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# **Women Judges who Judge Women Offenders: A Chinese case study on gender and judging**

## **Introduction**

Women's equal representation in the judiciary, as a subject of political and academic debate, has occupied the Western, developed world for some time. It is argued that equal participation of men and women in the justice system is an inherent and essential feature of a democracy (Malleon, 2003; Rackley, 2013). In Anglo-American legal systems, the presence of women disrupts the normal assumption of judges being exclusively "heterosexual white men" (Kenney, 2013, p. 176). More importantly, women may exert a distinctive gender-related influence on public policy, including judicial policy (Carroll, 1984).

To advocate women's equal participation in judging, past research has examined divergencies between men and women in judicial offices to seek evidence of a women's "different voice" (see, e.g. Davis, 1992; Gilligan, 1982; Martin, 1990) or "women's perspectives" (Sherry, 1986; Steffensmeier & Herbert, 1999). Scholars have also sought to find out whether women may decide cases differently from men (see, e.g. Bartolomei, 2013) and if so, the implications of these differences (Rackley, 2008). Thus far, empirical findings are mixed and for Feenan (2009), the data is "equivocal".

On the one side, some studies suggest that women do bring their gendered experiences to judging. It was found that judges who have acknowledged gender differences, typically attribute the conduct of female judges to the experiences that they have gained as women. This has enabled them to identify the problems of other women in similar positions (Wald, 2005). Research also showed that female judges may influence their male colleagues in cases involving women's issues, such as gender discrimination (Baldez, Epstein & Martin, 2006; Peresie, 2005). It was suggested that in Canada, women judges made a difference by dissenting,

and gender was linked to certain differences in the process of decision-making (Belleau & Johnson, 2008). One explanation for gender difference in judging is that women judges, who have gendered knowledge about women and women's lives, may have a better understanding of women's issues (Boyd, Epstein & Martin, 2010). Abrahamson (1984; 1998, p. 211) argued that a woman judge has "special commitment to making a difference in judging" and this commitment comes from "her personal experiences of suffering some injury or injustice from unfair treatment".

On the other side, there are scholars who maintain that gender difference is absent in the judicial process (see e.g. Gottschall, 1983; Kohen, 2008; Kritzer & Uhlman, 1977; McCormick & Job, 1993; Westergren, 2004). A primary explanation for commonality between men and women in judging is that judges, regardless of gender or background, all "regard legal values as essential for their daily work" (Mack & Roach Anleu, 2013, p. 211), and professional role socialisation narrows down gender gaps (Ludewig & LaLlave, 2013). In some cultural settings, it was suggested that women judges were made in "a man's world", and thus there is nothing to distinguish their careers from those of their male colleagues in the judicial profession (Kritzer & Uhlman, 1977).

Despite varied findings in research, it is undeniable that judicial decision-making is subject to tacit influences that are associated with individual judges' life experiences and other variables (Cahill-O'Callaghan, 2015), including gender as a demographic variable. As Mark Jones – a political science professor in the United States (US) – remarked following the election of 19 African-American women to judicial seats in Harris County, Texas: "Judges don't rule exactly by the law. They rule by their opinion and interpretation of law" (Heger, 2018). Therefore, judges' experiences, including gendered experiences, values and outlook are important to judicial production and thus worth investigation.

This article examines Chinese women judges' life experiences and worldviews by asking the "logically prior question" previously raised by Susan Carroll (1984) in her study on female political candidates in the US: are women who seek to win public office attitudinal and behavioural feminists? For Carroll, this question is important because "if large proportion of women candidates and officeholders are not, the argument that an increase in the number of women holding public office will lead to increased legislative attention to women's issues and more favourable action on such issues would seem to have little merit" (1984, p. 308). In the context of public office that is a trial judgeship, it is reasonable to argue that given the very nature of feminist ideology, if a large number of women judges are feminists or pro-feminism, they will bring attention to women's issues in the judiciary and judicial behaviour. Although this may not necessarily lead to different outcomes in individual cases (Boyd et al., 2010; Kenney, 2013; Rackley, 2013), women's gendered problems will be most likely to be identified and addressed in judicial analysis and legal reasoning. Therefore, only if female judges (or a large proportion of them) are feminists or pro-feminism, would women at large be fairly represented in the judiciary, and if so, women's equal participation in courts would make a vital difference in law and the judicial process.

In China, official statistics suggest that women represent more than a quarter of the overall judicial population. However, they seem to be numerically equal to men among the "frontline judges": officially appointed judicial officeholders who handle cases on a daily basis (Author 3). Following Carroll (1984), I seek answers to the question in the context of China: Are women judges feminist or pro-feminism? If the answer is negative, it may be suggested that equal representation of women and men in the judiciary does not automatically lead to equal representation of women in judicial practices, nor women's protection and advancement.

To answer this question, I first provide the background of the research on which this article is based. Next, I outline several key methodological issues in the study. Then, I present

empirical findings on the female judges' perceptions of gender roles, their views about female offending and their awareness of feminism. Finally, I highlight the key findings and offer several implications of the research.

## **Methodological Notes**

The data this study relied upon came from a larger project that employed mixed methods, albeit largely qualitative approaches, to examine women and judging in China (Author 3). Qualitative methods involve listening to women's own storytelling and seeing their existence (Miles, 1983) and thus allow a feminist voice to be heard. Simpson (1989) asserted that such voice is loud enough to produce disagreement and intellectual exchange. In research into judiciaries, qualitative methods offer the details and texture of how judicial work is gendered, which enrich theory. In past feminist studies on women in the judiciary, qualitative approaches, especially interviews, were commonly used (see e.g. Cardinal, 2008; Kim, 2009; Ludewig & LaLlave 2013; Roach Anleu & Mack, 2009, 2014; Sommerlad, 2013). As Hsiung (2001) noted, interviews can elicit narratives that may provide true and rich insights and capture accurately the complicated issues concerning women in everyday life. Therefore, in this study, interviewing was considered the most appropriate method to 'educate women's biographies' (Sommerlad, 2013).

As I pointed out elsewhere (Author 2), difficulties conducting empirical research in China have long been acknowledged. Gaining access to the judiciary is remarkably challenging because information pertaining to an understanding of China's legal system is typically regarded as sensitive or 'beyond sensitive' (McConville et al., 2011). In this context, like McConville and colleagues (2011), I took informal approaches and merely relied on my own professional and personal networks to recruit participants, by using snowball sampling on the basis of practicality.

Mainly semi-structured interviews, which lasted between 40 or 90 minutes, were undertaken for primary data collection. The interviews typically took place in a conference room within the sample courts where confidentiality was guaranteed. One participant was interviewed in the judge's own office. I interviewed three participants over lunchtime in informal settings: restaurant, teahouse and snack bar, respectively. This was suggested by my contacts who helped me to facilitate the interviews, and it was considered that these judges would feel more comfortable to talk with me outside court (see also Author 3). To ensure anonymity and confidentiality, further information detailing the fieldwork that gathered original data for this article are deliberately withheld here.

The empirical data that this article rests upon was drawn largely from interviews with 25 women judges from six different Trial Divisions (TD) in 13 courts at three levels – the basic people's court, the intermediate people's court and the higher people's court – in a southeast region in China. The fieldwork was undertaken in a three-month period from July to September 2015. Although, as noted earlier, semi-structured interviews were adopted primarily to collect women judges' biographical narratives, longer and much more detailed in-depth interviews were carried out on several occasions because they were preferred by the participants.

In this sample, over half (13) of the women judges were in the age range of 30-39, three were in their twenties, four were in the 40-49 age group, and five were between 50 and 59. Among the female judges, 12 from the Criminal TD, five from the Juvenile TD, three from the Intellectual Property TD, two from the Civil TD and Administrative TD, respectively, and one from the Enforcement Department. Along with 14 ordinary judges and two assistant judges, there were five heads of TD and four deputy heads. Except one judge who was a 29-year old single woman at the time of interviewing, all other women judges were married with one child. In the interviews, questions in the following three major areas were put to the participants:

1. Women judges' perceptions of women's gender roles;
2. Women judges' construction of female criminality and their views on the punishment of female offenders;
3. Women judges' knowledge of and opinion on feminism

The answers to these questions would serve as evidence of feminist attitudes and/or behaviour of the participants, and thus help identify whether the Chinese women judges are feminists or supporters of feminism, or whether they have developed a level of feminist consciousness which, as explained earlier, will influence judicial production. It should be noted that the question – are Chinese women judges feminist or pro-feminism – was proposed to learn female judges' gendered experiences, values and worldviews and is essentially a hypothesis, rather than one of the questions that I asked in the interviews.

It is also worth noting that given limited publication space of a journal article, it is not possible here to sum up many leading feminist propositions. It is, however, of salience to underscore that feminist schools of thought all seek, from diverse perspectives, to challenge the persistent and profound disadvantages facing all women, and to end sexism in all forms (Brown, 2005). This serves to inform the reader how women judges are considered feminist or pro-feminism, or not.

## **Empirical Findings**

The empirical data has enabled a number of key findings to be drawn.

### **Female Judges' Perception of Women's Gender Roles**

Carroll (1984) argued that in the US a major goal of the feminist movement is to free individuals from restricting sex role stereotypes. Therefore, females' attitudes on sex roles serve as one indicator of the degree to which they manifest a feminist consciousness. This

applies to judges as well (Martin, Reynolds & Keith, 2002). In the interviews I asked the women judges a number of questions to elicit their perceptions of women's gender roles in Chinese society. The results are striking. On the one hand, the female judicial officeholders demonstrated a considerable level of ability, independence and confidence. They commonly agreed that gender equality is no longer an issue in the judiciary and in urban culture as a whole; on the other hand, they typically accepted the roles which are traditionally defined as appropriate for women.

In the interviews, I asked the female judges if they were facing any gendered disadvantages for women in the judicial profession. The typical answer was that men and women are treated the same in the courts. According to the participants, judges – men and women, especially those in lower courts – are heavily loaded with cases. Case assignment is usually done through a computerised system. Although in some places, cases may be assigned manually by a division head, it is typically done in accordance with judges' experiences and expertise and gender plays no role in this process. As a result, gender seems to be absent in everyday judicial work. However, a popular saying that was repeatedly cited by the participants gives a hint of gendered perception of men and women in the judiciary: among the frontline judges, “women are used as men”, and “men are used as livestock”. Elsewhere I explained (Author 3, p.122):

To put it in context, the female judges were not claiming physical inferiority as traditionally associated with women. Rather, they were simply voicing the fact that women in court bear the same level of physical and mental pressure as their male colleagues...

Looking into this more deeply, we see that while the frontline judges all seem to be under a considerable level of pressure at work, men are perceived to endure more than women. The



fact is that to take the women judges' accounts as a whole, the current policy in the courts does not provide women with any differential treatment. Rather, it disadvantages women if we consider their social (family) responsibilities. Therefore, female judges are not fairly treated in their profession. The empirical data has offered rich insights that support this claim.

First, like many other jurisdictions, China adopts a judicial selection system that applies to all candidates, but there are hidden barriers for women. In China, the judicial recruitment process is largely meritocratic, primarily comprising two examinations and one interview. According to the participants, women generally perform better than men in exams; sometimes, it is feared that this may result in gender imbalance in a long run, with more women than men in the judiciary. Consequently, some local courts have worked out a tactic which I call *reversed* "positive discrimination" (Rackley, 2013). It operates where a court intends to recruit more male judges but advertises vacancies for judicial police officers who are expected to be men. Once the males get into the courts, they are turned into judges through an internal procedure. This is of course unfair for women but surprisingly, with one exception, the female participants all accepted the 'general male preference' (Zheng, Ai & Liu, 2017).

Second, career opportunities are limited in the judicial profession for both men and women. While in recent years there is a rising number of women holding the mid-level leadership positions, women have less chance than men to get on to the top of the hierarchical career structure. A major reason is that to reach the position of power in court, political ties with local government leaders are essential for a candidate. Women, who tend not to possess the necessary social and cultural capital, face significant barriers in developing useful connections and are disadvantaged (Zheng et al., 2017). This is confirmed by the participants here. The existing promotion process for the top-level leadership in court (and the public sector in general) is not only a *cause* (*ibid.*), but also an *outcome*, of gender inequality, considering the traditional gender role expectations. The abilities to go out and mix with a wide range of

people, to travel and make contacts and regularly socialise (through drinking, smoking cigarettes, dining, and hanging out in karaoke bars) are typically identified as men's attributes (Rofel, 1999; Wylie, 2004).

Third, the courts, as any other government agency in China, are not family-friendly for female employees. The interviews reveal that while statutory maternity leave is guaranteed in the public sector, the rules are rigid and allow no room for extended maternity breaks, part-time or flexible work or job-sharing. The lengths of maternity leave for the participants varied slightly: the shortest was four and a half months, whilst one judge managed to enjoy a relatively longer one because she negotiated with her division leader to pool together all kinds of leaves and allowances to which she was entitled in that year. All of the participants who are mothers felt that their maternity break was not reasonably long enough, and it made coming back to work full-time as a nursing mother bitterly challenging.

The data also suggests that judicial work is considerably demanding for both men and women, but female judges typically perform a wide range of everyday domestic duties, including caring for children and elderly members in their family, shopping for food, cooking, washing clothes and tidying and cleaning in the house. The participants commonly felt that their male colleagues were not normally burdened with childcare and run-of-the-mill household responsibilities. Surprisingly, this was not considered gender inequality for women, as Judge G-F-1 – a female judge in her forties – explained: “a family is a unit”; ‘in our country, husband’s career always takes priority over wife’s”.

Thus far, the gendered disadvantages for women are visible, which were however not regarded as inequalities and therefore ‘overlooked’ by the female participants in this study. Patriarchal gender role expectations seem to be accepted within the Chinese judicial profession, including its female members. As a result, some forms of gender inequality are unidentified

and remain unchallenged. It may be said that the women judges here showed a low, if any, level of attitudinal feminism.

### **Women Judges' Construction of Female Criminality**

Previously, Bohmer (1974) drew attention to criminal justice personnel and to the need to inquiry into judicial attitudes. In this article, I examine Chinese women judges' attitudes towards female offending and women offenders, to ascertain if they are feminist or pro-feminism. From a feminist standpoint, female criminality is a result of patriarchy (Heidensohn, 1996). Simply put, feminism often interprets women's involvement in crime to be their reaction to patriarchal control, abusive relationships between men and women, and overall gender (as well as class and racial) related disadvantages which women experience (Browne, 1987; Campbell, 1984; Mann, 1987; Author 2). Accordingly, if a woman judge holds stereotypical assumptions about the causes of female criminality (cf. Smart, 1976), she is unlikely to support feminist ideology. This is important because judicial attitudes are assumed to correlate with judicial behaviour (Bohmer, 1974). More generally, criminal justice personnel's construction of female lawbreaking will have an impact on their opinion and practice, in regard to how female offenders should be treated by law and society, and how potential female lawbreakers should be controlled (Saxena, 1994; Sharpe, 2012).

In the interviews, I asked the female participants – criminal court judges and judges handling non-criminal cases – to describe their observations of the patterns and trends of female criminality in their region, as well as their views on the major causes of female offending in contemporary China. Typically, the non-criminal law judges reported that they did not know much about women's involvement in crime and that they obtained knowledge about female offending mainly from the popular media. The criminal law judges, however, offered useful insights, including the types of criminal acts that were prevalent among women in their

jurisdictions, the characteristics of female criminality and their own interpretation of female lawbreaking in China today. The women judges' accounts are consistent with the findings in recent studies on women and crime in post-Mao China (see Cong, 2001; Author 2; Shen & Winlow, 2013).

The criminal court judges commonly acknowledged that women offenders were usually members of the disadvantaged social groups and primarily rural migrants; the majority of them came from the deprived family backgrounds and often had no stable jobs and income. Economic necessity was frequently pointed out as a cause of female criminality in contemporary China. However, attention was typically paid to the pathology of individual female offenders, and little was attributed to structural problems (including gender and class inequalities) in China's neoliberal society today. The female judges – strongly or more gently – blamed women offenders for making wrong choices. From time to time, female lawbreakers were “doubly blamed” by the women judges, such as Judge K-F-2:

The defendant was a drug user... she continued to use and trade in drugs during her pregnancy. The fact made me really angry. How could she do that? Why did not she consider her baby? How could a woman, a mother-to-be, be so selfish? As a pregnant woman myself, I could not give her any sympathy...

In this narrative, the woman judge condemned the female criminal defendant who went against motherhood and the gender role expectation of women (Carlen, 2002). Several other judges provided similar remarks, typically, when commenting on cases involving female perpetrators who abused children and those who used their bodies as a means to commit crime. For Judge H-F-1 (who was not a criminal law judge), these female offenders are “bad women”, and their involvement in the crimes was “disgraceful”. Notably, this type of comments should be read in the context of mainstream Chinese society, where female lawbreakers are often depicted as

“deceptive”, “greedy” and “twisted” (see e.g. Kang, 2005); words and phrases, such as “shameless”, “uncivilised”, “morally rotten” and “a lacking dignity”, are commonly used to describe women who are involved in crime (Shen & Winlow, 2013). Essentially, women offenders are regarded to be “doubly deviant” (Lloyd, 1995) for lawbreaking, as well as breaking the traditional gender code for women. The female judges, who are part of mainstream society, holding a class-based perception of deviance, did not seem to support feminist construction of female criminality.

Under the same theme, I asked the women judges their opinion on punishing female offenders to explore whether they hold some feminist views and are supporters of feminism. Like some of their counterparts in other systems (see e.g. Cedarbaum 1993; O’Connor 1991), the Chinese female judges typically responded with answers such as that ‘a judge would or should treat male and female defendants differently’, and they made it clear that impartiality and objectivity are the most important judicial qualities. According to the female criminal court judges here, when making sentencing decision they would consider only the aggravating and mitigating factors that are specified in the law, in which gender is not included. Practical factors, such as pregnancy, children responsibilities, family duties and defendants’ emotional or physical problems, which are often taken into account in some other jurisdictions such as the US (see Steffensmeier, Kramer & Kathy, 1993), are not considered in sentencing decision-making in China. It is the defendant’s culpability that is the dominant concern (Liu et al., 1998; Author 1). Women offenders appear to be gender neutral in the criminal courtrooms.

As noted earlier, a number of female judges condemned women who were engaged in “sex-related” or drug-related offences in their interviews. By contrast, they showed a considerable level of sympathy towards female offenders who were victims of male violence and subsequently committed violent crimes against their (male) abusers. The women judges agreed that the circumstances of these female offenders should be taken into consideration

when determining how they would be punished appropriately. Previously, I suggested that the women judges showed “their resentment towards male suppression” perhaps because as women, they could capture accurately other women’s vulnerability (Author 3, p.161). Alternatively, this could well be a result of the practice of chivalry (Brennan, 2019; Moulds, 1978). Women judges are members of the judiciary and, as we shall see shortly, may lack sensitivity to patriarchy. No evidence suggests that male judges are less sympathetic towards this category of female offenders than are their female colleagues.

In the US, the courts did seem to sexualise female offenders (Chesney-Lind, 1973; Stacey & Spohn, 2006), and sometimes women were twice as likely as men to send women to prison (Gruhl, Spohn & Welch, 1981). A more frequently cited study showed that female judges imposed harsher penalties on women for certain offences (Steffensmeier & Heber, 1999). In this study, I paid attention to Chinese women judges’ attitudes towards female criminal defendants, by asking three sub-questions: (1) are women judges sensitive to women? (2) are they sensitive to women’s unique experiences and gender-related inequality that are related to their offending? (3) would they speak out for female criminal defendants and women in general, when noticing injustices for women in criminal justice and everyday life? Again, my purpose is to assess whether Chinese women judges are feminist or pro-feminism. It is suggested that a woman judge may be considered feminist if she pays attention to women, is sensitive to women’s issues and raises questions about women in cases where there are doubts in facts and law (see Carroll, 1984; Hunter, 2008; Kenney, 2013). The empirical data seems to indicate that the female judges may not be considered feminist judges, nor pro-feminism.

### **Women Judges’ Awareness of Feminism and Gender Consciousness**

In some common law jurisdictions, for example England and Wales, women judges (once) experienced a male-dominated, hostile working environment (Genn, 2008; Sommerlad, 2013);

in Canada, it was observed that working practices in the legal profession facilitated men's routines rather than women's lives and therefore were questionable (Brockman, 2001). Subsequently, gender equality in judiciary has been of concern within the legal world there. By contrast, in some European civil law jurisdictions, such as Germany, where females are numerically equal to or even more than males in the courts, women judges typically deny "such a thing as discrimination"; they claim that "discrimination is a thing of the past" and "possible as a rare exception" today (Schultz, 2013). However, even in these "feminitised" judicial systems, gender consciousness continues to be promoted (see Schultz & Shaw, 2013a) and women's extended rights are advocated to enable female judges' working conditions to be further improved (see e.g. Boigeol, 2013; Ludewig & LaLlave, 2013; Schultz & Shaw, 2013b).

In China, though, little is said about gender issues in the judicial context. The female participants commonly denied gender discrimination in their workplace. Only a small minority of them seemed to understand the significance of research into women in the judiciary. Judge A-F-1 – a female judge in her fifties – stated the following at the beginning of her interview: "being a woman or a man makes no difference here [in the court]. I doubt whether your research can really find anything useful". This is very telling, given that when detailing their professional life, the women judges often revealed gender stereotypes and gendered disadvantages for female professionals. They also painfully aired their concerns with the conflict between their public duties and their family roles, which they recognised to negatively impact on women but less affect men. In addition, the female judges admitted that the *guanxi* practice (networking through various forms of social activities) facilitates the exchange of useful information and often enriches the social capital of male judges – a cultural practice that Feenan (2007) observed in a different judicial setting. The long-lasting gendered cultural practice clearly disadvantages women but was not challenged, and the women judges expressed little demand for change. To the "women's problems", their typical responses were: "it's like

this everywhere”, “the courts alone cannot solve our problems”, and “we women were born with disadvantages”. As to networking, the women judges blamed themselves for being unwilling, uninterested or unable to be actively engaged.

It appears that the women judges paid little attention to gender-related inequalities in the judiciary, and there was a considerable lack of feminist consciousness and gender sensitivity within the judicial profession. In this respect, the women judges could not be considered feminist. In addition, the empirical data suggests that the Chinese women judges had little knowledge about the feminist movements in China and outside.

In the interviews, I asked the female judges whether they had come across any feminist legal theory and feminist theory that explains women and crime, such as that which links patriarchy with female criminality (Heidensohn, 1996) and that which suggests “equality with a vengeance” rendering more women to be arrested than before (Bloom & Chesney-Lind, 2007). None of the participants provided a positive answer, nor any of them reported to be familiar with feminism and the women’s movements thus far. This perhaps, in part, explains their lack of recognition of feminist propositions.

This finding comes as no surprise, if we consider that feminism, the feminist movement and feminist activism have a negative connotation in China (Hsiung, 2001). Feminists are often depicted as impulsive extremists in the popular media, from whom women in the mainstream tend to distance, and promoting feminism in front of men often makes them uncomfortable (Yang, 2014). Moreover, public protests which are from time to time used by a small number of Chinese feminist activists are considered leading to social instability and thus rarely receive official approval. Consequently, feminism has not gained wide public support in China. As public servants, judges would usually go with the mainstream.



Women judges' lack of knowledge of feminism has two major effects. First, without knowing feminism's ultimate goals, they are unlikely to accept feminist ideology and become adequately equipped to challenge patriarchy; and second, their understanding of feminism may be distorted or misled which may turn them away from feminist influences. During my fieldwork in the Chinese courts, I was cautiously introduced as a scholar of "women's studies" (nü-xing-xue), rather than a "feminist" (nü-quan-zhu-yi) scholar. *Nü-quan*, which literally means "women's rights", was tactically avoided to help me to gain access to the courts. To the women judges, feminism may be a matter of political sensitivity that should be avoided. In this sense, they might be characterised as non-feminists.

The interviews also reveal that Chinese women judges are automatically members of the Women Judges' Association which is affiliated to the Supreme People's Court. When asked whether they participated in any other women's organisation or group which aims to empower and advance women, the participants often replied that "I have not heard of any of those organisations" and "we have a very busy work schedule and don't have spare time to do anything else". With that said, female judges in China are required to organise and participate in activities to raise awareness of women's and children's rights. However, this, as part of public legal education (Li, 2014), is a small segment of judges' work, rather than a voluntary initiative driven by female judges themselves in pursuit of women's emancipation, empowerment and equality. The women judges thus could not appropriately be described as feminists.

Interestingly, the data indicates that occasionally, the female judges' attitudes and behaviour coincided with that of feminists. For example, when talking of marriage and family life, the judge who was single at the time of interviewing questioned China's deep-rooted "norm" in female life course: timely marriage and childbirth. Nevertheless, under the pressure from her family, friends and colleagues, she had to keep attending various dating events to look

for a suitable man to get married. Several other younger women also pointed out some gender-biased norms and sexist remarks in everyday life and in professional practices. Apparently being sensitive to all kinds of forms of sexism suggests that the women judges start to cast doubt on the traditional gender code and gender relation which are defined by patriarchy, and this may be translated into a feminist consciousness. At present, though, the feminist attitudes of the women judges seem to remain “latent and unactivated” (Carroll, 1984).

## Conclusion

This article set out to explore Chinese women judges’ life experiences and worldviews. Life experiences are important because they may impact on judges’ perception of “the way that the world should be legally ordered” (Belleau & Johnson, 2008, p. 57). Likewise, judges’ worldviews are too of importance. It is true that judicial impartiality requires judges not to be influenced by personal views and preferences when judging cases (Slapper, 2011). Nonetheless, the reality is that individual judges’ values and perspectives are indispensable both to their judgments in specific cases and to the independence of the courts (Edlin, 2016). Women judges – who experience the world and are affected by it as women – may have developed their gendered standpoint, and they may have a better understanding than their male colleagues of life realities and legal problems encountered women on account of their sexuality (Rackley, 2008). Accordingly, women judges may bring a particular (feminine) perspective to judging (Davis, 1992; Sherry, 1986; Steffensmeier & Herbert, 1999). That said, whether or not women judges hold a gendered viewpoint is an empirical question and must be answered with empirical evidence.

This article has suggested that in any patriarchal society, China as well as those in the Western developed countries, gendered biases, including some blatant forms of gender inequality, may remain undetected or unchallenged. The courts are part of the patriarchal

system and judges may accept traditional gender role expectations. In this context, women judges, as we have seen, may conform to the patriarchal gender norms; without a gendered lens, issues concerning women are not always “self-evidently about gender” (Belleau & Johnson, 2008). As the article has showed, there is clearly a lack of feminist consciousness in the Chinese judicial profession, and among women judges. It is therefore hard to suggest that women judges in China hold a gendered perspective and may bring the gendered perspective to judging.

Martin et al. (2002) reminded us that feminist consciousness is not an inevitable result of being female or living life as a woman, but a political achievement. The Chinese case study this article has presented illustrates that a larger or equal representation of women in judicial offices will not automatically make the judiciary a gender-equal profession. The findings in this article have showed that women, while occupy a space in the courts, may represent the gendered institutions that are historically developed by men, continuingly dominated by men and symbolically interpreted from the standpoint of men in leading positions (Acker 1992). Females may join the force to police women’s behaviour and maintain the *status quo* in the patriarchal society. This article thus confirms that “the proper role for female jurists once they get there is still a work in progress” (L’Heureux-Dubé, 2001, p. 30).

Hunter (2008) argued that the expectation to make a difference in judging lies with feminist judges. In fact, regardless of whether or not women will make any identifiable difference in judicial production, it is important to develop feminist consciousness within the judicial profession, especially among women officeholders. This is because feminism is concerned with women, and it challenges gender related disadvantages for women. This article by no means suggests that women judges must subscribe to feminism and declare to be feminists. A judge who denies being identified as a feminist may actually practise feminist judging (Baines, 2009), but practising feminist judging cannot be possible without being sensitive to gender and gender-related problems concerning women.

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## Disclosure Statement

I confirm that this work is original and has not been published elsewhere, nor is it currently under consideration for publication elsewhere. I have no conflicts of interest to disclose.

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