

Research on the Current Situation and Containment of Domestic Violence Suffered by Chinese Women

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Abstract:

This article will develop from four aspects: the definition of domestic violence, influencing factors of domestic violence, the containment of domestic violence, the comparison between the Domestic Violence Written Warning in China and the Apprehended Domestic Violence Order in Australia. In China, most married women who suffer domestic violence experience multiple forms of abuse, including both physical and psychological violence. Moreover, the vast majority of female victims develop depressive symptoms after experiencing domestic violence. This situation is caused by a combination of social factors, legal factors, and individual factors of women themselves. Victim-blaming mentality battered woman syndrome, and economic dependence collectively prevent women from escaping domestic violence. As the times develop, a legal system centered on the Law of the People's Republic of China on Domestic Violence has been established the ability of law enforcement officers is keeping growing, the opinions of expert witnesses have been adopted in court, a women's consciousness of rights protection has been further enhanced. But compared with Australia, China still has more room for improvement. We can draw on international experience, improve the system of anti-domestic violence, and safeguard women's rights and interests.

Keywords: Domestic Violence, Women's Rights And Interests, Law.

1 Introduction

1.1 Definition and Types of Domestic Violence

Domestic Violence

For the purpose of The Anti-domestic Violence Law of the People's Republic of China, domestic violence refers to physically or mentally injurious acts

committed by a family member against another family member using means such as beatings, restraints, cruel injuries, restrictions on personal freedom, and frequent verbal abuses and threats. Domestic violence may result in physical or psychological injuries of victims in less severe cases, and death in the most extreme cases.

Taking the object of crimes as the standard, domestic violence can be classified into four categories, physical abuse, psychological or emotional abuse, sexual abuse and restrictions on personal freedom.

Firstly, physical violence constitutes the most prevalent form of domestic abuse. The body of victims will be caused directly in this process, and the physical violence is generally believed to be domestic violence by ordinary people. Physical violence shows the most direct acts against the victims, such as hitting with hands or tools, push, pull, drag vigorously. Psychological/emotional abuse refers to psychological harm inflicted on the victim through means such as verbal intimidation, abuse, and threats. Threatening behavior is one of the forms of psychological/emotional abuse, including threatening the victim, using the victim's relatives, friends, or pets as leverage to achieve mental control.

Economic abuse is a controversial type of domestic violence. Economic abuse usually manifests as controlling the victim economic sources. In fact, it is often accompanied by acts like threats, insults, and economic abuse, which fall within the scope of psychological/emotional abuse. However, if economic control involves depriving victims of life necessities, it directly constitutes physical abuse. For example, cutting off their economic support leave victims unable to afford food, thus damaging their health.

Sexual abuse refers to forcing sexual relations with family members or engaging in sexual harassment, acts that violates the sexual autonomy of family members. Marital rape occurs when a husband engages in sexual relations with his wife without her consent, using physical violence, intimidation, or other forms of duress. In China, there is no definite answer as to whether marital rape has been constituted a crime. Moreover, in judicial practice, there has been no case where marital rape was convicted of rape (i.e., the crime of rape). However, marital rape is certainly regarded as a form of domestic violence, as it seriously violates women's right to sexual autonomy.

Restrictions on personal freedom are among the acts of domestic violence explicitly stipulated in the Anti-domestic Violence Law, including but not limited to movement monitoring, unlawful detention, and so on. Article 37 of the Constitution clearly states: 'Freedom of the person of citizens of the People's Republic of China is inviolable.' Besides standard object of crimes, domestic violence can

also be categorized into two types: immediate violence and abusive violence. Immediate domestic violence refers to physical assault against family members that poses an imminent threat. Chronic domestic violence refers to abuse characterized by persistent patterns of behavior, which cumulates through repeated beating and abuse [1] [2].

Due to a combination of biological factors and traditional ideologies, women are always forced to become victims when domestic violence occurs. A 2018 article from the China Court Network showed that 77.51% of divorce petitions filed with courts were initiated due to marital breakdown. Domestic violence ranks second among the reasons for divorce when applying to court, accounting for 14.86% of all divorce petitions. 91.43% of domestic violence cases involve male perpetrators abusing female victims, with physical assault and verbal abuse as the main approaches [3].

1.2 Harm of Domestic Violence Against Women

Domestic violence seriously damages the physical and mental health of women. Victims often experience multiple forms of domestic violence in abusive families. Field research shows that 52% of women who have suffered domestic violence have experienced at least two or three types of violence in their lives [4]. The United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women in December 1993, specifying that it recognizes the urgent need for the universal application to women of the rights and principles including equality, Liberty, integrity, and dignity, of all human being. Any physical or psychological harm, including sexual health violations, inflicted on women constitutes violent behavior, even if it occurs in private settings.

Physical harm is the most direct harm to women. Acts such as beatings, restraints, and cruel injuries exemplify the brutality of domestic violence. These violent methods not only reflect victims'suffering but also often lead to their deaths.

In addition, domestic violence can also cause mental health problems for women who are abused. Victims must not only endure the psychological trauma from abusive acts but also withstand social isolation and ridicule. Under the double blow, women may develop negative emotions like self-denial, inferiority and self-blame. These Situations often lead to mental illness [5]. Research shows that within six months of initial exposure to domestic violence; victims exhibit significantly higher neuroticism scores in personality tests. The short-term aftermath of domestic violence exerts significant negative effects on victims' depression and suicidality risk, psychological well-being, and life satisfaction [6].

Relevant data shows that the incidence of psychological or emotional abuse is the highest among all types of violence, reaching 77.7%. According to the data, the prevalence rate of depression is 65.8% among women who experienced psychological violence, 69.5% among those with physical violence, and 75.8% among those with sexual violence [6]. However, domestic violence victims in China do not attach enough importance to mental health. Even if they develop psychological problems from domestic violence, they often do not recognize them as mental illnesses or directly ignore their own psychological and emotional needs.

2 Factors that Chinese Women Suffer From Domestic Violence

On October 25, 2024, the weekly legal education column of the People's Procuratorate of Xiqu District, Panzhihua City, wrote that according to the statistics of the All-China Women's Federation, among the 270 million families in China, 30% of married women have suffered from domestic violence, every 7.4 seconds, a woman is subjected to domestic violence. Every year, 157,000 women commit suicide, of whom 60% do so due to domestic violence. This data indicates the severity of harm and the profound impact of domestic violence on Chinese women [7].

2.1 Harm of Domestic Violence Against Women

Throughout thousands of years of history, the family and clan has been one of the most important components of Chinese society. Under the influence of patriarchal norms, Chinese families formed a clearly hierarchical ethical structure and system in ancient times. The Three Cardinal Guides and Five Constant Virtues of feudal ethical codes restrained generation after generation of women. Under the influence of feudal gender subjugation ideology and the monogamy-polygyny system, many women were forced to become victims of patriarchal norms. This ethical norm of gender inequality provides the soil for 'rationalization' of domestic violence: husbands were deemed to have the right to discipline their wives, and violent beatings were 'moralized'.

Until the intellectual emancipation in modern China, gender equality has advanced and women's rights have gradually been protected. The phenomenon of feudal ethical codes has improved, but this long-entrenched tradition has still not completely disappeared. The Marriage Law of the People's Republic of China clearly stipulates that the legal marriage age for women is 20. However, in many remote rural areas, there are still cases where, due to economic backwardness and lingering feudal mindsets, weddings are held before reaching legal age---even among minors---and

marriage certificates are obtained upon reaching the age. These remote and backward areas are even more prone to domestic violence. The backwardness of education and the lack of information have led to the retention of feudal ethical codes in these regions, and it is tacitly agreed that "hitting the wife" is the husband's due right.

Even in economically developed areas, when most women seek help for domestic violence, it is dismissed as a 'domestic matter'. Many social workers exhibit gender blindness, that is, a lack of gender awareness. This leads to the service objective emphasizing family stability while neglecting individual feelings, and the service process neglecting the construction of women's subjective consciousness [8]. Many staff members use excuses such as 'Everything for the family' and 'thinking of the children' to persuade women to forgive and accept the current situation in their work.

Not only that, in the new media era, even some media influencers with high fan bases and traffic still maintain a teasing attitude towards domestic violence. Entertaining domestic violence is merely an attempt to gain traffic and attention for themselves. Male Internet celebrity Zheyu live-streamed domestic violence on the platform, attracting more than 170,000 views, and the related topic volume exceeded 50 million within just half a day. When many netizens criticized him for his illegal activities, Zheyu claimed that he would do live-streaming sales when his traffic increased. He also showed no remorse in the face of netizens' inquiries. This behavior seriously disrupts social order. Entertaining illegal and criminal acts will produce a 'False Alarm Syndrome' effect, lowering the public's vigilance threshold against domestic violence.

2.2 Legal Factors

Nowadays, the legal awareness of the masses is increasing. After domestic violence occurs, many women will choose to divorce directly. But It is difficult for Women who have been subjected to domestic violence to divorce under the cumbersome legal procedures.

Since the Civil Code of the People's Republic of China was officially promulgated on January 1, 2021, divorce must go through a 30-day Divorce Cooling-off Period. Within 30 days, either party may apply to the Civil Affairs Bureau to withdraw the divorce registration application. It should be noted that if domestic violence occurs, the victim may file a lawsuit for divorce through the court, which does not require the other party's consent and is not subject to the Cooling-off Period.

In addition to divorce by agreement, divorce by litigation also has some difficulties for victims of domestic violence. Firstly, domestic violence is difficult to identify. From January 2014 to July 2016, among the second-instance civil

cases related to marriage and family concluded by various intermediate people's courts in Beijing, there were a total of 213 cases in which the parties claimed the existence of domestic violence. Among these 213 cases, only 22 were determined by the court to constitute domestic violence, with a Judgment rate of 10.3% [9].

Secondly, even if domestic violence is determined to exist, judges will first refer both parties to pre-litigation mediation. In addition to relying on pre-litigation mediation, judges may still render a judgment denying divorce for other reasons. Studies show that some judges take into account the difficulty of property division after divorce when making judgments, or due to the complexity of property division, they ignore domestic violence and instead pay attention to property. Some judges may believe that granting a divorce would merely transfer the conflict to judicial proceedings. The judges may be subject to harassment, threats and insults from the parties. Therefore, they might simply refuse to grant a divorce [10].

Law clearly stipulates the pursuit of responsibility for domestic violence acts that constitute crimes. However, compared with other forms of punishment, the penalty for domestic violence is still relatively lenient. For example, in the case of causing serious injury, under Article 260 of the Criminal Law of China, those who abuse family members and cause serious injury to the victim shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years (The basic penalty for the crime of abuse is up to two years' imprisonment, which is aggravated to 2-7 years for serious injuries). Article 234 of the Criminal Law stipulates that those who commit the crime of intentional injury and cause serious injury to others shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years.

In September 2010, the Chaoyang Court sentenced Wang Guangyu to six and a half years in prison for the crime of abuse in the first instance. During the more than one year of his marriage to his wife, Wang Guangyu repeatedly committed domestic violence. Even though his wife called the police eight times and fled the home, she still couldn't escape the fate of being severely disabled and dying after being abused. The wife's mother hoped that the perpetrator would be punished for multiple crimes, including abuse and intentional injury, but the second-instance court upheld the original verdict in the final instance.

However, in actual judicial practice, it has also been shown that if a battered woman cannot bear the abuse and commits reverse killing, the sentence is very severe. Cases where Battered women kill the perpetrators in reverse are rarely judged as justifiable defense, and almost all of them are convicted of intentional homicide. For instance, Zhang

from Hengshui City, Hebei Province, was a very honest person. She has long suffered domestic violence from her husband Jing but dares not fight back. The day after being threatened by her husband to kill her, she decided she had no way out and killed her husband instead. In September 2024, she was convicted of intentional homicide and sentenced to fifteen years in prison.

2.3 Personal Factors

Why do many women not avoid marriages that involve domestic violence and choose to endure it in silence after experiencing it? Apart from the social and legal factors, many women's own 'considerations' make it tough for them to escape the domestic violence environment.

Firstly, many women hold the victim-blaming mentality that they were beaten by their husbands because of their own problems and that they had done something wrong. What they consider 'wrong things' is actually the lingering echo of a feudal mentality. For instance, they fail to give birth to a boy and carry on the family line for the husband, or as a daughter-in-law, they believe they should serve the husband dutifully [11]. Due to such beliefs, the victims rationalize domestic violence as justifiable.

Secondly, in the case of being subjected to domestic violence for a long time, many women will have the thought of giving up resistance after repeatedly seeking help without success. This is battered woman syndrome.

Battered women syndrome was proposed by Lenore Walker, an American psychologist and a pioneer of feminism. Women who have suffered from domestic violence for a long time will have obvious Battered Woman Syndrome, which is specifically manifested in two aspects. The first is Lenore Walker's 'cycle of violence' theory, which states that husbands' violent behavior exhibits stepwise and cyclical characteristics. After enduring long-term domestic violence, many women can predict the occurrence and severity of the next abusive episode. The second one is Learned Helplessness. Battered women experiencing domestic violence often feel trapped and find it difficult to leave the relationship [12]. Many women also give up on divorce due to the fear of environmental changes after divorce, such as changes in the economic environment and family disruption, and would rather maintain the status quo of suffering domestic violence [13][14].

3 Containment of Domestic Violence in China

3.1 Improvement of Laws and Regulations

With the continuous progress and development of the times, China has attached increasing importance to do-

mestic violence. In 1995, the Chinese government hosted the Fourth World Conference on Women and began to pay attention to issues related to domestic violence.

In 2001, Marriage Law of the People's Republic of China was revised, and for the first time, 'domestic violence' was written into legal provisions, prohibiting domestic violence within the Basic Law framework and providing a legal basis for law enforcement work. The special legislation against domestic violence in China originated from local legislation. In 2003, the Standing Committee of the People's Congress of Hunan Province passed the Hunan Province Resolution on Preventing and Stopping Domestic Violence, China's first local regulation against domestic violence. On March 1, 2016, the Anti-domestic Violence Law of the People's Republic of China was officially implemented, marking the transition of anti-domestic violence efforts in China from moral constraints to legal guarantees.

Since the implementation of the Anti-Domestic Violence Law, courts at all levels have issued over 15,000 Personal Safety Protection Orders (PSPOs). The issuance rate has risen from 52.0% in 2016 to 77.6% in 2022. The application of the Personal Safety Protection Order has become increasingly widespread and has also become a better self-defense weapon for the victims.

As of November 30, 2022, 16 provincial administrative units in China have completed local legislation tailored to regional development needs. Three such units—Tibet, Ningxia, and Jiangsu—have revised local regulations to follow the application of the Anti-Domestic Violence Law in their respective regions and safeguarded the rights and interests of women.

Advances in Law have provided women with practical and effective protection measures, marking an important milestone in China's progress towards the rule of law and the protection of human rights. It holds irreplaceable significance in protecting women from domestic violence, safeguarding their basic human rights and dignity, and promoting gender equality, family harmony, and social progress.

3.2 the Progress of Law Enforcement Officers

With the continuous progress of education, the competence of legal workers in China has also improved accordingly. China has not yet fully affirmed the legal status of expert testimony. However, in the 2015 homicide trial of defendant Yao (a case involving domestic violence), expert witnesses appeared in court at the defense's request, and were questioned by the prosecution, the defense, and the court. This is the first case in China to admit opinions of expert witnesses in domestic violence cases and make a judgment in accordance with Article 20 of the 'Opinions

on Handling Domestic Violence Crime Cases in Accordance with the Law' jointly issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice. This case marks the advancement of China's judicial system and mitigates inherent drawbacks caused by written law. Expert legal opinions have expanded judicial democracy in the trial process, which is conducive to the improvement of judges' trial level and understanding of cases [15].

3.3 Progress of Education and the Enhancement of Women's Awareness of Equality

The special report on judicial big data of divorce disputes released by the Supreme People's Court shows that in 2017, the number of first-instance cases of divorce disputes concluded across the country was over 1.4 million. Among these cases, 73.4% of the plaintiffs were female, and 14.86% of the couples applied to the court for the dissolution of their marriage due to domestic violence. In a social environment where feudal gender oppression ideology has prevailed for thousands of years, it represents great progress that today's women dare to seek divorce and have the courage to use legal weapons to protect their rights and interests. More and more women have found employment and achieved economic independence through receiving education. Also, some women serve as an umbrella for other abused women, taking up roles in community work to assist those who have suffered domestic violence.

4 Domestic Violence Warning Letter of China and Apprehended Domestic Violence Order of Australia

The domestic violence warning system is a kind of public security administrative guidance made by the public security organs to urge the perpetrators of minor domestic violence who are not subject to administrative penalties by law to correct their illegal acts through non-coercive measures such as admonitions, education, and warnings. Article 16 of the Anti-Domestic Violence Law clearly states that where a case of domestic violence is relatively minor and not subject to public security administration punishment in accordance with the law, public security organs shall reprimand and educate the offender or issue a warning letter. Apprehended Domestic Violence Order (ADVO) of Australia is a legal instrument for protecting victims of domestic violence. Its core objective is to isolate the perpetrators through legally coercive force and build a safety barrier for the victims. Both are aimed at protecting the rights and interests of victims of domestic

violence, preventing and stopping the occurrence or recurrence of domestic violence, and maintaining the harmony and stability of families and society.

However, the warning letter in China is essentially an administrative warning or law enforcement document issued by the public security organ. The public security organ may only issue such an administrative measure after investigating a reported case and determining that the circumstances do not warrant an administrative penalty for public security. The victim cannot apply directly. ADVO is issued by a district court judge or magistrate in accordance with the Domestic Violence Act of the relevant state or territory. This is the basic difference between the two letters.

Not only that, but the main purpose of a domestic violence warning letter is also to criticize and educate the batterer and issue a written warning, ordering them to correct their illegal acts and prevent domestic violence from escalating [16]. It is relatively simple and standardized in its content. If the victim initiates a civil lawsuit (such as a divorce or damages claim) or a criminal lawsuit, this warning letter can be used as evidence of domestic violence. ADVO can provide more comprehensive, specific and legally binding protection for the victims and their related parties. The content of ADVO is more detailed and specific, prohibiting the batterer from carrying out specific behaviors and clearly stating the criminal consequences of violating the ban to prevent possible domestic violence in the future.

Both of them play a significant role in safeguarding the rights of women who have suffered domestic violence. The domestic violence warning letter provides women who have suffered minor violence with rapid and official intervention measures, which can stop the current violence in a timely manner. Although a domestic violence warning letter does not have direct legal effect, it is issued by the public security organ and can also serve as a warning to the batterer, preventing further violence by the batterer [17]. ADVO plays a powerful role in protection. The coercive protective measures create a substantial secure environment for women and their children. At the same time, ADVO clearly states the legal consequences: the setting that violation is a crime has a strong deterrent effect, and the injunction is a legal red line.

Regardless of the differences between the two, its existence has encouraged abused women to report cases and use the legal means to protect themselves from being violated again. They have made domestic violence no longer a 'family matter', raised society's awareness of domestic violence, and made society and government assume their due responsibilities [18]. From ADVO, we can also notice the deficiencies and flaws of the current domestic violence

warning letters in China. China has continuously optimized its anti-domestic violence system through legislation and judicial practice, drawing on outstanding international experiences and constantly improving and making progress.

5 Conclusion

From the research, we have concluded that the phenomenon of domestic violence suffered by Chinese women is caused by multiple factors. The stringency of the criteria for identifying domestic violence in judicial practice, the Divorce Cooling-off Period in divorce procedures, and the psychological trauma revealed by the Battered Woman Syndrome have all become obstacles for women to get rid of violence. The precise alignment of judicial coercive power and individual protection demonstrated by ADVO highlights the shortcomings of our China's warning letters. Domestic violence is essentially the concentrated manifestation of gender power relations imbalance in the family sphere, and its containment requires the dual efforts of modernizing social governance and legalizing gender equality. We must face up to the infringement of women's rights and interests by domestic violence, pay attention to the economic independence and mental health of individual women, continue to improve the legal system, Promote the innovation of social concepts. Only in this way can domestic violence be better reduced and women's rights and interests be protected.

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