

The Elastic Ceiling: Gender and Professional Career in Chinese Courts

Chunyan Zheng
Jiahui Ai
Sida Liu

Since the 1990s, the number of women in Chinese courts has been increasing steadily. Many women judges have risen to mid-level leadership positions, such as division chiefs and vice-chiefs, in the judicial bureaucracy. However, it remains difficult for women to be promoted to high-level leadership positions, such as vice-presidents and presidents. What explains the stratified patterns of career mobility for women in Chinese courts? In this article, we argue that two social processes are at work in shaping the structural patterns of gender inequality: dual-track promotion and reverse attrition. Dual-track promotion is dominated by a masculine and corrupt judicial culture on the political track that prevents women from obtaining high-level promotions, but still allows them to rise to mid-level leadership positions on the professional track based on their expertise and work performance. Reverse attrition enables women to take vacant mid-level positions left by men who exit the judiciary to pursue other careers. Taken together, the vertical and horizontal mobility of judges in their career development presents a processual logic to gender inequality and shapes women's structural positions in Chinese courts, a phenomenon that we term the "elastic ceiling."

Gender inequality is a highly stable social structure, but it is produced and reproduced in dynamic social processes. In the early twenty-first century, the feminization of the legal profession has become a worldwide phenomenon (Kay and Gorman 2008; Michelson 2013; Schultz and Shaw 2003). It is happening not only in law schools and law firms (Epstein 1981; Hagan and Kay 1995; Mertz 2007; Reichman and Sterling 2004) but also in

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The three authors contributed equally to the article.

Please direct all correspondence to Sida Liu, Department of Sociology, University of Toronto, 725 Spadina Avenue, Toronto, Ontario M5S 2J4, Canada; e-mail: sd.liu@utoronto.ca

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courts (Schultz and Shaw 2013). The Anglo-American literature on women judges, however, mostly focuses on judicial appointments and “feminist judging” (Beiner 2005; Kenney 2013; Schultz and Shaw 2012; Solimine and Wheatley 1995). How women navigate the hierarchical and bureaucratic judicial systems of civil law jurisdictions remains a new territory in sociolegal scholarship.

Chinese courts are no exception to the global trend of feminization, though it is still at an early stage. Since the 1990s, the numbers of women in law school classrooms and on the bench, as well as in law firms, have been increasing steadily. In 2010, there were approximately 45,000 female judges in China, accounting for about a quarter of all judges in the country (Song and Liu, forthcoming). By 2013, the number of female judges had increased to about 57,200, or 28.8 percent of all Chinese judges (National Bureau of Statistics, People’s Republic of China 2015). In younger cohorts of judges, the proportion of women is even higher, exceeding half of assistant judges in many courts. More importantly, many women judges have risen to mid-level leadership positions in Chinese courts, such as division chiefs and vice-chiefs, who are in charge of specialized divisions in the judicial bureaucracy. However, it remains difficult for women to be promoted to top leadership positions, such as vice-presidents and presidents. In other words, despite the structural barriers and workplace challenges that they face, women have at least weakened the glass ceiling in the Chinese judicial system.

What explains the stratified patterns of career mobility for women in Chinese courts? We argue that two social processes are at work: (1) *dual-track promotion*, or vertical mobility in the judicial and civil service bureaucracies; and, (2) *reverse attrition*, or horizontal mobility between the judiciary and other professional careers. First, personnel decisions in Chinese courts are subject to close Party and administrative control, which creates two different tracks of leadership promotion for mid-level and high-level positions. Women are not disadvantaged in the professional track of promotion within the court, but they lack social and cultural capital in the political track that is dominated by local Party-state leaders and a masculine and corrupt culture. Second, female judges often assume mid-level leadership positions after male judges in such positions resign to pursue other professional careers, such as lawyers, in-house counsel, or other Party and administrative positions. Taken together, the vertical and horizontal mobility of judges in their professional career presents a processual logic to gender inequality and shapes women’s structural positions in Chinese courts, a phenomenon that we term the “elastic ceiling.” That is to say, the glass ceiling for women in the

judicial bureaucracy is not broken; instead, it is stretched to become thicker, more elastic and hierarchical, and less visible.

Gendered Mobility in Professional Career: A Processual Approach to Inequality

Since Epstein's (1981) pioneering study *Women in Law*, research on gender inequality in the legal profession has documented extensively the structural and cultural barriers that women face in law firms and law school classrooms (e.g., Hagan and Kay 1995; Mertz 2007; Reichman and Sterling 2004; see Kay and Gorman [2008] for a review). These barriers include not only income gaps between male and female lawyers (Dinovizer and Hagan 2014; Dinovitzer, Reichman, and Sterling 2009; Dixon and Seron 1995) and sexual harassment in the workplace (Rosenberg, Perlstadt, and Philips 1993; Sommerlad 2016) but also their different chances of employment, promotion, and attrition in career development (Epstein et al. 1995; Gorman 2005; Hull and Nelson 2000; Kay 1997; Kay and Hagan 1998). By contrast, the existing scholarship on women judges has focused on judicial appointments and "feminist judging" in Anglo-American countries (Beiner 2005; Kenney 2013; Solimine and Wheatley 1995). Few studies have closely examined the social processes by which women's judicial careers are structured, particularly in terms of promotion and attrition (but see Schultz and Shaw [2013]).

To some extent, this research gap is owing to the fact that judges in Anglo-American countries do not have a separate career path from other legal professionals. Most judges, men or women, began their legal careers as attorneys, prosecutors, or legal academics. Then they were appointed to the bench only after a long period of law practice. However, in civil law jurisdictions ranging from Continental Europe to Latin America to East Asia, judges and lawyers are separate career paths and the judicial system is a highly sophisticated bureaucracy, closely connected with but structurally distinct from the private bar (Abel and Lewis 1989; Ginsburg and Moustafa 2008). Accordingly, the career of women judges in these jurisdictions is not only a longer path than legal careers in Anglo-American contexts but also a more complicated one with many structural barriers, traps, and glass ceilings.

How to study gender and professional career in such bureaucratic contexts? More specifically, for this study, how to explain women's limited success in getting promotion in Chinese courts? The social science literature on gender provides at least four

useful theoretical perspectives, namely, human capital, social/cultural capital, queuing, and anticorruption.

Human capital theory (Becker 1964, 1981, 1985) seeks to explain gender differences by the different choices that women and men make regarding their career and family. As the theory goes, women are often disadvantaged in the workplace because they have chosen to invest more in the family, which reduces their career commitment and work effort. In our study, however, there is no evidence that female judges in China reduce their work effort because of family obligations. Instead, women often perform better in exams and work evaluations than men. Nevertheless, women seem to have weaker career aspirations than men when it comes to high-level promotion in the judicial bureaucracy. The key question, as many critics of human capital theory argue, is whether this is because of women's individual choices or the sex segregation and discrimination that they face in the workplace (Bielby and Bielby 1984, 1988; England 1982, 1984; Rosenfeld and Spenner 1992).

Against human capital theory, gender stratification theory emphasizes the structural constraints in professional career, particularly the penalties on women who invest heavily in their careers (Bielby and Bielby 1988; Reskin and Padavic 1994). Kay and Hagan (1998) show that female associates in law firms need to display tangible and intangible forms of social and cultural capital more conspicuously than male associates in partnership promotion, such as bringing in new clients, establishing a large network of corporate clients, and expressing a commitment to firm culture. Similarly, female judges would need to fit into the masculine culture of Chinese courts and develop social networks with local political leaders in order to be promoted to leadership positions. The social/cultural capital argument could be useful in explaining the shortage of women judges in high-level leadership positions, but it does not explain women's relative success in mid-level promotions.

Another variation of gender stratification theory is queuing theory (Reskin and Roos 1990), which argues that women generally have lower positions in the labor queues than men and they often take jobs that are lower in the job queues. As a result, sex segregation arises and persists in many occupations. Feminization, accordingly, often leads to the decline in an occupation's income and status. As a traditionally male-dominated occupation, the legal profession's sex segregation has been weakened across the world (Michelson 2013), but the large-scale entrance of women into legal jobs has not significantly changed the gendered labor queues in law firms or courts. In the U.S. case, women often concentrate in the public sector of the legal profession,

whereas men occupy most of the lucrative partner positions in corporate law firms (Dinovitzer and Hagan 2014; Hull and Nelson 2000). The situation in China is not so different: women are more likely to be found in courts and procuracies than in law firms, and they are less likely than men to move from the public sector to the private sector of the profession. Therefore, it could be hypothesized that Chinese judges generally occupy lower positions than lawyers in the legal job queue and thus women, who occupy lower positions than men in the labor queue, are more likely to get and stay at jobs in courts than in law firms.

In addition to the two classic theories of human capital and gender stratification, the recent social science literature on gender and corruption might also help explaining women judges' promotion patterns. Swamy et al. (2001), for instance, use survey data to show that women are less involved in bribery and countries in which women hold a larger share of parliamentary seats and senior positions in the government bureaucracy have less severe corruption—a finding echoed by Dollar, Fishman, and Gatti (2001). While those two early studies emphasize women's individual qualities as the “fairer sex” in politics, Sung (2003) argues that the association between gender and corruption is partially spurious and dependent on a liberal democratic polity, an institutional approach that has influenced later studies (Esarey and Chirillo 2013; Frank, Lambsdorff, and Boehm 2011). In the Chinese political system, which is not a liberal democracy, women are also less associated with corruption than men. The vast majority of judicial corruption cases are committed by men, whereas women often become “model judges” (模范法官) in the performance evaluations of the court system (Li 2012; Minzner 2011). Accordingly, it could be hypothesized that female judges get promoted to leadership positions because they are, or are perceived to be, less corrupt than their male colleagues.

While all the four theoretical perspectives provide useful insights on the career mobility of women judges in China, none of them could fully explain the elastic ceiling in professional career, that is, women are often promoted to mid-level leadership positions, but not high-level ones. The ceiling in higher level promotion seems to confirm the classic glass ceiling in women's career, but it is important to note that mid-level leadership positions, especially division chiefs, are still relatively powerful positions in the Chinese judicial system. A division chief oversees all the cases processed in the division and is a member of the court's adjudication committee, which holds the ultimate judicial decision-making power (He 2012). Division chiefs also assume important roles in the court's communications with the local government, especially in higher level courts.

We argue that the elastic ceiling for women is not simply a consequence of human capital investment or gender stratification, but the result of two social processes that structure the patterns of gender inequality. The first social process is *dual-track promotion*, which concerns the vertical mobility of judges in the judicial and civil service bureaucracies. In Chinese courts, two tracks of promotion coexist. In the *professional track*, promotion primarily is based on the evaluation of a judge's professional expertise and work performance. In the *political track*, promotion primarily is based on a judge's social and cultural capital and political connections with higher level Party or administrative leaders. We argue that women are more disadvantaged in the political track of promotion than in the professional track. As Kay and Hagan (1998) demonstrate, women are often deficient in their social and cultural capital in the masculine culture of the legal profession (and, in our case, the bureaucracy), which makes them less competitive than men in the political track. The prevalence of patronage and corruption in the Chinese judiciary further increases women's disadvantages in high-level leadership promotion. However, when female judges are evaluated by the same technical standards about their work performance as their male colleagues, they are not significantly disadvantaged in the professional track. The elastic ceiling in the careers of Chinese women judges, therefore, is structured by the different effects of the two coexisting tracks in mid-level and high-level leadership contests.

The second social process is *reverse attrition*, which concerns the horizontal mobility of judges from courts to other law-related jobs. The potential destinations of judges' horizontal mobility can be divided into two routes: the money route and the power route. In the *money route*, judges quit their public-service jobs to become lawyers in law firms, in-house counsel in enterprises or financial institutions, or take lucrative positions in other market sectors (Kinkel 2015). In the *power route*, judges transfer from courts to government offices, the people's congress, the Political-Legal Committee, or other Party-state agencies. We argue that, in both routes, men aspiring for more money or power are more likely to leave the judiciary than women, who tend to stay behind due to lack of opportunities, family obligations, or personal considerations. Women often assume lower positions in the labor queue than men (Reskin and Roos 1990) and, in the Chinese case, a judge generally is considered less profitable than a lawyer and less prestigious than a government official. In other words, the corresponding lower positions of women and judges in legal and political careers contribute to the emerging feminization in Chinese courts, and it helps explain the elastic ceiling in female judges' careers because male judges often abandon their posts at

mid-level leadership positions, but not high-level ones. This pattern of horizontal mobility is the reversal of the mobility patterns often observed in Anglo-American law firms, in which women usually are the subjects of attrition (Kay 1997; Kay and Gorman 2008; Kay, Alarie, and Adjei 2016).

Taken together, the two social processes of dual-track promotion and reverse attrition constitute a processual logic to gender inequality in professional careers, a logic that emphasizes how inequality in the workplace is shaped by macrolevel factors (Dinovitzer and Hagan 2014), particularly the mobility of law practitioners (Dinovitzer 2006; Dinovitzer and Hagan 2006; S. Liu 2013; Liu, Liang, and Michelson 2014). Although both promotion and attrition have been discussed extensively in the literature on women in the legal profession (Hagan and Kay 1995; Reichman and Sterling 2004), they are often treated as *outcomes* rather than *causes* of gender inequality. By closely examining the dynamic processes of promotion and attrition in professional careers, we seek to move beyond the enduring focus on discrimination in the workplace and provide a processual approach (Abbott 2016; S. Liu 2013) to gender inequality in the legal profession, the bureaucracy, and other work settings.

Data and Methods

Studying gender and professional career in Chinese courts presents several methodological challenges. First, while Chinese legal academics frequently provide expert opinions to judges or serve part-time positions in courts, the judicial administration is highly wary of any inquiry by foreign researchers. Second, while Chinese judges are becoming more receptive of statistics and other empirical research methods, in-depth interviews or long-term participant observation in courts remain difficult. Some courts only permit judges to speak to outside researchers in a group rather than individually. Third, female judges often have more concerns when talking to outsiders, especially male interviewers, due to their relatively inferior positions in the judicial bureaucracy and the gender difference.

To overcome these methodological challenges, we adopted an unconventional research design when conducting fieldwork for this project in 2012–2013. Although our interview questions were designed jointly by the three authors, all the interviews were conducted by the first and second authors, both of whom are female researchers affiliated with major law schools in China. The interviewers' dual identities of women and law professors enabled us to approach female judges in different localities and

administrative levels relatively smoothly. In addition, both interviewers had years of experience conducting research on courts or working with judges in projects, which greatly facilitated their access to judges and court leaders in the fieldwork for this study. The third author provided regular consulting during fieldwork and completed most of the data analysis and writing, but he did not participate in the interviews because of his unfavorable identities as a male researcher affiliated with a foreign university.

In order to provide a relatively comprehensive picture of the careers and lives of women judges across the vast territories of China and different levels of the judicial bureaucracy, the two interviewers used different sampling methods in selecting field sites and interviewees. The first author focused her fieldwork in Zhejiang Province, an affluent coastal province in eastern China, and interviewed 22 judges in two basic-level courts, one intermediate court, and the provincial high court. For each court, five or six judges were selected as interviewees. The second author extended the scope of her fieldwork to three provinces (Anhui, Jiangsu, and Sichuan) and a directly administered city (Tianjin) in different parts of China. While Jiangsu and Tianjin are located in the east coast, Anhui is a less developed province in central China and Sichuan is a large and populous province in the southwest. For each of the three provinces, interviews were conducted in two or three basic-level courts and an intermediate court. For Tianjin, interviews were only conducted in the municipal high court due to limited time and access in fieldwork. The second author interviewed 33 judges in total.

We intentionally selected more women as informants but also interviewed several men to hear their opinions on the issues of gender and professional career. Among the 55 judges in our sample, 46 are women and 9 are men. While most interviewees were still in their judicial positions at the time of the interview, a few of our informants had recently left their courts to pursue other career options in the legal profession or the government. Contrasting the voices of present and former judges enabled us to gain a deeper understanding of not only the mobility patterns in legal careers but also the challenges and temptations faced by Chinese judges as they move up the judicial and civil service bureaucracies. Our interviewees include judges at all judicial positions, ranging from assistant judges to court presidents. There is a possible urban bias in our sample, as courts in rural China might present more difficulty for the careers of women judges due to the stronger masculine culture and the shortage of legal talents.

Despite the obstacles in obtaining statistical data from Chinese courts, we were able to collect personnel statistics from one city

in Anhui (City D) and three cities in Zhejiang (Cities A, B, and C), as well as the personnel statistics of Zhejiang Province as a whole. Unlike the official judicial statistics in the *China Law Yearbook*, which do not provide any data on gender, the provincial and local personnel statistics that we collected include data on the numbers and percentages of female and male judges at all levels. In the next section, we use these quantitative data to provide an overview of the increasing presence of women in Chinese courts and complement the qualitative data from our interviews. All the 55 interviews are coded in the format of “A1301”: “A” is the first letter of the province (i.e., Anhui) in which the interview was conducted, “13” is the year of the interview (i.e., 2013), and “01” is the interview number in that province in that year.

Women in Chinese Courts

Like many other countries across the world (Michelson 2013), China is experiencing a rapid process of feminization in its legal education and legal profession in the early twenty-first century. This began in law schools with a steady increase in the number of female students in the 1990s. With the “great leap forward” of Chinese higher education since the late 1990s (Bai 2006), in which the total number of law schools increased from less than two hundred in the 1990s to over six hundred by 2006, and the total number of law students surged from 31,500 in 1999 to 208,000 in 2008 (Minzner 2013: 349), a large number of women were enrolled in law schools at both undergraduate and graduate levels. In some Chinese law schools, the percentages of women increased from less than 30 percent in the mid-1990s to about 70 percent in the early 2010s (Song and Liu, forthcoming). Not surprisingly, when these female law graduates entered the job market, it triggered the large-scale entry of women into the Chinese legal profession.

According to the official statistics from the *Chinese Yearbook of Lawyers* and the All China Lawyers Association, the percentage of women among Chinese lawyers increased from 13.3 percent (15,610) in 2000 to 15.8 percent (24,361) in 2005 and then to 26.6 percent (61,717) in 2012 (All China Lawyers Association 2013). Michelson’s (2009) groundbreaking analysis on gender inequality in the Chinese legal profession suggests that the percentage of women lawyers in Beijing was already as high as 28 percent in 2000–2004. Despite the steady increase over time, the percentage of women lawyers in China remains significantly lower than the percentage of women in law schools, which indicates that female law graduates still face significant barriers in their

entry into law firms, a finding consistent with women's experiences in other countries (Bolton and Muzio 2007; Hagan and Kay 1995; Kay and Gorman 2008; Schultz and Shaw 2003). However, official law yearbooks in China do not provide any gender information on judges or procurators. The most recent statistics on women judges that we were able to find are from a report on the implementation of the *Chinese Women Development Outline (2011-2020)*, which reports that the number of female judges in China was approximately 57,200 in 2013 and it accounted for 28.8 percent of all Chinese judges (National Bureau of Statistics, People's Republic of China 2015). According to the same report, the percentage of female procurators was 29.3 percent in 2013.

Although the statistical differences among the percentages of female judges, procurators, and lawyers are not significant, our interviews suggest that courts and procuracies are often regarded by law graduates as more women-friendly workplaces than law firms (A1307, S1314, and Z1321). Chinese judges and procurators are civil servants and they enjoy the job security and benefits of the public sector, whereas most law firms are private partnerships and do not provide their lawyers stable income or job security (Michelson 2007). The long work hours and widespread gender discrimination in law firms also make them less desirable workplaces for women. Another important reason is that the recruitment process in courts is more standardized and exam based than the process in law firms, which is often strongly influenced by the subjective preferences of individual partners. To become a judge in Chinese courts, the job candidate needs to pass two exams, namely, the national judicial examination and the civil service examination. While the national judicial examination is a unified exam for lawyers, judges, and procurators, the civil service examination is administered locally and it typically includes both a written exam and an interview. Most of our interviewees indicated that women had significant advantages over men in both the exams and the interview, thanks to their educational investments and communication skills, though there was also a notable male preference in recruitment across different courts (e.g., A1301, A1309, J1203, S1301, S1304, S1316, Z1302, Z1313, and Z1321). A female court leader in a basic-level court in Zhejiang explained this dilemma as follows:

My personal preference is to get men. From the employer's perspective, women have more problems, such as the problem of childbearing, etc. But now our recruitment system is strictly based on exams, and women's test scores are way higher than

the scores of men. ... If [the court was to] recruit only one person, [we] could not set any limit on gender. However, if [the court was to] recruit two, then [we] could have some leeway towards men—for example, [we] could ask for one man and one woman [in the job ad].

(Z1304, Zhejiang Province)

The concern for women's childbearing obligation among court recruiters, a classic "motherhood penalty" (Correll and Benard 2007), was particularly strong given that most urban courts in China would only accept law students with master's degrees, most of whom were in their mid-20s and approaching the childbearing age (A1308, S1303, Z1310, and Z1313). The gradual loosening of the "one-child policy" in recent years further aggravated this concern (Z1321). Still, in comparison to earlier years, Chinese courts have become more women friendly over time. A senior female judge in Anhui described the changing gender balance in her court's recruitment over the past two decades:

I have worked in the court for almost 20 years. Eighteen or 19 years ago, we [women] were called "pig tails." ... There were eight candidates back then, and I was the only woman. So I was the "pig tail," an add-on item [to the pigs, i.e., men]. The intermediate court explicitly said that it did not want women. Other basic-level courts said the same thing. Only my court was different. ... In recent years, there have been more women than men in my court's recruitment.

(A1301, Anhui Province)

In addition to the general male preference, when recruiting judges for certain divisions, such as the enforcement division, male preference was even stronger (A1304, A1309, S1301, S1304, Z1305, Z1307, and Z1310). Enforcing judicial decisions requires frequent travels and it is often confrontational, and thus it generally was considered a job for men. By contrast, there was a notable female preference in the civil divisions, especially the first civil division specializing in ordinary family and neighborhood disputes, in which women's "meticulousness, good writing and communication abilities" (Z1308), "congeniality" (S1304), and "emotional nuances" (Z1310) were often regarded as desirable qualities for mediation and civil dispute resolution (Wei and Xin 2013; Song and Liu, forthcoming)—a finding echoing what Azocar and Ferree (2015) term "gendered expertise" in their study of law reforms in Chile.

The preferences of men and women in different divisions seems to suggest a gendered division of labor in Chinese courts, but not a sharp sex segregation (England 1982; Bielby and Baron 1986; Reskin 1993). In our conversations with interviewees, female judges were often described as more “meticulous” (S1306, S1313, Z1308, and Z1311), “patient” (A1305, Z1302, Z1306, and Z1310), “amiable” (A1303, S1302, S1311, and Z1314), “emotionally nuanced” (S1308, Z1303, Z1315, and Z1319) and “engaging” (S1304 and Z1321) than their male colleagues. In comparison, male judges were frequently associated with masculine qualities such as “tough” (Z1320), “energetic” (A1303), “authoritative” (S1301, Z1310, and Z1322), and “intimidating” (Z1315). Many younger women suggested that they would avoid working in the criminal division because they could not stand the “horrificing” and “bloody” photos of murder cases (A1301, Z1317, Z1318, Z1319, and Z1321), the “dark” execution scenes (Z1307), the “disrespectful words” of criminal suspects (Z1312), or the “weeping of family members” (Z1307). However, there was no shortage of women in the criminal division (A1303, A1304, S1311, and S1312), and a few female judges indicated their preferences for the criminal division because its workload was lighter than the workload in the civil divisions (A1302 and A1306). Two senior women in Zhejiang who became judges in the 1980s even told us that they enjoyed handling criminal cases in the early years thanks to their “crisp” and “resolute” personalities (Z1302 and Z1320). This raises an intriguing question beyond our ability to answer in this article: are the younger women’s fear of criminal cases a matter of personality or a consequence of their gendered socialization in the judicial system?

Besides the unbalanced distribution of male and female judges across divisions, the percentages of women in different judicial ranks also vary significantly. Until a recent personnel reform that introduced a quota system (员额制) for judges in 2015, there were six ranks of judges in every Chinese court: (1) assistant judge (助理审判员); (2) associate judge (审判员); (3) division vice-chief (副庭长); (4) division chief (庭长); (5) vice-president (副院长); and (6) president (院长). In some areas, “chief of judicial panel” (审判长) was also considered an official rank (Kinkel 2015: 977), but it was not a universal practice across China.

Table 1 presents the distribution of men and women in five of the six ranks (data on vice-presidents missing) in City D, a medium-size city in Anhui Province, including the personnel statistics of all courts in the city as well as in the intermediate court as of January 2014. On a first glance, the statistics seem to conform to the universal patterns of gender inequality, that is, the higher the rank, the fewer women. However, a closer look at the

Table 1. Personnel Statistics by Gender, City D, Anhui Province, January 2014

	Assistant Judges		Associate Judges		Division Vice-Chiefs		Division Chiefs		Presidents	
	M	F	M	F	M	F	M	F	M	F
All courts in	33	27	235	73	49	27	43	6	6	1
City D	55.0%	45.0%	76.3%	23.7%	64.5%	35.5%	87.8%	12.2%	85.7%	14.3%
Intermediate	6	6	41	19	9	5	7	0	1	0
Court D	50.0%	50.0%	68.3%	31.7%	64.3%	35.7%	100.0%	0.0%	100.0%	0.0%

Note: The “Presidents” category does not include vice-presidents.

numbers shows that the percentages of women as division vice-chiefs were higher than those as associate judges in both rows, which suggests that women were not disadvantaged at this lower level leadership promotion. In the meantime, the percentages of women as division chiefs and presidents were significantly lower.

Similar patterns are also found in the 2013 personnel statistics of Zhejiang Province, in which we obtained more comprehensive data. As Table 2 shows, the data include the statistics of all courts in the province, the provincial high court, as well as three intermediate courts and seven basic-level courts in three cities. Unlike the data in Table 1, the “Presidents” category in Table 2 includes both presidents and vice-presidents. Consistent with the City D data, in nearly all basic-level courts (except for Court C2), the percentages of female division vice-chiefs were higher than the percentages of female associate judges. In three basic-level courts (A2, B2, and C1) as high as 50 percent of the division vice-chiefs were women. Even at the level of division chiefs, in five of the seven basic-level courts (A1, A2, B2, C1, and C3), the percentages of women were higher than the percentages of female associate judges. In Court A2, five of the seven division chiefs were women. Nevertheless, in the three intermediate courts (A, B, and C) the percentages of female division chiefs were notably lower, and all the 17 division chiefs in the provincial high court were men. At the level of presidents and vice-presidents, five of the 11 courts in the sample had no female president or vice-president at all, and the percentage of female vice-presidents and presidents in the whole province was as low as 7.6 percent.

The elastic ceiling of women’s career in Chinese courts is clearly observed in these personnel statistics. On the one hand, the rising proportion of female judges is evident, particularly at the level of assistant judges, where women already accounted for 45 percent in City D in Anhui Province and 51.6 percent in Zhejiang Province. These assistant judges are mostly new recruits who have worked for less than five years in the judiciary and thus the higher percentage of women suggests some cohort effect

Table 2. Personnel Statistics by Gender, Zhejiang Province, 2013

	Assistant Judges		Associate Judges		Division Vice-Chiefs		Division Chiefs		Presidents	
	M	F	M	F	M	F	M	F	M	F
All courts in Zhejiang Province	831	887	2,334	891	716	327	685	219	97	8
	48.4%	51.6%	72.4%	27.6%	68.6%	31.4%	75.8%	24.2%	92.4%	7.6%
Provincial high court	86	65	70	22	28	5	17	0	6	1
	57.0%	43.0%	76.1%	23.9%	84.8%	15.2%	100.0%	0.0%	85.7%	14.3%
City A										
Intermediate Court A	26	28	43	26	8	7	6	2	5	4
	48.1%	51.9%	62.3%	37.7%	53.3%	46.7%	75.0%	25.0%	55.6%	44.4%
Basic-level Court A1	7	15	23	18	5	4	2	5	5	0
	31.8%	68.2%	56.1%	43.9%	55.6%	44.4%	28.6%	71.4%	100.0%	0.0%
Basic-level Court A2	4	4	4	1	2	2	2	4	3	1
	50.0%	50.0%	80.0%	20.0%	50.0%	50.0%	33.3%	66.7%	75.0%	25.0%
City B										
Intermediate Court B	11	11	62	31	11	1	6	3	4	0
	50.0%	50.0%	66.7%	33.3%	91.7%	8.3%	66.7%	33.3%	100.0%	0.0%
Basic-level Court B1	2	3	15	4	8	6	8	1	5	0
	40.0%	60.0%	78.9%	21.1%	57.1%	42.9%	88.9%	11.1%	100.0%	0.0%
Basic-level Court B2	10	11	23	4	5	5	5	2	6	1
	47.6%	52.4%	85.2%	14.8%	50.0%	50.0%	71.4%	28.6%	85.7%	14.3%
City C										
Intermediate Court C	24	19	90	38	15	6	8	2	6	0
	55.8%	44.2%	70.3%	29.7%	71.4%	28.6%	80.0%	20.0%	100.0%	0.0%
Basic-level Court C1	13	10	42	7	7	7	7	4	5	1
	56.5%	43.5%	85.7%	14.3%	50.0%	50.0%	63.6%	36.4%	83.3%	16.7%
Basic-level Court C2	1	5	11	5	12	4	9	1	8	1
	16.7%	83.3%	68.8%	31.2%	75.0%	25.0%	90.0%	10.0%	88.9%	11.1%
Basic-level Court C3	3	3	15	4	7	3	5	4	5	0
	50.0%	50.0%	78.9%	21.1%	70.0%	30.0%	55.6%	44.4%	100.0%	0.0%

Note: The "Presidents" category includes both presidents and vice-presidents.

thanks to the increasing availability of women on the legal job market. However, the cohort effect on higher levels of judges, especially division chiefs and above, had not been salient in our data because the large cohorts of women who started their judicial careers in the 2000s had yet to rise to those leadership positions by 2013, when we collected our personnel data. On the other hand, while the glass ceiling for women judges has been significantly weakened and a large number of them have been promoted to mid-level leadership positions, especially in basic-level courts, it remains difficult for them to rise up to high-level positions, or even to mid-level positions in higher level courts. The next two sections discuss the two processes of mobility that produce this elastic ceiling, namely, dual-track promotion and reverse attrition.

Dual-Track Promotion: The Process of Vertical Mobility

Chinese judges are not only officers of the court but also civil servants in the Party-state bureaucracy. In addition to their

judicial ranks, all judges have administrative ranks like state bureaucrats in other government offices. As a result, Party and administrative influence in judicial decision making is prevalent in the daily work of judges (He 2009, 2012; Li 2012; Liebman 2007; S. Liu 2006). Furthermore, sophisticated systems of cadre evaluation and judicial discipline have been established in recent years to institutionalize the bureaucratic control on judicial practice (Kinkel 2015; Kinkel and Hurst 2015; Minzner 2009, 2011).

Recent studies by Chinese legal scholars shed important light on the mechanisms of personnel management and cadre promotion in Chinese courts. Z. Liu (2012, 2014) argues that fragmented authoritarianism (Lieberthal and Oksenberg 1988; Mertha 2009) in the Chinese bureaucracy has significant effects on appointments and promotions in courts. The appointments of court presidents and vice-presidents are a political process of external designation. While the local people's congress, the upper-level court, and local government leaders all exercise influences on the appointments, the ultimate decision-making power lies with the Communist Party Committee (Z. Liu 2012). Zuo's (2015) empirical study in Sichuan Province not only confirms Liu's argument but also suggests that court presidents exercise significant influence on the appointments of vice-presidents in their courts.

Within the court, judges assume both "ranks" (级) and "positions" (职), both of which can be further divided into judicial, administrative, and Party ones (Z. Liu 2014)—a complex personnel system that few outsiders could fully comprehend. Besides the judicial ranks discussed above, all judges, like other civil servants, have administrative ranks ranging from section member, deputy section head, section head, deputy division head, division head, etc. all the way to the provincial-ministerial and national levels. Meanwhile, some judges also have Party leadership positions or membership in the court's adjudication committee, which usually consists of the president, vice-presidents, division chiefs, and other court leaders (He 2012). The interwoven judicial and administrative ranks make the court's internal appointments and promotions even more complex than the appointments of court presidents. Zuo's (2015: 30–31) study shows that mid-level leadership positions are filled through a formal and competitive procedure that involves written exam, candidate's speech, democratic evaluation (民主测评), interview and assessment by the Party Committee, and, finally, approval by the people's congress. The final decision usually is made by the Party Committee and the court president. His data also suggest that professional expertise is the key factor in the promotion of division vice-chiefs, whereas administrative skills are the key factor in the

promotion of division chiefs, though both factors are important for both positions (Zuo 2015: 32).

Our interviews support the main findings of both Liu's and Zuo's studies, that is, there are two coexisting tracks of leadership promotion in Chinese courts, which we have defined as "dual-track promotion" in the theory section. Wang's (2015) study on the appointments of assistant and associate judges in nine provinces suggests that both tracks are at work in practice, which he terms "horse-racing" (赛马) and "horse-picking" (相马). In our study, we find that "horse-racing" (i.e., the professional track) is commonly used in mid-level leadership promotion at the administrative ranks of deputy section head (副科级) and section head (正科级), whereas high-level promotion at the administrative ranks of deputy division head (副处级) or above is always a political process of "horse-picking" (i.e., the political track)—a finding that echoes Zuo's (2015) conclusion that professional expertise matters less than administrative skills in higher level appointments of court leaders. A judge in an intermediate court in Anhui explained the two tracks of promotion as follows:

First is the candidate's speech, then a written exam. The written exam is just a formality, because most of us are law graduates and there is little variation [in scores]. The speech is to introduce your personal experiences, targeting at democratic evaluation. But eventually the decision is made by the Party's democratic centralism (民主集中制). This is for the positions below the rank of deputy division head. ... Deputy division head and above are high leadership positions. The appointments and reviews must go through the municipal Party Organization Department and the municipal Party Committee makes decisions on them. The whole procedure is arranged by the Organization Department.

(A1301, Anhui Province)

Yet the existing studies have not discussed a major consequence of this process of dual-track promotion, that is, women are significantly disadvantaged in the political track, but not in the professional track. In the competition for division chiefs and vice-chiefs, women usually do well and sometimes better than men thanks to their solid work performance and good scores in written exams (A1302, J1203, S1311, Z1305, and Z1312). Another important reason for the overrepresentation of women as division vice-chiefs is that this mid-level position is "not a leader, just a worker" (A1303) who manage cases in the division (A1304, S1311,

Z1303, Z1311, and Z1313). By contrast, in the appointments of court presidents and vice-presidents, male candidates enjoy notable advantages in terms of social and cultural capital. A female division chief in a basic-level court in Zhejiang explained this difference:

Mid-level [leaders] are promoted within the court, so the president would not promote anyone who didn't know how to work. Because if you did your work well, all the achievements would belong to him. But the higher level, it would need social connections. Now there is no open competition for high-level leadership. All are designated directly. The higher-level leaders would not know mid-level leaders like me. He only knows his direct subordinates. Some people said to me, "Given your work abilities, any president would make you a division chief." But I know that I can only get to division chief. Vice-president? I don't have that kind of connections or backgrounds. I think this kind of promotion system is problematic.

(Z1311, Zhejiang Province)

Why are these "connections or backgrounds" so important in high-level leadership promotion? It is because, as the Anhui judge explained in the quote above (A1301), once a judge's administrative rank reaches the deputy division head level or above, which is usually the case for vice-presidents and presidents in basic-level courts or division chiefs in intermediate courts, the appointment decision must be confirmed by the Party Organizational Department. The cadre selection process of the Chinese Communist Party is heavily based on clientelism (Edin 2003; Shih, Adolph, and Liu 2012) and thus political ties with local Party and administrative leaders are extremely important for a judge to be promoted to the high-level leadership in his or her court. Nevertheless, women face significant barriers in developing such connections in the workplace. One of our female interviewees in Anhui illustrated how the masculine drinking culture in Chinese courts made her feel uncomfortable:

When you are with a male leader, it is a disadvantage if you can't drink. There is a saying in our basic-level [court]: "How much you can drink, how high you can climb up the official ladder." Eight tael (两) of liquor can make a division chief. One catty (斤) of liquor can make a president. So people like us who can't drink are upset. Women leaders would not ask

you to drink, and they are usually more intimate and care about your well-being. I heard that the female president of another court thought some women in her court didn't dress nicely enough, so she took them for shopping and gave them advice. That sounds fantastic to me.

(A1303, Anhui Province)

Gender also gets in the way in everyday interactions between male court leaders and female judges. As a female division chief in an intermediate court in Zhejiang explained:

For women, at least for me, I don't think I have any advantage, but some disadvantages. I can't stay in touch with male leaders too closely. Even business trips [we] can't go together often. Always need to avoid suspicions, no? Now our leader is a woman, so I don't have any problem. I can go on a business trip or whatever the leader asks me to do. Sometimes we communicate. It is very normal too. But for men, I have to be more cautious. ... Sometimes it is hard to manage. A man can get things done with a cigarette, but I feel uncomfortable as a woman.

(Z1312, Zhejiang Province)

Like the prevalence of rumors about extramarital affairs between male partners and female associates in law firms, rumors about female judges' affairs with higher level male leaders are also commonly observed in Chinese courts (S1301 and Z1312). Consequently, female judges "always need to avoid suspicions" by limiting their day-to-day contacts with male leaders in the court and beyond, especially in situations such as business trips, dinners, and entertainment activities. However, in the Chinese political context, it is precisely in these informal settings that personal relationships and mutual trust are developed among state officials (Li 2012; Manion 2004). Women's family obligations also make it difficult for them to participate in those activities, as a Sichuan judge told us, "We women judges reserve the after-work hours for the family...and the limited scope of our social networks has a major impact on the promotion of women judges—as the saying goes: 'your circle (圈子) determines your life'" (S1301).

Cultural capital presents another barrier for women in Chinese courts. When asked about the essential qualities for high-level leadership, masculine words such as "piloting abilities" (S1305 and Z1307), "macro perspective" (S1303), "determinant" (S1307 and Z1313), "authoritative" (A1305, S1315, and Z1322),

“bold” (A1306 and A1309), and “autocratic” (Z1304) were mentioned frequently by our interviewees. A judge in Zhejiang even told us that “silly girls like us are not interested in questions like whether or not to become leaders” (Z1317). And when asked what type of women could become high-level leaders in courts, two female judges in different provinces answered with the same popular term “tough girl” (女汉子) and then explained that female court leaders must have “masculine qualities” and “gender-neutral qualities” (S1312 and Z1316). Indeed, like female partners in law firms, female court leaders also face serious role conflicts (Hagan and Kay 1995) between their identities as women and as leaders in the judicial bureaucracy. A judge in the provincial high court in Zhejiang expressed her opinions on men’s advantage in cultural capital for high-level leadership positions:

Women can endure hard work and are good at handling issues, but men handle things better at the higher level. Maybe men care more about official positions, so they pay more attention. I myself feel like, I know many big truths (大道理), but I am not even willing to look at them, let alone to talk about them. Men are different. They look at them and then they can talk about them eloquently. Men and women have different interests. When women get together, we always talk about good food, children, and so on.

(Z1320, Zhejiang Province)

The higher level in the judicial bureaucracy, the more important is the political track in leadership promotion. For example, division chiefs in intermediate courts usually have the same administrative rank as presidents in basic-level courts (S1304). Accordingly, even mid-level promotions in intermediate and high courts must go through the Party Organization Department (S1306). The political track of external designation dominates this process and, as a result, fewer women are promoted than the case in basic-level courts. This explains why, in both Table 1 and Table 2, all the intermediate courts and high courts had smaller percentages of women at the level of division chief or above. In both the provincial high court in Zhejiang and the intermediate court in City D, not a single woman held the division chief position. At the division vice-chief level, however, the difference in the percentages of women between basic-level courts and intermediate courts was not as significant, though only 15.2 percent of division vice-chiefs in the provincial high court in Zhejiang were

women. Therefore, the dual-track promotion system could benefit women at lower levels, but it limits their chances of promotion at higher levels.

Reverse Attrition: The Process of Horizontal Mobility

Like other professionals, Chinese judges not only move vertically in the judicial career ladder but also move horizontally between different jobs. If we conceptualize the judicial system as a social space, then the mobility of individual law practitioners between this space and adjacent spaces such as the legal services market and the state bureaucracy is a key social process that shapes the space's social structures (S. Liu 2013, 2015). Compared to the gendered mobility patterns in law firms, which is often characterized by the significantly higher attrition rate of women to other legal jobs than men before reaching partnership (Kay 1997; Kay, Alarie, and Adjei 2016; Nelson 1988), attrition in Chinese courts is also gendered, but in a reverse direction. Male judges are significantly more likely to resign and move to law firms, in-house legal departments, or government offices than female judges.

Why do Chinese judges choose to leave the judicial system and pursue other career options? Kinkel's (2015) recent study suggests that, in cities where the legal services market was more developed and lawyers enjoyed significantly higher incomes than judges, such as Shanghai and Shenzhen, highly qualified mid-ranking judges were more likely to depart from courts to law firms than in Chengdu, where the income gap between lawyers and judges was less salient. In order to curb the brain drain, courts in Shanghai and Shenzhen initiated local personnel reforms to increase merit-based competition and transparency in their promotion system earlier than courts in Chengdu and other parts of the country.

Our interviews in the five provinces confirm Kinkel's main argument, that is, brain drain in Chinese courts is widespread, but it is particularly severe in more developed cities such as Hangzhou, capital of the affluent Zhejiang Province (Z1307, Z1310, Z1313, and Z1318). In comparison, judges in smaller cities or less developed regions are less likely to move to the legal services market (A1301, A1304, A1307, J1202, S1301, S1307, and S1313). However, two additional findings in our fieldwork go beyond Kinkel's research. First, when Chinese judges seek to find a new job, there is not only a money route to join law firms or business corporations in the market but also a power route to move to other sectors of the Party-state, such as the local people's

congress, the Party Political-Legal Committee, or local government offices. In less developed regions, the power route is sometimes even more attractive than the money route, as a judge in a basic-level court in Anhui commented:

From 2003 to 2010, a very high percentage of male judges in our court changed jobs. ... Now our court has nobody to leave, all gone! Because judges need to deal with all kinds of people in court, so we have gained rich experiences in handling people and things. So every year the district [Party] Political-Legal Committee would get a few people from our court. Around 2005-2007, we recruited three male judges, one of whom was so outstanding that he was soon recruited by the district government. One reason is that there are too few opportunities to get administrative ranks in court, but becoming a deputy section head is very easy in the district or municipal government. They were gone mainly because of this reason. That judge, when he went to the district government he became a deputy section head right away. If he had stayed in [our] court, considering the seniority and hierarchy, maybe not even a deputy section head after more than ten years. I have worked here for almost 20 years, still not even a deputy section head. ... A male judge came to our court in the same year as I did, and then he was recruited by the municipal Legal Affairs Office in 2001. Now he is already a deputy division head. If he had stayed in our court, no matter how excellent he was, at most a section head by now.

(A1302, Anhui Province)

As a specialized agency in the Chinese bureaucracy, courts get smaller quotas of administrative ranks than government offices or Party organs do. For example, in an intermediate court there could be more than ten candidates competing for a division head rank, whereas in a municipal government office only three or four candidates would compete for it (Z1313). Consequently, for earlier-career judges who seek upward mobility in the bureaucratic system, a horizontal move from the court to other state agencies would expedite the process. This is particularly attractive for men, as a male judge in Zhejiang said, "If a man was in his 40s and still did not have a title with the word 'chief' (长) in it, then others would look down upon you." (Z1322) Younger men in courts enjoy even more advantages in the power route because, as a judge in Sichuan told us, "Our Party and administrative agencies have their own recruiting standards: younger than 28 years old, male, Party member, and graduate degree—all

those four criteria are necessary.” (S1303) Some court presidents would even deliberately engage in “talent bribery” (Z1314), that is, sending a promising young judge to serve as the personal assistant (秘书) of a local leader in order to get political favors from that leader.

In comparison, women judges often put more emphasis on family obligations and career stability (A1302, A1307, S1304, T1201, Z1318, and Z1320), but some of our interviewees also indicated that the opportunities for upward mobility in other state agencies remained limited for women (Z1302). The glass ceiling is harder to break in Party or government offices than in courts because promotion in those agencies primarily is based on political connections rather than professional expertise (A1309). Although there is a state policy to promote highly educated ethnic minority women who have no party affiliation (the so-called “无知少女”), it only benefits a very small number of qualified women in their political careers. But even so, the women who left court for other state agencies were still promoted faster than those who stayed. A female division chief in a basic-level court in Zhejiang gave an example:

I’ve worked for so many years and am still only a division chief at the section-head level. To get to division chief in the court is not easy, with heavy responsibility. But you look at the section heads in government offices, all post-80’-generation kids! ... And there is a woman who used to work in our court. She worked and worked but could only get to the section-member level, already in her 40s. Then the [Party] Organization Department asked for someone from our court to help out and she stayed there afterwards. Now she is a vice-chief of the Department. So whoever left the court has got to the division-head level or above.

(Z1311, Zhejiang Province)

Our second finding beyond Kinkel’s (2015) research is that male and female judges make different career choices not only in the power route but also in the money route. For judges who quit their jobs to become lawyers, men substantially outnumbered women. The income gap between lawyers and judges is significant, even in western provinces such as Sichuan. A male division chief in a basic-level court in Sichuan said, “When I was driving an Alto [a Chinese auto brand], a classmate of mine who resigned and became a lawyer was driving a [Ford] Focus, and a couple of years later he bought a BMW, ... at least he could afford it, but I

don't even have the money." (S1313) Another judge in the same court told us that her annual income was less than 80,000 yuan, but a criminal defense lawyer could charge 40,000 or 50,000 yuan for merely two meetings with her client (S1309). In the more affluent Zhejiang Province, the income gap is even larger. A former division vice-chief in a basic-level court in Zhejiang who recently became a lawyer explained her choice as follows:

I am a single mother with a daughter, so the financial pressure is huge. ... Sometimes I did labor cases involving blue-collar workers, and even their annual salary was 200,000 yuan, higher than mine! ... I love the judicial profession. Before I decided to leave, I asked my daughter, "Would it be good if mom became a lawyer?" My daughter said, "Not good." I asked why. She said, "Because judges can uphold justice." When I heard this my heart was broken. But the noble feeling of the judicial profession was declining, and sometimes judges had to make unjust decisions but the dispute was not resolved. ... No sense of justice anymore. The professional honor gradually disappeared.

(Z1303, Zhejiang Province)

As this quote illustrates, besides the income gap that Kinkel (2015) emphasizes, an additional reason for the brain drain in Chinese courts is the general decline of professional honor, which is closely related to the issue of judicial corruption, our focus in the next section. Another frequently mentioned reason is the increasingly heavy workload for Chinese judges. According to a judge in a basic-level court in Zhejiang, in the 1990s her court had about 80 judges and they handled fewer than 3,000 cases annually; by 2012, the total number of cases increased five-fold to approximately 15,000 per year, but the number of judges only increased to about 120 (Z1308). A judge in the first civil division of an intermediate court in Sichuan told us that the average number of cases that each judge in her division handled was more than 250 in 2012, with the highest as many as 340—nearly one case per day including weekends and holidays (S1304). A popular saying among Chinese judges that we heard in both Anhui and Sichuan goes like this: "In courts, women are used as men, and men are used as donkeys." (A1303 and S1301) In addition to workload, several informants also expressed concerns about personal safety—judges often face threats or even physical attacks from angry or resentful litigants, especially after making controversial judicial decisions (A1305, S1302, S1304, S1311,

S1312, Z1314, and Z1315). The extreme imbalance between income and work pressure pushed many judges out of the judicial system and into the increasingly lucrative legal services market, where they could enjoy more flexible work hours and significantly higher incomes. This is especially attractive for men who are still considered breadwinners in their families.

When is the optimal career stage for a judge to take the money route and become a lawyer? Although brain drain occurs at almost every level of the judicial hierarchy, mid-ranking judges younger than 40 years old are the most likely targets for law firms (S1315 and Z1317). This is because these judges usually have reached a plateau in their judicial career, but the legal expertise and social networks that they have accumulated over the years are highly desirable for law firms and in-house legal departments. If a judge was promoted to vice-president or president in the court, his or her chances of leaving the post would significantly decrease. The loss of many mid-ranking male judges leaves plenty of vacancies at the division chief and vice-chief levels, which usually are filled by women. The horizontal mobility of mid-ranking judges partially explains why so many women have been promoted to mid-level leadership positions, but not high-level ones.

Why did many female division chiefs and vice-chiefs choose to stay in the court despite the low income, declining prestige, and heavy workload? Some of our interviewees referred to their age, personality, desire for stability, or the weaker breadwinning pressure for women (A1302, A1304, T1201, Z1304, Z1315, and Z1317). Another frequently mentioned reason is that the legal services market is less friendly for women than the judiciary and “getting clients and developing connections feel too burdensome” (Z1313). Similarly, it is also easier for men to pursue a political career in the Party-state bureaucracy than for women. In other words, women’s decisions of staying in the court are not only their individual choices but also the results of the structural constraints that they face in both the market and the bureaucracy. The reverse attrition of men, accordingly, is a social process driven by their advantageous positions in the job market and it reproduces gender inequality in both the judiciary and its adjacent social spaces.

Gender and Judicial Corruption

The combination of dual-track promotion and reverse attrition provides a processual logic to gender inequality in Chinese courts, i.e., the structural positions of women judges are shaped

by the patterns of both vertical mobility within the court and horizontal mobility between the court and other law-related jobs. However, an alternative explanation that we have not examined so far is the gender and corruption hypothesis. Given that judicial corruption has been a serious problem for Chinese courts since the 1990s (Liebman 2007; Li 2012), are female judges promoted to mid-level leadership positions because they are less corrupt? Or, conversely, are some male judges promoted to high-level leadership positions because they are more corrupt and thus developed closer political connections with local leaders?

In our 22 interviews in Zhejiang, we asked every informant whether or not women judges have advantages in preventing judicial corruption than their male colleagues and, if so, why. All but three judges (Z1304, Z1309, and Z1312) acknowledged that women were less likely than men to take bribes or engage in other forms of corruption. Although we were unable to ask the same questions systematically in the other four provinces, the advantage of women in preventing corruption was also confirmed by many interviewees (e.g., A1303, S1301, S1312, and S1316). However, there was no consensus among the interviewees on whether or not this advantage would help women judges get promotion. More frequently, we were told that it would help women in annual reviews and judicial awards.

Why are female judges generally less corrupt than male judges? One frequently mentioned reason is that women spent more of their spare time taking care of the family rather than participating in social activities in restaurants or karaoke bars (A1303, S1312, Z1302, and Z1313). Their deficiency in social and cultural capital in the court's masculine culture also makes it harder for them to engage in such activities, even if they were willing to do so. In other words, women's image as the "fairer sex" at least partially reflects their limited access to politics and fewer opportunities for corruption than men (Goetz 2007). By contrast, male judges are often tempted by litigants and their lawyers to participate in social activities, during which bribery and other forms of corruption frequently occur. A judge in the enforcement division of an intermediate court in Zhejiang explained this difference as follows:

When [we] go out to handle cases it would not be just one person, usually a judge and a clerk. If the two went to another province and stayed overnight, they would have to go out to eat. Then after dinner, if [the judge was] a woman, [she] would stay and rest in the hotel. If a man, perhaps some "second-half activities" would be arranged for you. The litigants know these things well. If a woman, they would not say

anything else. If a man, they would arrange for other possibilities. Many possibilities of corruption occur in these “second-half activities.” (Z1316, Zhejiang Province)

The “second-half activities” that this interviewee referred to usually include various forms of entertainment in karaoke bars, massage centers, or even prostitution—a common business practice not only in China but also in other Asian countries (Boittin 2013; Hoang 2015). In 2013, four male judges in the Shanghai High People’s Court, including three division chiefs and vice-chiefs, were caught on video camera when enjoying sex service in a resort hotel, which generated a national scandal. The case of Huang Songyou, a former vice-president of the Supreme People’s Court who was sentenced to life imprisonment for bribery and embezzlement in 2010, also involved sex scandals. In lower levels of the judicial system, bribing activities through money, meals, and sex are also prevalent. A female judge in Anhui told us that “male judges, especially older judges, would rather drink every night and feel happy even without dishes or peanuts,” whereas many women “don’t like drinking and feel tortured while dining outside” (A1303). Besides their limited participation in social activities, women judges generally are also less active than their male colleagues in accepting bribes or having extramarital affairs. As a female division chief of a basic-level court in Zhejiang commented:

It is easy for our profession to make friends. Everyone has different social skills, but too many social relations can be troublesome. Women are relatively timid, ... if someone gives me a large sum of gift cards, I would not dare to accept them. This is indeed helpful for anti-corruption. That’s why court leaders like to promote female division chiefs—[we] work hard and do not have extramarital problems. It is easy for men to have those problems! ... Young and beautiful women always want something from you, and it is hard for men to guard against them. There are women leaders who take bribes, but rarely anyone who keeps lovers. Women leaders would feel that we’ve worked so hard to get here, so exhausted, and I still need to keep lovers?!

(Z1311, Zhejiang Province)

From this quote, it seems that the lower possibility of corruption gives women judges some advantage in mid-level leadership promotion. However, few other interviewees emphasized the effect of anticorruption on promotion. Instead, many suggested that women were more likely to be recognized as “model judges”

than men, an award for excellence in judicial work. A judge in Sichuan even told us that “most awarded judges were either female judges, or male judges who had terminal illnesses” (S1301)—an ironic comment that shows the twisted nature of such awards. Because of men’s significantly higher probability of corruption, Chinese courts tend to give most awards to women to prevent the potential embarrassment of fallen model judges in the future (S1301, Z1310, and Z1313).

Nevertheless, a model judge award does not necessarily help in the process of dual-track promotion, particularly at higher levels. Judicial corruption in China “is not a simple aggregation of isolated abnormal acts carried out single handedly by corrupt judges or judicial officials” but “an institutionalized activity, resulting from the routine operation of a judicial decision-making mechanism” (Li 2012: 850) by which frontline judges often carry out instructions from court leaders and Party officials. As a result, some corrupt male judges who follow the orders of court leaders or local Party officials in making judicial decisions could even gain advantages in the political track of promotion (Z1313). Although we do not have systematic evidence on this point due to the high sensitivity of asking specific interview questions regarding corruption, anecdotal evidence through informal conversations with judges suggests that some male court leaders would indeed promote male subordinates who actively participate in bribery taking and other social activities with them, as patronage and mutual trust are often built upon such activities in a masculine and corrupt judicial culture.

By contrast, model judges, usually women, could be disadvantaged in the political track precisely because they are less corrupt and thus less responsive to the influences of higher level judicial and Party officials. When most court presidents and Party leaders are men, it is extremely difficult for a woman to break into their circles of patronage. In this sense, becoming model judges insulates women not only from corruption but also from the most important social networks for higher level promotion. There are a small number of female judges who get promotion through their spouses or by engaging in extramarital affairs with male leaders (Z1312), but the institutionalized corruption in Chinese courts hurts the chances of high-level leadership appointments for the vast majority of women.

Conclusion

In their study of promotion in law firms, Galanter and Henderson (2008) argue that, as law firms expand into large,

multitier partnerships, the promotion-to-partnership tournament has become a more complex and elastic process, characterized by the widening ranks of nonequity partnership and permanent associates, as well as the reservation of the equity core primarily for partners who control access to key clients. In this “elastic tournament,” mid-level positions such as “of counsel” or nonequity partner tend to become career traps for women, who are often stuck in the middle and sometimes have to leave the firm to pursue other career opportunities (Reichman and Sterling 2004). In our study of Chinese judges, we find a comparable pattern of gendered career mobility, which we have termed the “elastic ceiling.” While women judges have made notable progress in weakening the glass ceiling in the judicial hierarchy, their upward mobility often stops at the mid-level leadership, such as division chiefs and vice-chiefs. High-level leadership positions such as court presidents and vice-presidents are still dominated by men.

To explain the elastic ceiling for women in Chinese courts, we have adopted a processual approach to gender inequality and examined two social processes that shape the gendered careers for Chinese judges, namely, dual-track promotion and reverse attrition. The professional track in mid-level promotion benefits women who have strong legal expertise and work performance, whereas the political track in high-level promotion, which emphasizes social/cultural capital and political connections, presents significant barriers for women judges to further advance their careers. The institutionalized corruption in the Chinese judiciary further undermines women’s chances of high-level leadership promotion. Meanwhile, the reverse attrition of men from the judicial system opens up many vacant mid-level positions, often filled by women, but only a limited number of high-level positions. In this empirical case, the two dynamic processes of promotion and attrition are the *causes* rather than the *outcomes* of gender inequality.

In developing our analytical framework, we draw important insights from the gender stratification theories on social/cultural capital and queuing, as well as the emerging literature on gender and corruption, but this new processual approach is different from most existing studies on women in the legal profession that treat promotion and attrition as structural outcomes of gender discrimination in the workplace. Instead, we conceptualize the social structure of inequality as produced and reproduced in the dynamic processes of vertical and horizontal mobility in social spaces—in this study, the social space of the judicial system and its adjacent spaces of the legal services market and the bureaucracy. It is the movements of individual actors within and between these connected social spaces, including not only women’s “flight from law” (Kay 1997) but also other social processes such as

dual-track promotion and reverse attrition, that shape the structural patterns of gender inequality.

For research on Chinese law and politics, this study is groundbreaking in at least two aspects. First, it brings in the key variable of gender to the proliferating scholarship on Chinese courts (He 2009, 2012; He and Su 2013; Kinkel 2015; Kinkel and Hurst 2015; Li 2012; Liebman 2007). With the large cohorts of women entering the judiciary in recent years, the percentages of women at both mid-level and high-level leadership positions will continue to rise. The ongoing quota system reform, which sets a fixed percentage of judicial staff who can serve as judges in trials, could also benefit women judges who excel in work performance. Nevertheless, as long as the dual-track promotion system and corrupt judicial culture do not change, the elastic ceiling for women is likely to persist. By studying the professional career of women judges, we have presented a brand new perspective for understanding China's judicial reform, particularly its structural inequality.

Second, given that the Chinese judiciary is a subset of the Party-state bureaucracy, it is plausible that some of our findings can also be observed in other government offices and Party organs. The two processes of dual-track promotion and reverse attrition are evident in Chinese procuracies too, and we suspect that they represent general patterns of gendered career mobility for the bureaucracy as a whole. The correlation between gender and corruption, as well as its distorted consequences on leadership promotion, is also worth further investigation by specialists of Chinese politics, as the overwhelming majority of state officials fallen with corruption charges appear to be men. In this sense, our study also fills in a gap in the vast literature of Chinese politics, which has paid little attention to women or gender inequality.

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