

Domestic Violence Law of China and the Institutional Design of Counter-DV Mechanism

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**Abstract**

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Domestic violence (DV) is a pervasive social issue that requires efforts from multiple government departments and social groups to solve. It's a disease that can be best tackled through a multi-agency counter-domestic violence mechanism, which demands collective commitment and inter-department collaboration. However, when the Domestic Violence Law of the People's Republic of China (DV law) was enacted on March 1st of 2016, a deliberation and coordination agency called Working Committee on Children and Women (WCCW) was designated as the leading law enforcement organ to perform counter-domestic-violence tasks. This article attempts to argue that such an organ does not possess the capacity to propel other respective departments to actively engage in the making of a multi-agency counter-domestic violence mechanism. Therefore, the designation of the WCCW as Anti-Domestic Violence Law's major enforcement organ is counterproductive to its ultimate goal: the elimination of domestic violence.

## Introduction

Domestic Violence, a pervasive social epidemic, transcends all ethnic, racial, gender and socioeconomic boundaries. It violates human rights, destroys families, and harbors social malaise. On an international level, the United Nations has adopted many declarations and conventions addressing domestic violence, including *Convention on the Elimination of All Forms of Discrimination Against Women*<sup>1</sup> and *Declaration on the Elimination of Violence Against Women*<sup>2</sup>. These UN conventions imposed on member states the legal and moral duty to stop domestic violence. To this date, more than eighty countries and regions include provisions on domestic violence in their legal system, and among them, sixty states and regions have issued laws and regulations specifically dealing with domestic violence<sup>3</sup>.

In China, domestic violence has historically victimized hundreds millions of women and children but has long been endorsed by China's patriarchal value system and perceived as acceptable until recently. Domestic violence has only emerged as an issue in China since 1995, when Beijing hosted the Fourth United Nations' World Conference on Women. At this conference, 189 countries, including China, adopted *Beijing Declaration and Platform for Action* (BPfA). The BPfA is a defining and foundational policy framework for achieving gender equity, women's rights, and women's empowerment that has served as the road map for gender equality for the last two decades.

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<sup>1</sup> Document can be accessed through <http://www.un.org/womenwatch/daw/cedaw/>.

<sup>2</sup> Document can be accessed through <http://www.un.org/documents/ga/res/48/a48r104.htm>.

<sup>3</sup> See Manual for Multi-Agency Work on Prevention and Intervention of Domestic Violence, issued by Women's Federation Division of Women's Interests and Rights, 2014. Document can be accessed through <http://download.china.cn/ch/pdf/20141125.pdf>.

Encouraged by such initiatives, the Beijing Fanbao, or Anti-Domestic Network (*Fan Jia Bao Wang Luo*), the first and only multi-disciplinary and multi-sectoral alliance special focusing on Domestic Violence against women in China was established in 1995 and later ‘legitimized’ itself by affiliating with China Law Society (*Zhongguo Fa Xiehui*) in 2000. Its members consist not only hundreds of scholars, activists, feminists, lawyers, and social workers from all related sectors, but also numerous official or non-official organizations including Departments for Women’s Rights and Interests from Woman Federation, anti-DV hotlines, shelters and law services centers. As the most influential anti-domestic violence network-organization, Beijing Fanbao channeled support from international funds, government authorities, and professional perspectives to conduct empirical research for effective prevention and intervention methods as well as the promotion of promulgation of Anti Domestic Violence regulations on a local level. By 2013, except for Beijing, Shanghai, Tibet, and Guangdong, all other twenty-seven provinces, autonomous regions, and municipalities have enacted Anti-Domestic Violence Regulations, and eighty-something municipals developed relevant policies<sup>4</sup>.

On December, 27 2015, China’s National People’s Congress adopted the Anti-Domestic Violence Law of the People’s Republic of China (DV law), which was enacted on March 1, 2016. It was a breakthrough for endeavors to stop violence against women; however, the law itself received mixed responses. Although many praised the state’s initiatives to stop domestic violence as it manifested in the DV law, more criticized the flaws and deficiencies of the provisions. Some questioned the designation of the main enforcement organ of the law. The law stipulates, “People’s government institutions at the county level or above with responsibility for efforts on

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<sup>4</sup> “Woguo Jiating baoli xianzhuang ji difang fanjiabao lifa jingyan” (Domestic Violence in China and practices of local legislation), 26 November 2010, [http://www.humanrights.cn/cn/wqfw/t20101126\\_676163.htm](http://www.humanrights.cn/cn/wqfw/t20101126_676163.htm). Accessed 16 November 2016.

women and children, are responsible for organizing, coordinating, guiding, supervising and driving relevant departments' efforts to counter domestic violence."<sup>5</sup> However, this seemingly-reasonable designation might be counterproductive to the ultimate goal of the DV law: preventing and stopping domestic violence in China.

An efficient, scientific, and inclusive multi-agent multi-sector mechanism has the greatest potential to counter domestic violence. The establishment and evolution of such mechanism relies profoundly on a well-crafted domestic violence law. This paper attempts to argue that the current designation of the main enforcement organ undermines the formulation of an efficient multi-agent counter-domestic violence mechanism and therefore impedes the DV law's efficacy in countering domestic violence. The paper intends to do so by comparing different government organs' executive powers, resources, and connections with other government organs, and by analyzing how those differences affect their performance in forming multi-agent mechanisms. This paper will conclude that the designated organ of the main enforcer of the DV law possesses neither the compulsory administrative power over government organs nor the capacity to perform the leading role to stop domestic violence. This paper starts, however, with a brief introduction of the definition of domestic violence, the extent and prevalence of domestic violence in China, and its current legal and social remedies.

## **Defining Domestic Violence**

What is domestic violence? Domestic violence generally refers to a pattern of behavior which involves violence or other abuse by one person against another in a domestic setting, such

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<sup>5</sup> See Domestic Violence Law of the People's Republic of China, promulgated on 27 December 2015. Article 4. English translated version can be found here: <http://chinalawtranslate.com/反家庭暴力法-2015/?lang=en>. Accessed 8 September 2016.

as in marriage or cohabitation. Currently, no consensus has reached in either academics or legislation in terms of what “domestic” and “violence” consist of and the cultural, political, religious and socioeconomic differences that lead to disagreement on those terms. Globally, the definition of domestic violence now commonly includes “all acts of physical, sexual, psychological or economic violence” that may be committed by a family member or intimate partner<sup>6</sup>.

People often confuse domestic violence with domestic disputes that happen to go south. However, according to Lenore Walker, a battered woman is “a woman who has been physically, sexually, or seriously psychologically abused by a man in an intimate relationship, without his regard for her rights, in order to coerce her into doing what he wants her to at least two times, often in a specific cycle.”<sup>7</sup> Walker’s description of battered women reveals the essential nature of domestic violence: that domestic violence is about power and control. The abuser exerts dominance over the battered by manifesting power through physical, psychological, and economic control<sup>8</sup>. The asymmetry of power between the abuser and abused is the fundamental factor that enables domestic violence to occur.

The definition of domestic violence in legislation directly impacts the effectiveness of the implementation of both the law and of efforts to curb domestic violence. The *UN Handbook for legislation on violence against women*<sup>9</sup> recommends that, in defining domestic violence legislation, the legislators should “include a comprehensive definition of domestic violence, including physical, sexual, psychological and economic violence.” And the legislations should be applied

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<sup>6</sup> *Convention on Preventing and Combating Violence against Women and Domestic Violence*. Council of Europe, conventions.coe.int. Accessed 8 September 2016.

<sup>7</sup> Walker 1989, 35.

<sup>8</sup> Manual 2014, 7.

<sup>9</sup> *The UN Handbook for legislation on Violence against Women*. United Nations Department of Economic and Social Affairs, Division for the Advancement of Women. 2010. Accessible form <http://www.un.org/women-watch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>.

to “individuals who are or have been in an intimate relationship, including marital, non-marital, same-sex and non-cohabiting relationships; individuals with family relations to one another; and members of the same household.”<sup>10</sup> The legal definition in different countries’ legislations varies in both content and scope but many have expanded to better reflect the diversity of modern families and relationships. Drafter must recognize both elements that the word “domestic” implies: that the abuser and abused are either in intimate in terms of relationship, or in terms of location, or both.

### **Domestic Violence in China: A Vacuum of Support.**

The problem of domestic violence in China is, as in many other states in the world, both multifaceted and pervasive. Although no national census specifically regarding domestic violence has been conducted, much research and many statistics indicate that domestic violence in China is rampant all over the country, regardless of socioeconomic or educational status. Domestic violence occurs to 34.7% of people on average<sup>11</sup>. According to a survey published by All-China Women’s Federation and National Statistical Bureau in 2010, 24.7% of women have experienced some form of domestic violence. Among them, 5.5% state clearly that they have experienced physical abuse from their partners.<sup>12</sup> Local statistics reveal an even more troubling reality. A survey in Fujian Province indicates that 64% adults experienced domestic violence in their

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<sup>10</sup> UN Handbook 2010, 24.

<sup>11</sup> “Quanguo fulian quanyibu zhuxi Jiang yue’e jianghua”(Head of Division of Women’s Interest and Right All-China Women’s Federation, Jiang Yue’e speaks), 2011, [http://www.human-rights.cn/cn/zt/qita/rqzz/2011/6/t20120111\\_838287.htm](http://www.human-rights.cn/cn/zt/qita/rqzz/2011/6/t20120111_838287.htm). Accessed 2 November 2016.

<sup>12</sup> CWRN 2010.

lifetimes, with nearly 40 percent of partners admitting to experiencing marital violence<sup>13</sup>. A cross-sectional prevalence face-to-face survey conducted in a healthcare setting in Fuzhou shows that the prevalence of psychological, physical, and sexual abuse is 57%, 38% and 16% in lifetime and 36%, 21% and 12% in year respectively.<sup>14</sup> In addition, domestic violence-related cases have increasingly emerged as the daily routine of local police stations and Women Federation's Letter-and-Visit departments<sup>15</sup>.

Battered women in China more often than not suffer such cruelty silently because of shame, economic dependence on their abuser, deprivation of freedom, protectiveness of their children, and fear of retaliation. The unbelievably high tolerance of "wife-beating" in society and astonishingly low legal cost of committing domestic violence only aggravates the situation. A recent notorious case serves as a snapshot of the current milieu where many Chinese battered women live. Zhang Xiaoyan, after years of suffering from her ex-husband Huang Xuotong's abuse, was poisoned to death on March 5, 2016.<sup>16</sup> Over the course of six years of violence, Huang's abusive behavior to Zhang was witnessed by Zhang's families, co-workers, neighbors, and known to many other people in the community. The bystanders watched and listened silently, but no one intervened, and no one reported to the police or Women Federation for help. Even though encouraged by her sister, Zhang herself was reluctant to call the police because Huang threatened to hurt their children and her family. She fled four times, yet each time she returned for fear of retaliation. Gradually, Huang gained control over her communication with

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<sup>13</sup>“Woguo Jiating baoli xianzhuang ji difang fanjiabao lifa jingyan” (Domestic Violence in China and practices of local legislation), 26 November 2010, [http://www.humanrights.cn/cn/wqfw/t20101126\\_676163.htm](http://www.humanrights.cn/cn/wqfw/t20101126_676163.htm). Accessed 16 November 2016.

<sup>14</sup> Xu 2001, ii.

<sup>15</sup> Ibid.

<sup>16</sup> “Yige chongqing nvyisheng zhisi” (The death of a female doctor), 13 April 2016, <http://www.jiemian.com/article/607073.html>. Accessed 25 November 2016.

friends, choice of clothes, and her whereabouts. On April 8th, Huang was arrested on alleged of willful and malicious injury. On September 19th, the Nanchuan District People's court sentenced Huang to imprisonment on the charge of willful and malicious injury. However, the court only sentenced him to six months, taking into consideration Huang's truthful confession of the crime, for the offer of economic compensation to the victim's family, and for the benefit of the children. On October 6th, merely 7 months after Zhang's death, Huang served his time and was released from prison<sup>17</sup>.

### **In Search of a Multi-Agency Mechanism**

To clarify, Zhang's case has not been raised within this paper for the purpose of criticizing judicial unfairness, for the case was probably ruled based on existing evidence and legal provisions. Rather, Zhang's case serves merely to exemplify the particularity of domestic violence with regard to how cases of domestic violence have been approached in contrast to how they *should* be approached, as well as how victims should be helped, especially when compared with non-domestic violence cases. The needs of domestic violence's victim are manifold, ranging from police intervention, mediation, and shelter for herself and her children, to legal and financial support, physical and psychological treatment, and mandatory rehabilitation for abusers. Below, the provided table lays out the both the victim's and perpetrator's needs in a domestic violence case and the responsible suppliers for these various needs. Without an overarching multi-agency counter-DV mechanism, government organs and social groups, contained by their capacities, often find it impossible to combat domestic violence single-handedly. Or, more often than

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<sup>17</sup>“Huangxuetong guyishanghai yishen xingshi panjueshu” 10 November 2016, <http://wenshu.court.gov.cn/content/content?DocID=ce6b22c6-c3bf-49d2-977c-a737fff8083b&KeyWord=黄学通>. Accessed 25 November 2016.

not, government organs are unsympathetic to domestic violence victims or reluctant to handle them because it is not technically one of their job requirements, or the requirements have no significant punishment for non-compliance.

**Chart 1: The needs of all parties under domestic violence<sup>18</sup>**

Type of Needs	Content of Needs	Supplier	Demander
<b>Legal</b>	Intervention of Police	Public Security Organs	Victim
	Forensic Examination	Forensics	Victim
	Personal Safety Protection Order	People's Courts	Victim
	Legal Proceedings (Divorce, Criminal Self-brought Prosecution, Damage Compensation)	People's Courts	Victim and Perpetrator
	Legal Aid	Judicial Administrative Departments	Victim and Perpetrator
	Legal Help and Consultation	Women's Federation	Victim and Perpetrator
<b>Safety</b>	Shelter	Department of Civil Affairs	Victim
	Safety-Planning and Emotion Support	Women's Federation and Communities	Victim and Perpetrator
<b>Health</b>	Medical Treatment	Medical Departments	Victim and Perpetrator
	Psychological Treatment	Psychological Services	Victim and Perpetrator

Sources: *Manual for Multi-Agency Working on Prevention and Intervention of Domestic Violence*. Translated.

Moreover, answering victim's need is merely one piece of the puzzle. Curbing domestic violence requires a holistic approach not only to intervene but also to prevent domestic violence

<sup>18</sup> Sources: Data from Manual 2014, 40

from occurring altogether. Statistics and information regarding domestic violence in various sectors should be shared and studied to provide efficient, scientific methods to address the problem in an institutional way. Public awareness of the causes and consequences of domestic violence must be raised. Gender sensitivity training should be offered and mandated to all officials and officers in administrative, legislative, and criminal justice system. In summation, to better prevent domestic violence, a coordinated and cooperative multi-agent multi-sector that consists of government organs, social organizations, communities, and academic groups is desperately needed.

However, many activists and officers on the frontlines opposing domestic violence recognize that various government or non-government organs addressing domestic violence does not necessarily equal the establishment of a multi-agency mechanism or “a genuine multi-agency coordination.”<sup>19</sup> What, exactly, constitutes a genuine multi-agency mechanism? Inspired by the *UN Handbook for Legislation on Violence Against Women and Multi-Agency Working Manual for Prevention and Intervention of Domestic Violence*, this article attempts to develop a working theory with regard to three major characteristics of a multi-agency mechanism.

Involving parties in multi-agency mechanism should be inclusive. In China’s case, such a mechanism should at least cover:

**Government organs:**

*Public security organs, People’s Courts, People’s Procuratorates, Judicial Bureaus, Bureaus of Civil Affairs, the Bureau of Public Health;*

**Party organs:**

*The Political-Legal Committee, the Committee of Comprehensive Management of Public Security;*

**Social Groups:**

*Legal support groups, shelters;*

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<sup>19</sup> “Haijingshi fanjiabao gongzuo de diaocha yu sikao” (Research and deliberation on anti-dv work), 11 July 2016, [http://www.zjswomen.org.cn/art/2016/7/11/art\\_7\\_28562.html](http://www.zjswomen.org.cn/art/2016/7/11/art_7_28562.html). Accessed 12 November 2016.

**Mass Organizations:**

*The Women's Federation, the Village Committee and the Residence Committee.*

Problems of domestic violence would be better handled provided the inclusion of the Bureau of Education and various news organizations. The next section will cover reasons why these organs and organizations must be included in a multi-agency counter-DV mechanism.

Another building block of a functioning multi-agency counter-DV mechanism is an overarching strategy that includes regulations, directives, procedures, and protocols which clarify the authorities and responsibilities of each respective party. In doing so, buck-passing, nonfeasance, and non-compliance can be better unpersuaded. Also, a well-connected and well-coordinated mechanism guarantees that the victims' needs can be attended from every juncture of the system through a referring system. In this sense, each organ's power to address domestic violence can be functionally integrated and, to an extent, magnified.

Specialty with respect to domestic violence should be the defining characteristic for the multi-agency counter-DV mechanism. This specialty is reflected in the establishment of specialized police and prosecutorial units, specialized courts, and institutionally-funded gender sensitivity training and capacity-building for public officials, to ensure that police, prosecutors, and judges develop an "in-depth understanding of such legislation and are able to implement it in an appropriate and gender-sensitive manner."<sup>20</sup>

The inclusiveness of a wide range of organs, overarching institutions, and specialties with respect to domestic violence are of fundamental importance to the formalization of a sufficient and functional multi-agency counter-DV mechanism that lives up to its name. However,

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<sup>20</sup> UN handbook, 18.

such a mechanism relies on the incentives, both positive and negative and of an economic or administrative nature, embedded in the provisions of legislations and in the groundwork laid by said legislations.

### **Anti-DV Law and the Formation of a Multi-Agency Counter-DV Mechanism**

Ever since the Chinese feminist community raised domestic violence as a pressing issue, research on prevention and intervention approaches as well as recommendations of legislations on domestic violence has been undergoing at an intensive rate. Beijing Fanbao, the largest and mightiest anti-DV alliance, submitted well-crafted proposals for legislation to the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC) in 2003 and 2009 by swiftly channeling its academic reservoir from the Chinese Law Society with support from its intimate partnership with Women's Federation (many WF leaders are CPPCC and NPC members).<sup>21</sup>

However, when the NPC Standing Committee released the draft of DV law for public review in April 2015, a draft that dismissed the merits of Beijing Fanbao's proposals, it unsurprisingly received harsh criticism from both domestic and international observers. December of the same year, the drafted was amended and ratified, yet the criticism the law received had not died down. Feng Yuan, an anti-dv activist and co-founder of many feminist groups including Beijing Fanbao, expressed frustration when attending the 3rd World Conference of Women's Shelters in the Netherlands: "Common views of domestic violence has changed profoundly and

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<sup>21</sup> Xia and Lin 2011, 7.

many people acknowledge that domestic violence is wrong and need to be stopped. It's the policymakers' and legislators' perceptions (of domestic violence) that are falling behind."<sup>22</sup>

Despite the varied focuses of different critiques, a unanimous view of the DV law is that the text is vague and beneath global standard. Through the lens of a global perspective, Rangita de Silva de Alwis and Jeni Klugman scrutinize the law and contend that it falls substantially short of international standards in several basic aspects set by countries in Asia and around the world.<sup>23</sup> This includes the relatively narrow definition of domestic violence in terms of scope and the limited protection and support for the victims.

Domestic academics expressed similar but nuanced thoughts. Some criticized the law for precluding sexual abuse within the definition of domestic violence<sup>24</sup>, whereas some contested that sexual abuse is, by nature, both physical and psychological and therefore can be applied through further interpretation of the term.<sup>25</sup> The preclusion of same-sex relationships from the scope of applicable relationships also invokes bitter criticisms: Zhou argues that the definition for "persons living together" should be perceived more broadly and that people living under the same roof, regardless of intimacy, should be put under the protection of the DV law. The fact that the marital rights of same-sex couples' and people illegally cohabitating are not protected in the realm of Marriage Law does not justify the neglect of their rights when facing intimate-relation violence.<sup>26</sup> That being said, the spokesman at the DV law press conference stated that same-

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<sup>22</sup> "Zhongguo fan jiabaohudong jia Fengyuan" (Chinese Anti-dv activist Fengyuan), 24 November 2015, <http://helanonline.cn/archive/article/14316>. Accessed 29 October 2016.

<sup>23</sup> Alwis and Klugman 2015.

<sup>24</sup> "xingbaoli buke jiandan fenhuacheng shenti he jingshen baoli", 25 December 2015, <http://paper.cnwomen.com.cn/content/2015-12/25/023441.html>. Accessed 11 June 2016.

<sup>25</sup> Jiang 2015.

<sup>26</sup> Zhou 2015.

sex relations are explicitly excluded because “there is no such thing as violence among homosexual couples.”<sup>27</sup> This statement represents the will of the Supreme Court, which means it is highly improbable that local legislation will include same-sex couples in the future. As for other subjects like divorced non-cohabitants, illegal cohabitants, and housekeepers, their status with regards to the DV law remains unclear.<sup>28</sup>

In addition to definition of domestic violence, the DV law also established police intervention policies like Written Warning (*Gaojie Shu*), introduced the system of Personal Safety Protection Orders (*Renshen Baohu Ling*), and stipulated the responsibility of third parties to report instances of domestic violence. People applauded the entrance of these new provisions into China’s legal system and their potential to protect victims, if institutionalized.<sup>29</sup> At the same time, however, some critics questioned their practicability because, without binding responsibilities or non-compliance penalties imposed on respective organs and individuals, many provisions in the DV law remain non-regulatory, unpractical, and merely declarative.<sup>30</sup>

One credible way of accounting for these bipolar views toward DV law lies with the deficiency of Chinese legislations. Due to historical and social reasons, the legislation at the national level is habitually vague and simplified in most cases, especially within the realm of social laws (*shehui fa*). Implementation of the law relies on detailed interpretations from the implementation regulation (*shishi banfa/xize*) issued by the State Council and local legislative bodies (*difang lifa*). National DV law similarly lacks detail, given the short three-page length and low number

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<sup>27</sup> “Cohabitants in Domestic Violence Law precludes same-sex relations”. Accessed June 11. <http://news.sina.com.cn/c/nd/2015-12-27/doc-ifxmxxsp7071189.shtml>

<sup>28</sup> Zhou 2015.

<sup>29</sup> Xue 2016; Xia 2016

<sup>30</sup> Zhou 2015.

of articles (38) in six chapters. In addition, Chinese DV law appears alarmingly short in comparison with the laws in Taiwan (66 articles in chapters, ratified in 1998)<sup>31</sup> and Vietnam (46 lengthy articles, ratified in 2007).<sup>32</sup> Although fewer articles do not necessarily lead to poor validity, it is salient that Chinese DV law is less substantial than many global DV legislations.

The vagueness of provisions and the lack of details augment the range of interpretations and expand the gap between legal efficiency and legal validity. The gap (which could be narrowed by a following Implementation Regulation) might have caused the bipolar views toward DV law because some take the future perfection of the law into consideration, whereas others do not. In this sense, provided with Implementation Regulations, some of the critiques of the law might stand untested, while some might change.

It might be premature to assess either the validity or efficacy of Chinese DV law because it is currently nothing more than a framework that has not been fully fleshed-out. In the near future, the incoming Implementation Regulation might impose more regulatory responsibility on respective governmental organs and provide more detailed guidance for the implementation of Written Warning procedures and Personal Safety Protection Orders, thus enhancing the validity of the DV law in countering domestic violence. The extent to which the Implementation Regulation could produce a complementary effect on the enhancement of the DV law's ability to formalize a multi-agency counter-dv mechanism remains unknown. However, one feature is highly unlikely to be tempered by an Implementation Regulation: namely, the designated leading government organ for the law's implementation. Besides the compulsory legislative requirement, the institutionalization of a multi-agency counter-dv mechanism relies additionally, or perhaps even more,

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<sup>31</sup> Xia and Lin 2011, 608.

<sup>32</sup> Xia and Lin 2011, 666.

on the initiatives and capacities of the organs burdened with task of carrying out the law. Of all these organs, the leading one is of greatest importance to the creation of the mechanism, especially regarding its own capacities and relative power over other organs. Therefore, the designation of the leading organ and its impact on the formation of a multi-agency counter-DV mechanism appears to be a valuable and solid target for research on domestic violence under the current circumstances. The next section unfolds the purpose, method, resources, and limitations of this research.

## **Institutional Design**

As has discussed above, an overarching strategy stands at the very root of a genuine counter-DV mechanism. Such strategy embodies a set of principles, procedures, and protocols that regulate interdepartmental interactions. Without an overarching strategy, member organs remain disconnected and unable to amass a joint force, which is essential in addressing complicated social issues like domestic violence.

An overarching strategy requires the collective wisdom and adamant will of all included member organs. Yet, consensus among multiple bureaucracies is hard to accomplish in many governments of the global community. This is especially the case with China when its government increasingly suffers from departmental cleavage and authority fragmentations. Therefore, it is essential that the leading organ be equipped with the capacity to bridge the cleavage and facilitate consensus. However, not all government/non-government organs are blessed with such merit. This paper intends to argue that the Working Committee on Women and Children, designated as the main enforcement organ by DV law, is not one of them.

To clarify, “institutional design” in this paper refers to the designation of the leading organ and the inclusion of other member organs. By extension, “institutional design” also entails the relationship between the leading organ and member organs, especially considering whether it is a “leadership relationship” (*lingdao guanxi*) or a “professional relationship” (*yewu guanxi*).<sup>33</sup> Ideally, a “leadership relationship” would make a more functional design. Moreover, an institutional design that covers multiple agencies does not automatically generate a multi-agency mechanism. An institutional design is a structure that needs substance, namely the aforementioned set of principles, to function as a mechanism. Some designs are weaker in generating such substance, while some designs are stronger.

This paper attempts to examine how different institutional designs affect the efficacy of formalizing a multi-agency counter-DV mechanism, and to see whether the institutional design created by DV law is promising in formulating such a mechanism. Since it is impossible to examine all possible designs, this paper primarily focuses on two institutional designs commonly seen in local practices. First, an institutional comparative analysis of the two designs is provided, paying close attention to the capacity of the leading organ and its power over other member organs. This part comes to a hypothesis that a model led by Political-Legal Committee should have better performance in constructing a multi-agency counter-dv mechanism than one led by the Women’s Federation or the Working Committee on Children and Women. To test this hypothesis, the subsequent section scrutinizes the performance of these models in local practices.

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<sup>33</sup> “Leadership relations” refers to administrative relations governed by binding orders, “professional relations” refers to those based on non-binding orders. See Mertha 2015, 797.

## **Institutional Design by National DV Law: WCCW/WF-led Model**

The DV law designated “government organs in charge of women and children’s work above county level” as the main “organizer, coordinator, director and supervisor” of implementation of Anti Domestic Violence law. Although not mentioned by name, the “government organ in charge of women and children’s work” refers to Working Committee on Children and Women (WCCW), an coordination organ (*xietiao yishi jigou*) in charge of government work related to women and children. The national WCCW is headed by Vice-Premier of the State Council. Its members are vice-ministers, or officers on the same level, from 35 ministries, committees, and mass organizations, including the National Development and Reform Committee, the Propaganda Department of the Central Committee, the Ministry of Foreign Affairs, the Ministry of Public Security, the Ministry of Civil Affairs, the Ministry of Justice, the Ministry of Commerce, All-China Federation of Trade Unions, the All-China Women Federation, the China Communist Youth League, the China Association for Science and Technology, to name a few. However, despite the astonishingly-pervasive coverage of entities and high rank of its members, the WCCW’s efficacy in propelling the establishment of a multi-agency anti-DV mechanism as a leading role is questionable in many regards.

The WCCW’s capacity is limited by the inherited deficiency as a deliberation and coordination organ (DCO), or *yishi xietiao jigou*. DCOs are a form of inter-sector coordination organ that the governments create to tackle tasks that are complicated, sudden, or comprehensive and thus require collective efforts from many departments. They commonly operate in the name of “Leading Group” (*lingdao xiaozu*), “Coordination Group” (*xietiao xiaozu*), “Office” (*bangong*

*shi*).<sup>34</sup> Governments establish DCOs to overcome the obstacles of department cleavage and authority segmentation to ensure deployment and enforcement of important policies and strategies. Commonly speaking, each DCO represents a Key Task (*zhongdian renwu*),<sup>35</sup>

WCCW's Key Task is the promulgation and implementation of the Women's Development Outline (*Funv fazhan gangyao*) (WDO) and the Children's Development Outline (*Ertong fazhan gangyao*) (CDO). More specifically, with respect to the WDO, the WCCW set quotas and goals regarding women's economic participation and opportunities, educational attainment, political empowerment, and health and survival, which respective departments are obliged to comply to. However, there are several structural deficiencies that might impede on the WCCW's objectives in promoting women and children's welfare. First, directives like the Women's Development Outline are produced on the grounds of member departments' consensus, therefore the goals and quotas they are obliged to meet are generally self-imposed. Second, many of the goals within the directives are general declarative suggestions without specific requirements, by which non-compliance is very difficult to discern. Third, supervision of implementation are self-imposed as well, which relies remarkably on the power of higher official (vice-premier) instead of independent third party or interdepartmental inspection.

The WCCW as a DCO enjoys no substantive administrative compulsory power. The Changzhou City government publicity database<sup>36</sup> provides a close-up of the WCCW's executive capacities. According to the database, administrative powers within the capacity of Changzhou's WCCW is administrative inspection (*xingzheng jiancha*) and administrative reward (*xingzheng*

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<sup>34</sup> Chen 2015, 62.

<sup>35</sup> Ye 2015, 32.

<sup>36</sup> "Fuerban xingzheng quanli shixiang" (WCCW administrative affair list), <http://3in1.changzhou.gov.cn/Portal-Web/PublicInfo/PublicAuthorityList.aspx?DepartmentID=560>. Accessed 8 November 2016.

*jiangli*). The WCCW is entitled to inspect and monitor various government agencies on their performance regarding women- and children-related issues, for example, the implementation of the Women's Rights Protection Act. The Act stipulates that "on occasions when women's rights are severely violated and occasions when violation of women's rights causes severe social impacts," the WCCW can deliver a proposal (*jianyi shu*) or a Urging-to-Act letter (*ducu zhixing shu*) to respective departments. If the WCCW's advice goes unheeded and unanswered for 15 days, the WCCW can *suggest* respective departments to impose punitive measures on responsible entities. It is noteworthy that the WCCW can only take action when the consequences of a women's right violation is "severe," and then it can only "propose," "urge," and "suggest". Similarly, the WCCW's power of "administrative awards" is unimpressive and limited. The WCCW may pass on letters of compliment among government agencies concerning agencies that excel in promoting women and children's rights. The incentives provided by such rewards can arguably considered minuscule.

The WCCW's power is further restrained by its limited personnel and small budget. Like most DCOs, the WCCW holds no physical body but only an operating office set in the Women's Federation at the same level. Members of the WCCW meet annually to discuss and set goals for the next year, while the officers of the operating office carry out most of the administrative work. The information about the exact size of the budget and number of personnel is difficult to find, yet a document from the State Council provides some insight into it. Back in 2004, the State Council set a standard for exemplary cities that exceed in accomplishing the work of women and children's development planning (*Funv Ertong Guihua Gongzuo Shifan Danwei*).<sup>37</sup> One of the

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<sup>37</sup> "Guowuyuan funv ertong gongzuo weiyuanhui guanyu jinyibu jiaqiang shishi funv ertong fazhan gangyao shifan gongzuo de yijian" 10 November 2014, <http://www.nwccw.gov.cn/html/10/n-128810.html>. Accessed 1 November 2016.

qualifications regards the provision of budget and personnel, which is “the provision of at least one full-time staff member and a budget more than 50000 RMB on county level WCCW office.” If *one* staff member and a 50000 RMB budget on a county level is viewed as exemplary, it is logical to assume that most of the counties were below this standard. Considering the date of the document, the staffing and budget might have achieved some improvement over time; however, the expectation that such change may contribute to its overall capacity does not seem promising.

In a nutshell, the WCCW is a DCO with no compulsory executive power, and its small operating office is mainly preoccupied with assisting promulgation and implementation of Women’s Development Outlines and Children’s Development Outlines. Therefore, it might have the broadest coverage of respective organs for the making of anti-DV mechanism, yet its primary goal and capacities make it impossible to adequately engage in and accomplish counter-DV objectives.

Deliberation and coordination organs usually designate one or two government bureaucracies (or committees or mass organizations) as pivotal organs to undertake major objectives. In the case of the WCCW, Women’s Federation acts as its representative. Since the WCCW’s operating office, as a small division of Women’s Federation, might process neither the incentive nor the capacity to undertake the challenging anti-DV task. The task may need to be assigned to another division of Women’s Federation, in which case the Division of Women’s Rights and Interests appears to be the logical and appropriate choice.

Such an assumption is confirmed by an Administration Power Inventory<sup>38</sup> retrieved from the website of Xiamen Women’s Federation. Of all 40 kinds of administrative power, the office

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<sup>38</sup> “Xiamen fulian quanli qingdan” (Xiamen Women’s Federation administrative power inventory), <http://www.xmwomen.org.cn/zjfl/qlqd/index.htm>. Accessed 8 November 2016.

of the WCCW occupies only two (the supervision of WDC/CDC consolidation and the designation of exemplary WDC/CDC promoters. This fact also coincides with the assumption that WDC/CDC is the sole purpose of WCCW's office.), whereas the Division of Women's Rights and Interests is in charge of six, including answering women's petitions (*Xinfang Gongzuo*), promoting and establishing Safe/Peaceful Families (*Pingan Jiating Chuangjian*), popularizing law and conducting research on women's rights issues (*Funv Quanyi Redian Wenti Diaoyan*). So far, Women's Federations around the country have carried out work on DV issues within the provision of said six kinds of administrative powers. They actively engage in the popularization of anti-DV regulations and laws and in the enhancement of public awareness against domestic Violence. They are also one of the major avenues for help that battered women turn to, besides Judicial Administrative Stations and local police stations. As the biggest women's organization in China, the Women's Federation has been fully committed to helping battered women as a listener, guide, and negotiator. However, regardless of Women's Federation's determination to help and its close connection with women, is it competent enough as a leading organ to efficiently build a multi-agency anti-DV mechanism? It appears that the chance is quite slim.

The concern for the Women's Federation's limited power in pushing its agenda among government organs is not new to the Chinese feminist community. Officials and staff learned this in a hard way from decades of interaction with public security organs, courts, and bureaus of civil affairs, among other, related organs in seeking the accomplishment of counter-dv measures. A CPPCC member once said, "The Women's Federation runs for women's right until it breaks its legs and talks (for women's rights) until it wears out its lips. But none of this can compare with an official seal from the government."<sup>39</sup> Indeed, the Women's Federation's limited power is

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<sup>39</sup> Chen 2014, 294.

embedded in its nature and status. As a parity-led mass organization, the Women's Federation has no executive power of its own, and no "leadership relationship" with any other government organs and committees of the same level, or other mass organizations.

On a local level, which is the frontline of combatting domestic violence, the power of the Women's Federation is weakened by its financial and staffing condition. An empirical Research on Domestic Violence Prevention of China reveals that the local-level Women's Federation is commonly understaffed and insufficiently funded.<sup>40</sup> For example, a county-level Women's Federation in Zunyi City owns only one office with only two staff members.<sup>41</sup> In Dongkou County, each community has only one WF official, who is also the director of family planning and also a member of the local community.<sup>42</sup> In addition, statistics indicate a decline of local-level Women's Federation cadres. From 1990 to 2003, WF cadres of department/bureau and county level increased whereas WF cadres at the level of section chief and below had dropped nearly 50%.<sup>43</sup> The Women's Federation at the local level already found themselves restricted even when they only need to perform their own duties, how many obstacles will they meet if they take on the role of the "leader" combatting domestic violence?

To date, Women's Federation have contributed great efforts to promote legislation and counter-DV measures and ordinate between government organs and social groups, including legislation of National DV law. However, such achievement is accomplished not by its institutional power or legitimacy, but through its officers' connections with the NPC and the CPPCC. As

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<sup>40</sup> Chen 2014, 4.

<sup>41</sup> Ibid, 242.

<sup>42</sup> "Dongkou xian shequ fulian gongzuo de xianzhuang ji jianyi" (Situation and suggestion on the work of Dongkou County Community Women's Federation), 2 April 2010, <http://www.hnwomen.org.cn/2010/04/02/101855.html>. Accessed 9 November 2016.

<sup>43</sup> "Fulian ganbu qingkuang" (Situation of Women's Federation Cadres), <http://www.stats.gov.cn/tjsj/nds/j/yb2004-c/html/W2303ac.htm>. Accessed 11 November 2016.

mentioned above, many high-level Women's Federation members are also members of the NPC and the CPPCC. Through this connection, the Women's Federation has the capacity to push forward regulations and directives that shape the counter-DV structure at its root. However, such regulations promulgated by the NPC and the CPPCC are, to an extent, declarative and impractical, as is manifested in most of the local-level anti-DV regulations. Therefore, the making of practical procedures, measures, and protocols is still profoundly dependent on each organ on the field. To put it in another way, the Women's Federation's influence on the formation of the mechanism is circumstantial, indirect, and insufficient. Its position in the making of a counter-DV mechanism is a supportive one.

### **An Alternative Design: PLC-led Model**

The Political-Legal Committee (PLC) is another common organ put in charge of counter-ing domestic violence in some provinces. Compared to the Women's Federation, the PLC is not only competent but also suitable for the making of the mechanism. The reason for this assertion is manifold.

To begin, the PLC is a party organization that oversees all legal enforcement authorities, including the People's Court, the People's Procuratorate, Public Security Organs, and Judicial Administrative Organs. The PLC answers directly to the Party Committee at the same level and its orders represent the concerns and interests of the Party. It is safe to say that PLC directives would be carried out efficiently and proactively out of either the pressure of cadre evaluation system, the aspiration of political capital, or sometimes both. On the other hand, taking into consideration the relationship with government organs, the PLC maintains a "leadership relationship" with them, whereas the Women's Federation keeps a "professional relationship." It is safe

to say that the PLC carries more weight among legal enforcement organs at this level than does the Women's Federation.

From the perspective of curbing domestic violence, Public Security Organs, the People's Courts, and People's Procuratorates constitute the most crucial role throughout the stages of prevention, intervention, and prosecution of domestic violence. Police officers, especially on a local level, are placed at the frontline of combatting domestic violence. However, police intervention in domestic violence has been a troublesome issue for a long time. Many police officers consider domestic violence to be "private matter," so intervention is needed only when victims demand it or the consequences are severe.<sup>44</sup> As for the victims, they often hesitate to call the police for fear that they might not be taken seriously.<sup>45</sup> Moreover, local police stations are usually insufficiently staffed to address instances of domestic violence.

In addition to criminal crimes, local officers are also in charge of public security and sometimes neighborhood security. One officer describes the situation, saying, "Thousand threads above head, one needle to use."<sup>46</sup> Another officer complains, "Usually it takes at least two hours to persuade and calm the complainer, we just don't have time."<sup>47</sup> Therefore, to address the lack of support from police regarding domestic violence cases, Public Security Organs should mandate that police officers respond promptly to every request in cases of domestic violence; develop procedures for risk assessment, evidence collection, and transfers to medical or psychological treatment; and should provide training and capacity-building programs for officers regarding domestic violence.

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<sup>44</sup> Xia 2011, 107.

<sup>45</sup> Handbook, 36.

<sup>46</sup> Jiang 2015, 19.

<sup>47</sup> Luo 2013, 220.

People's Courts play a vital role in providing legal remedies to victims. Concerns have been raised that the current DV law does not contain regulations to distinguish domestic violence crime from non-domestic violence crime.<sup>48</sup> Domestic violence cases are still trailed on provisions in the *Criminal Law*, the *General Principles of Civil Law*, and the *Regulations on Administrative Penalty for Public Security*, by which perpetrators may be given criminal sanctions or administrative penalties, and possibly be ordered to pay civil remedies depending on the seriousness of the violation.<sup>49</sup> A common view among judicial officers is that "it is lesser crime for a man to break his wife's jaw than his neighbor's," which they claim "predates the invention of the wheel."<sup>50</sup> More often than not, abusers get away with a light sentence, as is reflected in Zhang's aforementioned case.

To address the unresponsiveness of the legal justice system toward domestic violence cases, People's Courts need to alter some principles to address domestic violence cases more seriously. These measures should regard issues including: prohibition of mediation in all cases of violence against women, proper collection and submission of evidence, victims' rights to not appear in court, adopting domestic violence as a good cause to divorce, and recognizing Battered-Women Syndrome. The People's Procuratorates have an important part to perform as well. There should be directives or regulations that mandate that Peoples's Procuratorates can grant approvals for arrests, initiate prosecutions, and supervise the work of the Public Security Bureaus and People's Courts.<sup>51</sup> As such, efforts from law enforcement organs to fight against domestic violence are the propeller of the counter-DV mechanism. A powerful legal response deters the

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<sup>48</sup> Zhou 2015.

<sup>49</sup> Zhao 2000, 225.

<sup>50</sup> Ibid, 232.

<sup>51</sup> Ibid, 242.

abuser and encourages the abused. While the PCL directly oversees all of the three critical organs, the Women's Federation can only make propositions and hope for a response.

The mechanism could be even more powerful if the PLC placed the issue of domestic violence in a larger venue. Under the convention of "One Office, Two Brand" (*yitao banzi, liangkuai paizi*), the PLC also works in the name of the Committee of Comprehensive Management, or the *zongzhi wei*. The *zongzhi wei* is tasked with a mission called the "Comprehensive management of public security" (*shehui zonghe zhili*) (CMPS). It is a mass-line strategy emphasizing the coordinated response to crimes and social unrest through a broad range of government and social organs. It is an omni-dimensional strategy that connects not only law enforcement agencies but also individual workplaces, schools, and families.<sup>52</sup> Since the 1990s, the CMPS has been positioned as a national priority, and to incentivize officials and cadres, responsibly systems have been employed to link officials' salaries and career advancement with their CMPS performance.<sup>53</sup> In other words, the CMPS is an omnipresent system in every aspect of China's society with numerous well-incentivized officials striving to meet the standards.

If the domestic violence issue is absorbed into CMPS system, it will unquestionably be addressed from every possible angle. The inclusion of workplaces and schools and its reach to individual families would help tremendously to curb domestic violence through the means of awareness-raising and reporting of crimes. In addition, other government organs or social entities that are able to promote awareness and provide various means of support are also part of the CMPS system. Furthermore, although children, the elderly, and people with disabilities as potential victims to domestic violence are downplayed in this paper, they are protected by the DV law as

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<sup>52</sup> Wang and Minzner 2015.

<sup>53</sup> Minzner 2009.

well. While the Women's Federation and the PLC do not have a close connection with their respective mass organizations, they are also included in the CMPS and therefore, compared with treating domestic violence within the PLC's territory, addressing it as a CMPS issue not only facilitates the protection of more potential victims, but also the sheer size and inclusiveness of it allows for the creation of an overarching, holistic strategy from a higher ground. However, due to the close connection between CMPS performance and one's rank, officials sometimes try to "erase" the problem to avoid punishment, and in these occasions the strong incentives provided by the CMPS might cause perverse consequences.<sup>54</sup>

To conclude this section, the WCCW as a deliberation and coordination agency, which was primarily established for the promulgation and implementation of the *Women's Development Outline* and *Children's Development Outline*, possesses neither the compulsory administrative power over other agencies nor the capacity to perform a leading role in counter-DV endeavors. The Women's Federation, as a pivotal organ of the WCCW, is the actual entity in charge of ensuring the DV law's enforcement. Its relationship with other government organs responsible for addressing domestic violence is merely "professional." Confined by its capacity and position in the political arena, the influence of the Women's Federation on the creation of a multi-agency counter-DV mechanism is indirect, insufficient, and circumstantial. In contrast, the PLC possess direct control over law enforcement organs, whose efforts constitute a concrete part of a holistic anti-DV approach. Furthermore, by importing domestic issues into the CMPS system, domestic violence will be addressed from every aspect. In addition, under the umbrella of the CMPS, domestic violence is treated as a complicated social problem rather than a women's issue, as is often the case with the Women's Federation-led Model. Such a transition can cause a "cognitive

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<sup>54</sup> Wang and Minzner 2015.

modification” in a wide range of venues, which is the first step in creating a domestic violence zero-tolerance society.

## **Evaluation of Institutional Design**

### **Method and Resources**

The best way to assess how different leading organs affect the formation of a sustainable mechanism would be by looking into the extent to which the mechanism is established in different models. The first block is easy to crack since there are plenty of models among provincial practices. This evaluation selects random provinces as evaluation targets. These provinces of Hunan and Jiangsu are the cases for PLC-led models, Zhejiang province for a DCA-led model, and Shanxi and Anhui province for WCCW-led models.

However, the extent to which a given mechanism is established is difficult to quantify. One of the reasons why is that the establishment of a certain measure does not guarantee its implementation. For example, even in places that adopt the measure of the Written Warning, it is seldom applied because many police officer are not aware of its existence.<sup>55</sup> Another obstacle complicating this assessment is that some government organs adopt certain measures in a superficial way. The shelters system stands as a fitting example. Many cities in China have established shelters for battered women; however, most of them function as temporary stop-overs rather than genuine shelters, which are to provide safety and support of the physical, psychological, and legal variety, and they should be well connected to police department, social groups, and Women’s Federations. In this sense, such hypocritically-established shelters cannot be considered a functional part of a mechanism because they are isolated from other member organs. Similar cases of

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<sup>55</sup> “Fan jiating baoli fa zai shijian zhong mianlin naxie xianshi kunjing” (Obstacle of implementing Anti-DV law), 21 April 2016, <http://www.jiemian.com/article/617867.html>. Accessed 6 December 2016.

hypocritical adoption of counter-DV measurements are not rare, which brings huge difficulties to the assessment of the mechanism.

In the spirit of “one is bigger than zero,” this paper attempts to simplify this process by reasonably ignoring the efficacy of adopted measures, for it is impossible to evaluate its efficacy in practice and it over-complicates the assessment process. Several counter-DV measures or methods are adopted as checking points. Any measures, such as shelters, based on consensus of at least two agencies can be viewed as qualified to be a constructive part of multi-agency counter-DV mechanism. Inspired by the *Handbook for legislation against women*,<sup>56</sup> checkpoints adopted in this evaluation include: Written Warnings (specialized police protocols and regulations), Joint Courts (specialized courts), Training and capacity-building, overarching guidelines, and standards and regulations. In addition, this evaluation also tries to discover whether countering domestic violence is included in bigger government projects or action plans (such as CMPS projects), because such projects provide enormous incentives for government officials and therefore the mechanism is more likely to be consolidated.

Another obstacle of this evaluation is the acquisition of data. Unfortunately, there is no comprehensive dataset that covers the conditions of all counties and cities within a province. The evaluation primarily draws from anecdotal evidence on official websites of the Women’s Federation, provincial governmental organs, and provincial party committees. However, there are several drawbacks of utilizing news reports as the only resource. First, a lack of news coverage about a given issue does not necessarily equate to its non-existence. Chances are high that many accomplishments failed to make it on government websites. Second, open government initiatives

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<sup>56</sup> Hand book, 17-23.

have only been translated into policies for a decade, and popularization of online platform as a means for understanding government affairs has been increasing for only five years,<sup>57</sup> which means that many websites are still under construction. These drawbacks can be compensated for by the justification that such deficiency applies to all government websites, therefore the information discovered, though limited, still reflects overall condition. Moreover, innovation of governance is a crucial means to gaining political capital, so given the fact that anti-domestic violence as an initiative is rather new to China's government, it is reasonable to believe that any establishment of counter-DV measures would be news-worthy material.

This evaluation looks into the establishment of measures on both the provincial level and the county level. The situation on the provincial level sets the tone for all lower-level governments, whereas the county-level indicates the penetrating power imbedded within the model. In addition, measures established after the date of March 1st, 2016, when the National DV law was enacted, are discarded from the evaluation.

### **Hunan Province: A PLC-led Model**

Changsha, the provincial capital of Hunan Province, is known for its “Eight Firsts” regarding counter-DV endeavors: first in the country to adopt police intervention protocols; first province that promulgates provincial anti-DV legislation; first to issue trial guidelines on DV cases, etc. Changsha is one of the vanguard cities in the search for counter-DV measures. The so-called

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<sup>57</sup> Promotion of utilization of online platform as means for enhancing government affair publicity on local level was promoted by National Leading Group of Publicity of Government Affairs, see “Guanyu kaizhan yituo dianzi zhengwu pingtai jiaqiang xianji zhengfu zhengwu gongkai he zhengwu fufu zhidian gongzuo de yijian”(Recommendation on tryouts of utilization of online platform to enhance publicity of government affair and government services on county level), 19 September 2011, [http://www.gov.cn/zwqk/2011-09/19/content\\_1950961.htm](http://www.gov.cn/zwqk/2011-09/19/content_1950961.htm). Accessed 5 November 2016.

“Changsha Model” frequently appears in research on DV as an exemplary multi-agency counter-DV mechanism.

The “Changsha Model” represents a hard-core PLC-centered model. Changsha’s city government established a coordinated organ specially-tasked to prevent and intervene in instances of domestic violence. The group, headed by the Secretary of PLC, covers all critical organs including the PLC, the People’s Court, the People’s Procuratorate, the Public Security Bureau, the Bureau of Justice, the Bureau of Civil Affairs, and the Women’s Federation. By 2013, all 14 cities and prefectures in Hunan Province had set up “Anti-DV Working Groups,” reaching a total number of 125.<sup>58</sup> Empowered by the PLC, the “Changsha Model” excels in providing legal remedies to battered women. Specialized police intervention protocols, specialized courts, and specialized training and capacity-building programs have all been established through various documents, regulations, and directives issued by the provincial government.

Moreover, domestic violence issues were officially introduced as a “deductible” item to CMPS evaluation system in Hunan Province.<sup>59</sup> All cities and prefectures are evaluated based on the establishment of procedure in dealing with DV cases (*jiabao anjian gongzuo jizhi*) and non-occurrence of severe domestic violence cases (*zhongda jiabao shijian*). This change propels governments to actively engage in counter-DV endeavors more than any other measures have, considering the importance of CMPS evaluation system. By introducing domestic violence management into CMPC system, Hunan’s efforts to counter domestic violence have achieved momentum, which has not been rivaled by any other provinces in the country so far.

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<sup>58</sup> “Hunan sheng funv ertong fazhan guihua jiance tongji fenxi baogao” (Report on monitoring and analyzing Women and Children Development Plan of Hunan Province), 5 September 2014, [http://www.hunan.gov.cn/2015xxgk/szfzcbm\\_8834/tjbm\\_6941/tjgbzb/201409/t20140905\\_1139322.html](http://www.hunan.gov.cn/2015xxgk/szfzcbm_8834/tjbm_6941/tjgbzb/201409/t20140905_1139322.html). Accessed 1 November 2016.

<sup>59</sup> “Hunan fulian shouhuo zongzhi pingfen quan” (Hunan Women’s Federation attained CMPS evaluation right), 1 August 2012, <http://acwf.people.com.cn/n/2012/0801/c99013-18643182.html>. Accessed 3 November 2016.

Although Hunan excluded from its counter-DV mechanism other organs that would be in charge of awareness-raising projects and the provision of specialized support, thus better preventing domestic violence, by treating domestic violence as a CMPS related issue, government officials will strive to tackle the problem, which will eventually lead to an encompassing effective mechanism. In summation, Hunan checked all the boxes, and has already developed a relatively mature and well-incentivized multi-agency counter-DV mechanism.

### **Jiangsu Province: A PLC-led Model**

2013, the government of Jiangsu issued directives to popularize Written Warning Procedures, police intervention protocols, and People's Safety Protection Orders to the whole province on every level.<sup>60</sup> Mediation Offices for Marital and Family Disputes have been set up in all counties, thereby providing full coverage of mediation services to battered women. Special Courts are established on all levels and training for Women's Federation members as invited jurors are provided as well. Documents were issued to provide free legal services to battered women.<sup>61</sup>

A system called the "Hall for Women's Rights" (*weiquan dating*) was created by the Jiangsu Women's Federation, which provides convenient passages to shelters, legal support, mediation support, and physical/psychological treatment.<sup>62</sup> The founding of this system signifies the integration of resources from the Women's Federation, the Bureau of Civil affairs, the Bureau of

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<sup>60</sup> "Sheng gonganting futingzhang qinjun zai quansheng fandui jiating baoli cujin jiating pingan gongzuo jiaoliuhui shang de jianghua" (Deputy director to Provincial Department of Public Security talks on anti-dv and enhancing building peaceful families conference), 15 August 2013, <http://www.jsnxted.org.cn/show/token/37f99210714f9235f8ae0b55c4e25c2b.html>. Accessed 15 November 2016.

<sup>61</sup> "Sheng fulian zhuxi zhangjingxia zai quansheng fandui jiating baoli cujin jiating pingan gongzuo jiaoliuhui shang de jianghua" (President Zhang Jingxia speaks on anti-dv and enhancing building peaceful families conference), 15 August 2013, <http://www.jsnxted.org.cn/show/token/ac4a41b7eff624110368d36e7d7a71c7.html>. Accessed 15 November 2016.

<sup>62</sup> This information can be found on [http://112.25.19.90/wqdt\\_index.html](http://112.25.19.90/wqdt_index.html). Accessed 6 November 2016.

Justice, and various social organizations. Furthermore, the extensiveness of Jiangsu's awareness-raising projects (transportation advertisements, television programs, news columns, and other conventional methods) reflect the active participation of propaganda departments and the press.<sup>63</sup> All this evidence shows that Jiangsu's model proves efficient for the formulation of a counter-DV mechanism that goes through a wide spectrum.

### **Zhejiang Province, a Coordination-Group Model**

*Zhejiang Province Prevention and Intervention of Domestic Violence*<sup>64</sup> stipulates that a specialized committee should be established to conduct work preventing domestic violence. By April 2012, all 11 municipalities and 82 prefectures had established Committees of Prevention and Intervention of Domestic Violence (*yufang he zhizhi jiating baoli weiyuanhui*). These committees are by nature organs of deliberation and coordination (*yishi xietiao jigou*). Similar to many other deliberation and coordination organs, they are led by a high-ranking official, in this case the vice premier, and take in a wide range of member organs, including: the PLC, the People's Court, the People's Procuratorates, the Public Security Bureau, the Bureau of Justice, the Bureau of Civil Affairs, the Women's Federation, the People's Congress, the People's Political Consultative Conference, the Propaganda Department, the Civilization Office (*wenming ban*), the Bureau of Petitions and Letters (*Xinfang Ju*), the Bureau of Education, the Labor Union, the Disabled Person Federation, and the Health and Family Planning Commission. This model, by design, covers almost every government and non-government organ that can address the issue of domestic violence. It is also the most all-encompassing institutional design in the country.

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<sup>63</sup> Zhang Jianjia Speak 2013.

<sup>64</sup> Xia 467.

However, it seems that the extensive coverage of this counter-DV design does not translate into a fruitful mechanism. The establishment of counter-DV measures is rather sporadic in Zhejiang Province.<sup>65</sup> A report on Written Warning Procedures in Hengjie Town reveals that the popularization of Written Warning Procedures probably is successful. Specialized Courts have been established in Yuyao City, Cangnan County (of Wenzhou City), Ruian County (of Wenzhou) and Taishun County (Wenzhou). The city of Wenling and Ruian County have designated hospitals as Identification Centers for Injures. The Quzhou Institution of Police provides specialized training to local police officers. Mediation Offices for Marriage and Family Disputes are open in many municipals, and Dinghai, Xiaoshan, Zhoushan, Quzhou, Jinhua, Shaoxing, and Taizhou.

It is evident that the establishment of counter-DV measures is predominately concentrated in several cities, like Wenzhou and Taizhou. The fact that only some cities have managed to establish a number of counter-DV measures indicates that a specialized deliberation and coordination organ does not provide sufficient power to formulate a counter-DV mechanism. This is reasonable to argue, considering the deficiency of DCOs. DCOs are specialized working groups that governments establish to tackle tasks that require multi-department efforts. Its internal logic is to overcome the fragmentation of power and the isolation of departments by appointing higher-rank officials to achieve joint force.<sup>66</sup> However, very commonly, a high-ranking official is put in charge of a dozen or more of such deliberation and coordination organs, therefore the attention that each individual agencies receives is quite inadequate.<sup>67</sup> There are over 70 DCOs in Zhejiang

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<sup>65</sup> Information provided below can be accessed through <http://www.zjswomen.org.cn/>.

<sup>66</sup> Ye 2015, 28-33.

<sup>67</sup> Chen 2015, 62-65.

on the provincial level, and the official in charge of Committee of Prevention and Intervention of Domestic Violence is also head of six other DCOs.<sup>68</sup> From the perspective of member organs, the power of the officials is dormant most of the time. Therefore, nothing substantial mandates their efforts to carry out objectives. In Zhejiang's case, by putting a DCO in the leading role, the task of counter-DV is largely marginalized among government bureaucracies.

### **Shanxi Province and Anhui Province: A WCCW-led Model.**

Provincial Regulations and Directives in Shanxi and Anhui both designated their WCCW as a leading enforcement organ in 2003 and 2004, respectively.<sup>69</sup> From 2003 to 2015, no evidence suggesting any establishment of counter-DV measures could be found in Shanxi. Even after the enactment of the national DV law, only a few anecdotes regarding the popularization of the DV law appear. The only anecdote regarding domestic violence is a news article claiming that Jinzhong City has mandated police dispatch upon the report of domestic violence and has established "Domestic Violence Help Centers" (*jiating baoli jiuhu zhan*) in local police substations.<sup>70</sup> However, this measure is merely a voluntary action of the public security organ that can hardly be considered to be a valid component of a multi-agency mechanism. In other words, counter-DV work in Shanxi Province before 2016 was *terra nova*.

Anhui's case presents a similar situation. Sporadic anti-domestic violence campaigns occurred in several cities like Ma'anshan city and Fuyang city. Many of such campaigns were held

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<sup>68</sup> "Zhejiang sheng renmin zhengfu bangongting guanyu tiaozheng bufen shengji yishi xietiao jigou fuzeren de tongzhi" (Notice of partial personnel changes of provincial deliberation and coordination heads from Zhejiang People's Government), 11 October 2016, [http://www.zj.gov.cn/art/2016/10/14/art\\_12461\\_285824.html](http://www.zj.gov.cn/art/2016/10/14/art_12461_285824.html). Accessed 15 November 2016.

<sup>69</sup> Xia 2011, 498. Xia 2011, 495.

<sup>70</sup> "Shanxi sheng fulian duoguan xiqia fangzhi jiabao weihu funv hefa xuanyi" (Shanxi Women's Federation: manifold method preventing domestic violence and protect women's rights), 20 November 2014, <http://acwf.people.com.cn/n/2014/1120/c390684-26063273.html>. Accessed 5 November 2016.

on December 25th, which is the International Day for the Elimination of Violence Against Women. Normally, the Women's Federation holds lectures, talks, gatherings, and other awareness-raising events all year round. However, to achieve maximum impact with limited resources, they customarily concentrate budget and personnel to orchestrate intensive campaigns during special periods, like March 8th and Mother's Day, when women get the most attention from society during the year. It is normal and understandable that anti domestic violence campaigns in Anhui were held around November 25th. Yet the fact that they were *only* held in special periods indicates the lack of effort on matter of domestic violence. Moreover, a news report reveals that these events are combined effort of the Women's Federation and the Bureau of Justice, which means that such campaigns were probably held in accordance with a greater agenda called Law Popularization Work (*pufa gongzuo*)<sup>71</sup> rather than predominantly raised as a women's right issue.<sup>72</sup> In addition to awareness-raising campaigns, which do not qualify as multi-agency measures in this evaluation, the WCCW in Anhui did not achieve much in promoting counter-DV measures. There is one article on the Anhui government official website stating that a city called Tongling has founded Specialized Courts and designated forensic centers for DV injuries.<sup>73</sup> As for the situation of other cities or counties, no evidence can be found from Women's Federation's websites as well as other related government websites.

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<sup>71</sup> Law Popularization Work (*pufa gongzuo*) refers to China's national strategy to raise legal consciousness among its citizens since 1986. The Ministry of Justice and Propaganda Department are major agents of the task.

<sup>72</sup> "Haozhou shi juxing fanjiabao xuanchuan" (Haozhou city promotes anti domestic violence), 26 November 2010, <http://www.ahwomen.org.cn/views/news/8987.htm>. Accessed 9 November 2016.

<sup>73</sup> "Tongling she jiabao shangqing jianding zhongxin" (Tongling designates forensic agency for domestic violence injuries), 5 Dec 2014, <http://www.ah.gov.cn/UserData/DocHtml/1/2014/12/5/7123471950725.html>. Accessed 8 Dec 2016.

**Observations:**

The drastic comparison of the performance of the two different models in producing multi-agency counter-DV mechanisms appears to support the hypothesis that the PLC-led model is the most effective. Both provinces that implemented the PLC-led model have successfully established, to an extent, functioning multi-agency mechanisms. However, the two slightly differ in that Hunan's mechanism is built around its law enforcement organs while Jiangsu's mechanism is more inclusive in term of its member organs. One possible way to account for this difference is that Jiangsu probably positioned domestic violence within its CMPS arena, thereby generating an encompassing force from a wide range of government and social entities.

As for Shanxi and Anhui Province, a design that put the WCCW (or the Women's Federation) onto the frontlines does not appear to be fruitful in formulating a multi-agency mechanism. In both provinces, the Women's Federation's way to "enforce" DV regulations, especially on a local level, is tremendously confined. Besides being a "listener" and "negotiator" in family disputes, the Women's Federation can only function as a "promoter" rather than "enforcer". Its influence upon government organs, especially legal enforcement organs, is rather limited. This implication is especially disturbing, since the situation of the Women's Federation in the case of Shanxi and Anhui might be an indication of the situation in many other places in China. Given the fact that the Women's Federation's leading position was decided by the DV law, the future of anti-domestic violence endeavors does not seem promising.

## Conclusion

Both institutional comparative analysis and performance evaluation indicate that, compared to the PLC, the WCCW or the Women's Federation is not competent as a leading organ to propel all related government and social organs to actively engage in counter-DV endeavors. The WCCW as a deliberation and coordination organ possesses neither compulsory administrative power over other agencies nor the capacity to be fully committed in counter-DV initiatives. The Women's Federation maintains a "professional relationship" with other government organs that are supposed to address domestic violence issues. Confined by its capacity and position in the political arena, the Women's Federation exerts no direct, concrete, or substantial power over other agencies.

In contrast, the PLC possess a direct control over law enforcement agencies and thereby is capable of providing critical legal remedies to domestic violence victims. More importantly, as an enforcer of the most powerful security maintenance strategy in the country, the PLC is capable of introducing domestic violence as a social issue to the omni-presence CMPS system, through which an holistic multi-agency mechanism can be most efficiently achieved. In short, the WCCW/Women's Federation is not as productive as PLC for counter-DV mechanism-making task.

The subsequence evaluation of the PLC-led model and the WCCW-led model cases agrees with this assumption. Although the Hunan case and Jiangsu case differ in both scope and pervasiveness of their mechanisms, they had unquestionably established functional multi-agency counter-DV mechanisms, at least in a rudimentary way, whereas both provinces with WCCW-led models had accomplished nothing except for some Women's Federation-led awareness-raising campaigns. It is disturbing that the WCCW, or in practice Women's Federation, had done so

little to address domestic violence issues after being designated as major enforcement organ of provincial-level DV regulations for more than 10 years. It is true that one or two cities are reported to have adopted certain counter-DV measures in these two provinces; however, considering the number of cities, such evidence are basically negligible.

The WCCW/Women's Federation, compared to the PLC, is substantially ineffectual to propel the establishment of a functional multi-agency counter-DV mechanism. However, as discussed before, it is highly unlikely that its designation as a major enforcement organ of the national DV law would be changed through an amendment. Endorsed by law, the WCCW from a county level and above is and will be the leading force in Chinese opposition of domestic violence endeavors for the foreseeable future. It is unknown how provinces with PLC-led models reconcile with superior legal mandates. They can either proceed with current models or reassign the task to the WCCW. Whatever the case, the groundwork for fighting domestic violence is not solid for all provinces. Therefore, rather than lamenting the ill-advised legislative designation, it is imperative that we actively search for possible remedies to compensate for such institutional deficiencies to better address domestic violence issues.

One of the solutions concerns the empowerment of the Women's Federation. Since the Women's Federation is the pivotal organ of the WCCW and its Women's Interest and Rights Division, rather than the WCCW office, is the major promoter of anti-domestic violence work, it is logical to assume that the Women's Federation will be in charge of the task of enforcing DV law. Therefore, the empowerment of the Women's Federation would be the first step towards a counter-DV mechanism. The incompetence of the Women's Federation derives from its small budget and personnel and its limited or nonexistent administrative power over government organs.

These fallbacks can be compensated for in several ways. For example, governments could mandate financial support for special project be provided to the Women's Federation to carry out awareness-raising programs as well as training and capacity-building programs. Furthermore, the Women's Federation should be granted, ideally, some compulsory administrative powers such as administrative punishment and administrative imperatives to efficiently supervise government organs' work on domestic violence issues and hold those non-compliant accountable.

However, the Women's Federation is, by nature, a mass organization that harbors no governmental administrative power, it is the WCCW office, the actual body of the WCCW set in the Women's Federation, that functions as a government organ. Whether the objectives and administrative powers of the Women's Federation and the WCCW are distinguishable remains unknown. Yet it is hard to imagine that the WCCW will be granted additional compulsive administrative power solely for the sake of implementing DV law. That being said, the Women's Federation can be empowered through other ways. Hunan's Women's Federations' acquisition of "points-deduction power" (*jianfen quan*) in the CMPS evaluation system regarding governments' performance fighting domestic violence serves as a practical and applicable measure for all provinces. However, this measure prerequisites the inclusion of domestic violence issues in the CMPS evaluation system, which requires the active engagement of the PLC in the first place.

A more feasible and more effective solution for the Women's Federation to address domestic violence issues it to convince the PLC to introduce domestic violence issues into the CMPS system. This solution is effective because the CMPS not only entails the broadest scope of government and non-government entities but also provides incentives through its evaluation system. This option is also feasible, as demonstrated by Jiangsu Province. The head of Jiangsu's PLC has been very vocal about making Jiangsu an "exemplary of Peaceful China Construction

since “Intensification of the making of peaceful China” (*shenhua ping’an zhongguo jianshe*), which can be considered as a label for CMPS work, was specifically raised as a priority of the CCP in the 18th Party Congress.”<sup>74</sup> Jiangsu’s PLC has, to date, developed a series of projects like “Peaceful Community,” “Peaceful Railway,” “Peaceful Town,” “Peaceful Hospital,” and “Peaceful Temple” to promote Peaceful China initiatives in all venues. Among them, “Peaceful Family” functions as a crucial building block of the whole peace-maintenance institution, and also serves as the major platform for Jiangsu’s anti-domestic violence endeavors. A recent talk by Xi Jinping,<sup>75</sup> who strengthened the importance of innovative CMPS methods in order to build a peaceful China on a higher level, invoked greater attention from all CMPS apparati in the country toward the creation of innovative CMPS methods. This new development is especially encouraging because multi-agency counter-DV mechanisms undoubtedly qualify as a major CMPS innovation. Therefore, if the Women’s Federation could pull the strings and convince the PLC that domestic violence poses a fundamental threat to a peaceful China and that multi-agency counter-DV mechanisms constitutes innovative CMPS methods, it is safe to say that the problems of domestic violence would be handled in a more effective, efficient, and holistic way.

Twenty years have passed since the adoption of Beijing Declaration to promote gender equality and women’s rights, yet the endeavors to fight violence against women in China have barely begun. The DV law of China might not laid a solid ground for its thorough enforcement in protecting the victims of domestic violence; however, it is still a big step forward for Chinese women and numerous feminist groups and activists. It calls upon all parts of society to become

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<sup>74</sup> “Nuli ba Jiangsu jianshe chengwei pingan zhongguo shifanqu” (To make Jiangsu an exemplary province of peaceful China construction), 27 May 2013, <http://www.mps.gov.cn/n2255079/n2255953/n2255954/c3914883/content.html>. Accessed 3 Dec 2016.

<sup>75</sup> “Xi Jinping: jianshe genggaoshuiping de ping’an zhongguo” (Xi Jinping: to build a higher-level peaceful China), 13 October 2016, [http://news.xinhuanet.com/mrdx/2016-10/13/c\\_135749912.htm](http://news.xinhuanet.com/mrdx/2016-10/13/c_135749912.htm). Accessed 2 December 2016.

involved with, promote, and strive for the rights of women and to make home a safe place for them again.

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