavior. It consists of three parts: the most recent violent incident, the most serious, and the first time that the violence occurred. Under each part, the applicant must describe when and where the violence occurred, whether there were witnesses, whether the police were called, and any injuries or medical treatments that followed. The form stresses that the applicant must provide descriptions with as much concrete detail as possible.

According to the ADVL, to issue a protection order, any “realistic” threat should suffice. Yet it is unclear what constitutes a “realistic” threat. That is why the SPC, five years after the law became effective, in 2022, further clarified that realistic threats need only be “quite possible” rather than “very likely.” It is noteworthy that Court G had implemented the minimum requirement before the SPC's interpretation. It asks: does a threat exist? Judge G1, the head of the Family and Youth Division, explained: “For us, ‘the danger’ of domestic violence would justify a protection order. At this stage, we do not need to ascertain whether domestic violence is indeed present. It is enough that the applicant claims such danger.” She continued: “As long as the information does not seem to be made up, we grant the order.” Indeed, the court approves most applications without any documented evidence (see [Table 5](#)).

By contrast, in Court S, the case files indicate that all granted applications had record of the 110 police intervention—the equivalent of the 911 record in the United

States. When the applicants could not provide the records themselves, the court retrieved them upon the applicant's request. The court thus regarded "actual suffering" instead of "realistic threats" as the precondition for issuing protection orders. Moreover, all the granted applications contained evidence of medical treatment: receipts for medicine, hospitalization costs, or doctors' diagnoses. The two rejected applications did not include such documentation, lacking records of medical treatment, for instance. All applicants provided photographic evidence of injuries. Most injuries were to noses, faces, and eyes. Some were swollen, covered in blood. In most applications, the applicants provided instant messages or WeChat messages that indicated verbal abuse. In one case, the husband had sent his wife an instant message that read: "An eye for an eye. I will use gasoline to burn your whole family to death." In a message meant to strike a conciliatory tone, the sister-in-law had texted the wife: "My brother said that if you insisted on getting a divorce, he would break your legs, so you could never get out the door."

According to Judge S1, in granting an order, the police intervention report and evidence of medical treatment were almost indispensable. The evidence requirement here is "mutual reinforcement." In each application, the judge subpoenas the alleged offender to verify that the violence was indeed committed. If they deny it, but there are reports of both police intervention and medical treatment, a protection order can still be granted since the two pieces of evidence are mutually reinforcing. A protection order may not be granted based only on the statements of the victim. This is regarded as "standalone" evidence, which is usually rejected (see Miyun Court Research Team 2022). According to Judge S3, "it's impossible to grant a protection order based solely on an application form" (see Fu 2018). Applications with police intervention reports, medical records, and statements from witnesses are more likely to be approved (see Fu 2018). Some potential petitioners were dissuaded because the police report was vague in describing the violence, using terms such as "family disputes" (see Fu 2018; Miyun Court Research Team 2022).

All the granted applications demonstrate evidence of domestic violence. In reviewing protection order applications, judges in Court S said that they set an equal, if not higher, threshold for "evidence of domestic evidence" than in divorce litigation. In one application, the wife stated that she was hit by her husband when she was shopping. She called the police. The police intervention record was retrieved by the court. In granting the protection order, the court stated that "the offender pushed the applicant to the ground, leading to olecranon fracture in the left arm." In another application, Ying and Hui were a couple who traded construction materials in the county seat (the *Fights-at-Legal-Center* case). In Ying's application for a protection order, she stated that Hui beat her even when she was pregnant. After she filed for divorce in 2019, Hui expressed regret and told the court that he would change. Less than a month after Ying withdrew the divorce filing, however, Hui beat her again because one of their clients digitally transferred money to her account via phone. She suffered chest pain for six months. On March 5, 2021, she was seeking help at the Legal Aid Center of the Justice Department, preparing for another petition for divorce. Hui barged through the door into the office and beat Ying. He then took hold of her and threw her out of the door. Immediately, he used his legs to put pressure on her belly until she could not move anymore. With the assistance of the legal aid staffer, Ying applied for a protection order, and it was granted.

The scope of domestic violence

While the ADVL states that domestic violence covers verbal abuse and emotional threats, not every court regards nonphysical violence as sufficient for a protection order. Nonetheless, Court G adopts a fairly broad definition, covering most forms of violence. In the application form, the first question is: “The offender has engaged in the following domestic violence (multiple choice): beating, binding, restriction of personal freedom, violent threats, stalking and trailing, sexual violence, humiliation, cursing, and other.” Violent threats, humiliation, and cursing are nonphysical and can be either verbal or nonverbal. The list also includes sexual violence, despite the fact that China does not recognize marital rape. According to Judge G2, this is because there are other types of sexual violence than marital rape. They include a single experience of sexual assault, sexual abuse that is not rape or is not between married couples, and child sexual abuse. In addition, sexual violence can occur between intimate partners who are not married.⁷

Having all these types of abuse listed on the application form, Judge G1 stressed, makes things much easier for victims. Many victims may not even be aware of the injury or harm done to them, let alone the exact types of violence they have experienced. While they may have a vague, general idea that they have been wronged, articulating specific wrongs is another matter (Engel 2016). As William Felstiner, Richard Abel, and Austin Sarat (1980–81, 633–34) point out, naming—the transformation from “non-perceived injurious experience” to “perceived injurious experience”—is a complicated process, subject to legal, cultural, psychological, technological, and peer influences. Offering concrete choices on the application form helps victims realize and recognize those wrongs.

Court G’s broad definition has a real-world impact. In one case, a fashion designer filed to divorce her husband who had become a security guard after being honorably discharged from the army (the *Security Guard* case). She also moved out because of numerous quarrels and disputes. The man refused the divorce. He first hired a taxi to stalk his wife for a month, until the taxi driver reported it to the police. He impersonated a policeman to check her entry records in her new residence. He also managed to pinpoint her exact location through mobile phone positioning as well as hacking into her Taobao and Meituan apps. In one instance, he claimed that, if she left him, he would kill himself. On another occasion, he waited at the door of her temporary residence, forcing his way in when she opened the door. Then he climbed onto the edge of the balcony, ready to jump from the fifth floor. While he never physically or verbally abused her, the court issued a protection order in August 2021, restraining him from harassing, stalking, or contacting his wife. Judge G2’s judgment read:

The persistent trailing, stalking, and harassment severely disrupted the work and life of the applicant. As long as she rejected his wish to give up the idea of divorce, the offender harassed her with threats to hurt himself and even commit suicide. With these threats, he forced her to negotiate. By imposing

⁷ Women’s Rights Protection Law of the People’s Republic of China, revised on October 30, 2022, effective on January 1, 2023, Article 29 makes it clear that women in a love relationship are eligible for the protection order.

psychological stress on her, he tried to control her behavior. It thus constituted domestic violence.

Once again, the judges of Court G expanded the definition of domestic violence before the SPC's 2022 interpretation. Judge G2 interpreted these psychological stresses as a means to "control" the victim's behavior. She said that the ultimate purpose of domestic violence is to control the victim, and the actions of the man in this case fell squarely into that category.

However, Court S only regards physical violence that has been inflicted as a precondition for issuing protection orders. The scope of recognizable violence can be revealed by the applications that were not granted orders. One was withdrawn by the applicant. I was thus unable to know what had happened there. Another was made by the applicant Liu, a woman in her late twenties who married Peng in June 2020 (the *Unknown Location* case). Only one month after their marriage, they were fighting over who should pay for the marriage banquet. The police were called. Peng's father intervened, threatening to kill Liu with a kitchen knife. She promptly moved out. Then Peng, his father, and a dozen relatives tracked her to her natal home, yelling "we will trade six lives for ten of yours." To avoid further conflict, her parents immediately called the police. The court file contained the police intervention report, a photo of injuries to Liu's nose and face, bloodshot eyes, a medical diagnosis, and medical costs. In addition, the following conversation was recorded between Judge S3 and Liu:

Judge: Are you still living with Peng?

Liu: No. I moved out after the first fight.

Judge: Does Peng know your whereabouts?

Liu: No. I did not tell him, for fear that he will bring trouble.

Judge S3 rejected the application because "the offender was unaware of the exact location of the applicant," and, thus, "the applicant is not suffering violence, nor is she facing the danger of violence. The conditions of granting the protection order are not satisfied." The court did not reply to Liu's questions: "are verbal abuse, harassment, and threats against me and my family members not domestic violence?" The threats of nonphysical violence did not count, not to mention the emotional abuse (see Fu 2018). Once Judge S3 saw that the offender did not know the applicant's whereabouts, he rejected the application. But the offender knew where her family lived and was able to communicate at least verbal threats. The petitioner was not sure if the offender could locate her. She was living in fear.

Facilitative versus resistant procedures

Consistent with the policy to make judicial remedies more accessible to domestic violence victims, Court G has collaborated with the local offices of the Women's Federation and the police, the two most common places where victims of domestic violence may seek help. Obviously, the local government is behind such facilitative

procedures. This is consistent with the observation that both the courts and other local government branches are part of the coalition of local governance and are supporting each other's goals (He 2004; Ng and He 2017a). Indeed, any judicial innovation must first gain the support of local political leaders (He 2013, 2017). Guangdong local legislation requires that the police shall, upon receiving a 110 call for domestic violence, instantly inform the victim of their right to apply for "protection order, legal aids, and temporary shelters."⁸ A one-stop application process is a further development, allowing victims to apply for a protection order in the offices of the police and the Women's Federation.

Realizing that some threats of domestic violence are imminent and severe, Court G set up a "green channel," or express route, to process the application of protection orders. When the caseload is heavy, it might require making an appointment to get a regular civil case filed, and the daily quota is limited. Through the green channel, applications for protection orders are prioritized. In one case, the volunteer in the case-filing hall told an applicant to make an appointment before filing the protection order application. When Judge G1 learned about this, she immediately rectified the volunteer's mistake: the application could be processed without an appointment. As long as it conforms to the procedural requirements, Court G accepts an application immediately and transfers the file to the judge before the close of business on the filing day. Then, strictly following Article 28 of the ADVL, the judge conducts a review and makes a decision within seventy-two hours. The decision is simultaneously served to the petitioner, the police, and the committee of the street, neighborhood, or village in which the petitioner and the offender reside.⁹

In most courts, judges are reluctant to detain the litigants or the relevant parties.¹⁰ This is because the procedure is too complicated and troublesome. The court sheriffs are usually only engaged in criminal trials and the enforcement of judgments. Rarely are they deployed for civil trials. Some court officials are also very cautious about granting a detention order, lest it agitate detainees. Furthermore, detention requires a complex process of body checks, making sure that the detainees are free of contagious disease. This requirement only became more stringent during the COVID-19 pandemic. Court G, however, streamlines the procedure to detain the offender who blatantly violates an order. Court G manages to overcome all these troubles and procedural barriers.

In one case, the applicant, originally living in Jiangsu Province and suffering severe domestic violence, wanted a divorce but was steadfastly refused by her husband. The man also controlled her by making her have multiple babies. When she filed the application, she was pregnant again, even though she had already had four children (the *Five-Children* case). Domestic violence persisted. In one instance, the man hit their two-year-old boy with the buckle of a belt and tied up his wife, beating her with a

⁸ Measures for Implementing the Anti-Domestic Violence Law of the People's Republic of China in Guangdong Province, promulgated by the Standing Committee of Guangdong Provincial People's Congress, July 29, 2020, effective on October 1, 2020, art. 23.

⁹ Court G is not the only one demonstrating a commitment to efficiently addressing domestic violence cases. In another metropolitan area court, a protection order can be issued within twenty minutes after it is filed (Renwu 2024). This court has established a platform that allows relevant governmental organizations to upload evidence, which significantly reduces the approval time.

¹⁰ Interviews with Judges G1, G2 (August 30), and S3 (March 9), in Cities G and S, respectively.

twisted cable. After Court G issued a protection order, restraining the man from contacting her and their children, the offender nonetheless tried to force the whole family to move. Upon hearing statements from their neighbors, Court G issued a detention order. The man shouted at the sheriffs and vowed to file for an administrative reconsideration, claiming that the court had damaged his reputation. Court G did not back down: he was detained for seven days. Judge G3 told me: “We have to punish such a flagrant violation of our orders. If we fail to take action, the life of the woman may be in danger.”¹¹ Once again, Court G held that a swift response to domestic violence offenders would safeguard social stability.

By contrast, Court S has adopted a rather resistant procedure. It has no “green channel.” Nor is there any coordination between the court and the Women’s Federation or the police precinct to facilitate the filing of protection orders. Without such a facilitative procedure, most petitioners hear of the Protection Order Mechanism from the police, their neighbors, or legal aid (He 2021, 136–39). Indeed, many victims filing divorce petitions at the courts should have been informed of this mechanism during the process. Yet some petitioners were dissuaded from filing their applications, or the judges simply refused to grant an approval, citing inadequate evidence of domestic violence (see Zhuang 2014; Lu 2016). Judges’ typical response to avoid protection orders was: “You have been with each other for so many years. Why can’t you stay together for a few more months?” or “You are about to get divorced. Why do you still need such an order?”¹² Similar to the findings by Equality (2020, 45), applications may be delayed or rejected. According to the law, the courts shall not conduct mediation when processing protection order applications.¹³ Yet Court S frequently does so. In other words, the judges do not take a proactive attitude in guiding or facilitating the application process. They help abused women only when violence occurs before the divorce case is closed or when violence occurs in or near the courthouse.

In one case, a couple in their early thirties had their divorce case heard in the court (the *Fights-after-Hearing* case). After the hearing was concluded, the man’s mother chased the wife into the alley across the courthouse and said: “Until the court announces a divorce, you are still my daughter-in-law. Go home with me!” When the two women struggled, the man’s brother started beating the wife, striking her head and chest. At that moment, the wife’s father arrived to protect her. The brother then started beating him, causing two broken ribs, and injuries to the scalp and other body parts. The father was hospitalized for five days. When the wife filed for a protection order, the court granted it, prohibiting the husband from approaching her and her family. The court granted the order because this assault was a direct challenge to its authority. Moreover, the violence occurred in the middle of the divorce proceedings. The court had a responsibility to protect the personal safety of the litigants. A protection order would help reassure the abused wife and draw the attention of the police.

¹¹ A court in the Pearl River Delta has sentenced a domestic violence offender to eight months in prison for repeatedly violating a protection order (*Southern Metropolitan News* 2024).

¹² Interviews with Judges S1 and S3, in City S, Shaanxi Province, China, on March 10, 2022.

¹³ ADVL, art. 46.

The default rule for protection orders

Since the judicial reforms in 2014, judges have been given plenty of room to make their own decisions (Sun and Fu 2022). But this does not mean that their supervisors have no control. Judge G1, as the division head, required that when judges decide not to grant a protection order, they must report the case to her: “I do not think I need to take another look at those being granted, but I want to make sure that all rejections are based on reasonable grounds.” Court G does reject applications for protection orders but rarely. In one case, a man filed a protection order, claiming that his estranged wife harassed him at his work unit. The judge dismissed the application because the wife, by visiting his work unit only once to communicate to his supervisors on family affairs, was neither “threatening” nor “harassing.” Indeed, many Chinese still seek help from the work unit for family issues. Such behavior does not constitute “realistic danger,” which is the legal requirement for the protection order.

In Court S, the default rule is that protection orders should be minimized. It issues the orders only when divorce is inevitable and, as mentioned, when evidence is abundantly clear on narrowly defined physical violence. Judges often dissuade the petitioners from applying for protection orders, despite the existence of domestic violence. This is especially true when a high bride price is involved. In the *Abortion* case, mentioned earlier, the woman filed for divorce. The man then beat her and her family members. He chased her to her natal home with a knife and demanded that she return, claiming that “he had *bought* the woman as his wife.” The case was eventually settled through divorce after the woman returned 110,000 yuan of the bride price. As shown in the judgment, the violence was not dealt with in the case, nor were any protection orders issued. The woman did not insist on any remedies; apparently, she felt that she was not in a position to make such a request.

In another case, the wife took a 140,000 yuan bride price from the husband’s family. At the nuptial ceremony, even before the celebrating relatives had left, the bride claimed stomach pains and sought hospitalization. As her new husband slept beside her sickbed, the bride left for her natal home in the middle of the night (the *Runaway Bride* case). She travelled to different cities for jobs and never returned. A year later, she filed for divorce. The man went to her natal home with more than ten of his family members, requesting her return. The two families quarreled violently and fought. The incident did not escalate only because the police arrived in time. Then the woman applied for a protection order. Judge S2 granted the order, prohibiting the man from stalking her, inflicting violence, or making threats. After the order was issued, the man stopped going to her home. But his parents kept coming on an almost daily basis. They left when the police arrived; once the police had left, they returned. Moreover, other family members also turned up at her home in groups. Eventually, the police became reluctant to respond. The man texted his wife a message: “I will take your life if you do not return our money!” The dispute ended after the woman’s family returned most of the bride price, and a divorce was granted.

In this case, the man’s family, spanning three generations, had contributed 140,000 yuan to the bride price, 80,000 of which was borrowed. When the bride disappeared, the family was outraged and threatened the judge, demanding compensation if a divorce was granted. As Kwai Hang Ng and Xin He (2017b) argue, borrowed money is “blood money,” which is worth more than its face value, so the man’s family had little

reason to give up. The focus here was on the bride price and family integrity rather than the domestic violence protection orders. Judges often prioritize family stability, putting concerns for domestic violence aside, as they recognize the determination of men in safeguarding their family's integrity. Indeed, according to Yiran Zhang (2020, 182), judges order partial repayment of the bride price in most cases (see also Hu and Song 2022). As Xin He (2022, 1184) has documented in his study, in coercing an aggressive wife to return part of the bride price in a settlement, one judge said: "Upon divorce, the man's family lost both the person and the money (referring to the bride price). How could they swallow their grievance? Should the court award you a divorce, can your personal safety be assured?"

In all of these cases, the judges believed that issuing protection orders would not protect the "victims" nor achieve social stability. Thus, they simply asked the petitioners (mostly women) to keep evidence of the domestic violence to be used in the divorce proceedings. After all, their goal is to get a divorce. They also reminded them of the violent tendencies of men in such situations and of the need for self-protection. On the other hand, they verbally warned the man not to inflict any further harm. They stressed that the court would offer them justice on the issues of divorce and the bride price, in particular. This advice and the warnings offered to the women for their protection ring hollow; there are no realistic measures to protect them should further aggression occur. The judges, however, considered it an appropriate strategy.

The practices in these courts are reinforced by the social and economic conditions of their localities. City S has an urbanization rate of 53.67 percent, while City G's rate is 90.76 percent. The dominant role of agriculture in City S necessitates a gendered division of labor, perpetuating patriarchal and patrilineal culture. Men are privileged over women, who are often seen as dependents, resulting in a strong gender hierarchy. Control over women is more justifiable in this context, and violence is often regarded as an appropriate means to maintain this hierarchy. In City S, where marriageable women are in short supply, many men, especially rural ones, struggle to find a spouse. Consequently, bride prices have become prohibitively expensive for low-income men in the marriage market. It is unclear whether women also view bride prices as a testament of love, as Michael Yarbrough (2017) found in South Africa. However, according to the judges, marriages based on excessive bride prices are more focused on money than on love. Such marriages can only be dissolved if the bride price issue is settled. In terms of legal pluralism, the power and gender relationships embedded in the local social and economic conditions, particularly the bride price system, form a layer of customary law that competes with and resists globalized laws (Griffiths 1998).

In City G, the situation is quite different. Manufacturing and service-based industries have replaced agriculture as the region has urbanized. Gender equality in marriage is more accepted, and measures against gender violence are more widely adopted. With the population in Guangdong Province becoming more mobile and less attached to the land or fisheries, women rely less on men for income and protection. This increased financial and personal independence has weakened the constraints of clan and kinship, enabling women to be more individualized and assertive in their decisions, including leaving their husbands if they choose to. In such a context, global norms advocating for gender equality and protection against gender violence have found fertile ground to flourish. The social and economic conditions in City G allow

judges to embrace and implement these global norms more readily, demonstrating the significant impact of local social and economic contexts on the adoption and enforcement of global legal reforms.

Conclusions

This article highlights the stark contrast in the implementation of protection orders in two Chinese courts, stemming from differing interpretations of the role of domestic violence in family and social stability. In Court S, influenced by patrilineal and patriarchal culture, the separation of a couple through a protection order is seen as undermining family stability. The court views measures against wife abusers as a potential cause of social instability and plays a critical role in safeguarding the androcentric order, prioritizing family stability over individual rights. In contrast, Court G, with the endorsement of the local government, embraces international norms, replacing traditional Chinese values with global standards on gender equality. It views domestic violence as a threat to social stability and encourages women to leave their violent spouses while punishing violent men. The judges in Court G actively provide support to help individuals escape the control of their abusive partners.

The distinction between urban and rural courts is notable, but it would be an oversimplification to categorize Chinese court practices solely based on this. The urban-rural boundary is often blurred, and judges' attitudes toward gender equality may vary. Additionally, contextual factors, such as location, bride prices, and expertise play a role. For instance, Court G is situated in an urbanized area with low bride prices and a specialized family division, leading to efficient protection order processing. In contrast, Court S is in a rural region with high bride prices, making marriage dissolution more difficult. Therefore, numerous factors shape court practices beyond the urban-rural dichotomy.

In District G, with a 90 percent urbanization rate, domestic violence victims have yet to fully embrace protection orders. The overall application rate remains low compared to more globalized jurisdictions like Singapore. Cultural factors play a significant role in this reluctance as many Chinese women prioritize family stability and are hesitant to air their dirty laundry in public. Concerns over the order's potential impact on children or the belief that offences are occasional also contribute to their hesitancy. Often, victims withdraw after their abusers apologize or promise not to reoffend. Reportedly, Chinese women endure an average of thirty-five instances of domestic violence before applying for a protection order (Renwu 2024).

The story here nonetheless presents questions for the enforcement of the globalized law. How can the courts help if women cannot break free from their violent husbands? If women cannot permanently leave, to what extent can a temporary protection order help? Can judges effect immediate change in the social, economic, and personal status of women, which largely determines their place in traditional patriarchal culture? The law only offers the promise of emancipation, but it does not confer the personhood that underlies an individualized self (Merry 1997). When marriages are not formed on gender equality, the protective measures based on the assumption of gender equality are hard to implement. The Chinese experience adds to the diverse forms of cultural resistance documented globally (Pleck 1987; Pratt 2000; Hirschel and Hutchison 2001; Vatuk 2001; Merry 2006; Lazarus-Black 2007). Unlike

other forms, the interpretation of gender violence in China is heavily influenced by dominant political concerns. The varied implementation and enforcement of the ADVL reflect and reinforce local family and marriage conventions. However, traditional cultural perceptions may be transformed or reinforced by differing interpretations of social stability. China's experience encourages the examination of the role of political concerns in other regions as globalized laws are implemented.

Examining this type of resistance allows us to appreciate the complexity of globalization and understand the challenges of overcoming it. In Court S, global legal processes provide norms, rights, and mechanisms, but they have failed to change the underlying material conditions that prioritize family stability as a precondition for social stability. This leads to the tolerance, sustenance, and reinforcement of a violent patriarchy. Ironically, women who need protection orders the most may be least likely to obtain them. If liberal judges from equality courts were relocated to patrilineal courts, it is doubtful if they could implement the law as effectively due to the prevailing socioeconomic conditions. The interaction of law, culture, and politics reveals the immense challenges in creating a society free of gender violence.

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