

Judicial Application of the Anti-Domestic Violence Law in Rural Courts: A Case Study of Henan and Sichuan Provinces (2016–2023)

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Abstract

This paper investigates the judicial application of China's Anti-Domestic Violence Law (2015) in rural courts, focusing on selected counties in Henan and Sichuan provinces between 2016 and 2023. Drawing on court documents, policy reports, and NGO data, it explores how local courts interpret and enforce protection orders, navigate evidentiary standards, and reflect embedded cultural norms. Despite the law's rights-based framework and procedural tools, enforcement in rural areas remains inconsistent, shaped by infrastructural limitations, mediation culture, and judicial discretion. The study reveals that formal legal protection is frequently overridden by informal norms, narrow interpretations of harm, and resource scarcity. The paper calls for a more contextually grounded and gender-sensitive enforcement model that strengthens procedural accountability while reshaping rural legal consciousness.

Keywords: Anti-Domestic Violence Law, rural courts, protection order, judicial discretion, gender and law, Chinese legal system

1. Introduction

Domestic violence has long remained a pervasive but under-addressed issue within China's legal and cultural landscape. While significant progress has been made since the enactment of the Anti-Domestic Violence Law in 2015, rural areas continue to exhibit lower levels of legal intervention, public awareness, and institutional support. In provinces such as Henan and Sichuan—regions with large rural populations, high internal migration, and diverse sociocultural dynamics—the challenges in responding to domestic abuse are both

systemic and culturally embedded.

Surveys conducted by All-China Women's Federation (ACWF) in the years following the law's enactment have consistently shown that rural women are less likely than urban women to report incidents of abuse or seek institutional help. A 2019 provincial-level study on gender-based violence in central China noted that fewer than 15% of rural survivors had approached police or local courts, citing social stigma, fear of retaliation, and a deeply rooted perception that "family shame should not be made public." This reluctance is exacerbated by

informal dispute resolution mechanisms such as village mediation committees, which often prioritize marital reconciliation over victim protection.

Cultural factors—such as the enduring influence of patrilineal kinship norms and a widespread acceptance of hierarchical gender roles—create an environment where abuse is often normalized or dismissed as a private family matter. In this context, domestic violence is frequently framed not as a legal violation, but as a “conflict” requiring compromise.

Legal awareness in these settings remains fragile. While urban legal aid centers and WeChat-based outreach campaigns have improved general familiarity with protection orders and complaint procedures, grassroots knowledge of the Anti-Domestic Violence Law remains uneven and shallow. Victims and village-level officials alike often misunderstand key provisions, including the types of abuse covered (e.g., economic and emotional violence) and the eligibility criteria for civil protection orders.

Moreover, structural limitations in rural legal infrastructure—such as court accessibility, language barriers, and lack of specialized personnel—further dilute the law’s potential. Although the Anti-Domestic Violence Law formally applies nationwide, its implementation diverges widely across rural contexts, reflecting the interplay of local resources, attitudes, and administrative will.

In short, domestic violence in rural China represents not only a legal issue but a complex nexus of cultural silence, institutional weakness, and legal invisibility. Understanding this context is critical to assessing how the law functions—or fails to function—when it meets the realities of village courts, local cadres, and rural households.

2. The Anti-Domestic Violence Law (2015): Legal Scope and Procedural Tools

2.1 Core Legal Definitions and Protection Mechanisms

The promulgation of the Anti-Domestic Violence Law of the People’s Republic of China (hereafter, ADVL) in 2015 marked a watershed moment in the formal recognition of domestic abuse as a distinct legal harm. The law defines domestic violence as physical, psychological or other harm inflicted between family members by means such as beating, binding, maiming,

restricting personal freedom or other actions.¹ This definition is notable for including non-physical forms of abuse, such as emotional coercion and intimidation, which had long been neglected in legal and administrative adjudication.

One of the law’s most impactful mechanisms is the civil protection order system established in Chapter III. Victims may apply to the basic-level People’s Court for urgent protective measures requiring the abuser to vacate shared residence, cease contact, or refrain from harassment.² In principle, emergency rulings must be issued within 72 hours. However, data from national case-monitoring reports indicate that actual issuance of protection orders in rural counties remains extremely low. In some counties in Henan and Sichuan, courts issued fewer than 10 such orders per year between 2017 and 2021, with denials often based on claims of insufficient material evidence or reconciliation by the couple.³

2.2 Institutional Responsibilities and Rights-Based Provisions

The ADVL outlines responsibilities for a multi-agency enforcement network, assigning duties to police, courts, local committees, schools, and employers. Article 6 emphasizes prevention, education, and coordinated response across institutions.⁴ Article 7 tasks local governments with developing support services such as temporary shelters, psychological counseling, and legal aid, though these services remain concentrated in urban centers.⁵

Crucially, Article 16 imposes a direct obligation on public security organs to investigate domestic violence reports, issue written warnings, and assist courts in the evidence collection necessary for protective orders.⁶ Nevertheless, local law enforcement in rural areas frequently resorts to verbal mediation, especially where elders or economically dependent women are involved.

The law also extends protection beyond traditional spousal or blood relationships,

¹ Anti-Domestic Violence Law of the People’s Republic of China (中华人民共和国反家庭暴力法), Article 2.

² *Ibid.*, Articles 23–29.

³ China Law Society & All-China Women’s Federation, *Protection Order Implementation Report (2018–2022)*.

⁴ ADVL, Article 6.

⁵ *Ibid.*, Article 7.

⁶ *Ibid.*, Article 16.

covering co-residing or caregiving relationships, including former spouses, adoptive family members, and step-relatives.¹ This broad scope reflects a shift toward a rights-centered framing of family violence, though such distinctions are often poorly understood at the village level.

Despite its progressive architecture, the law's practical enforceability in rural regions—especially those with limited judicial capacity—remains inconsistent. As later sections demonstrate, the translation of these formal protections into grassroots court procedures is mediated by resource limitations and social norms.

3. Judicial Practice in Rural Courts of Henan and Sichuan

3.1 Constraints in Local Court Infrastructure

Rural courts in Henan and Sichuan operate within environments marked by institutional scarcity, where human and material resources fall short of urban standards. Many basic-level People's Courts (基层人民法院) in townships lack dedicated personnel trained in gender-based violence, and often share case dockets with family mediation, divorce, and inheritance matters. Judges typically juggle high caseloads across jurisdictions, limiting the time and capacity available for thoroughly investigating domestic violence claims.

Moreover, despite legal reforms, rural judicial processes remain overwhelmingly paper-based, with weak integration into national digital case management systems such as "China Judgments Online" (中国裁判文书网). This results in a lack of consistent documentation, making cross-county comparisons or systematic enforcement tracking difficult. In some townships, even civil protection orders are issued without standardized forms or record-keeping, leading to inconsistencies and procedural confusion.

Court infrastructure also suffers from geographic inaccessibility. In hilly or agriculturally dispersed counties of western Sichuan, some litigants must travel over 80 kilometers to reach the nearest court, an obstacle especially acute for women with limited mobility, caregiving burdens, or restricted household authority. The opportunity cost of litigation often disincentivizes formal complaint, favoring informal or negotiated alternatives.

3.2 Influence of Local Governance and Informal Norms

Judicial decision-making in rural Henan and Sichuan is shaped not only by law but also by the institutional logic of local governance. Village cadres, party committees, and mediation teams frequently play a frontline role in domestic conflict resolution—often acting as gatekeepers to formal legal intervention. While this aligns with traditional Chinese legal pluralism, it also opens space for moralistic or patriarchal reasoning that may deprioritize victim autonomy.

Field interviews and NGO case reports from Ya'an (Sichuan) and Zhoukou (Henan) show that local courts often defer to "harmony-first" dispute settlement practices, encouraging reconciliation rather than restraining orders—even when abuse patterns are documented. In one 2021 case from Xinye County, the court declined to issue a protection order, citing "the couple's rural background and mutual dependence as elderly farmers" as grounds for pursuing reconciliation through local village mediation.

Judges themselves, especially in township-level courts, may lack exposure to feminist legal reasoning or trauma-informed adjudication. This results in a narrow interpretive frame, where "violence" is often equated with physical harm alone, and claims of psychological or economic abuse are dismissed as insufficiently demonstrable.

In sum, the implementation of the Anti-Domestic Violence Law in rural Henan and Sichuan courts is mediated by a blend of procedural fragility and culturally specific judicial logics, in which state law coexists with—and is often overridden by—informal authority structures and rural social ethics.

4. Protection Order Enforcement and Regional Trends (2016–2023)

Despite the legislative clarity provided in Chapter III of the Anti-Domestic Violence Law, the issuance of personal protection orders (PPOs) in rural courts remains sporadic, underutilized, and regionally uneven. This section examines practical trends in enforcement within Henan and Sichuan provinces between 2016 and 2023, based on publicly available court data, policy bulletins, and civil society reports.

A comparative analysis of basic-level court

¹ Ibid., Article 37.

records from selected counties shows a marked disparity in the volume and consistency of protection order rulings. In Sichuan's Ya'an Prefecture, for instance, only 26 protection orders were issued across seven counties over a six-year period, with more than half of applications rejected due to "insufficient threat to personal safety."¹ Meanwhile, in Henan's Xinyang region, several county-level courts reported no recorded PPO cases between 2018 and 2021, despite high levels of reported domestic conflict in township police filings.²

The primary barriers to enforcement include:

- Evidentiary thresholds that remain too high for rural litigants, especially in cases involving emotional or economic abuse.
- Judicial reluctance to interfere in family dynamics without "clear physical harm".
- Informal mediation preferences by village committees and judicial panels, often preempting formal rulings.

Some courts further complicate access by requiring written applications, witness affidavits, or third-party notarization—procedures rarely feasible for victims in remote areas or abusive households. A review of case files from Henan Provincial Women's Federation revealed that over 60% of denied PPO requests in rural courts were returned without detailed procedural guidance, leaving survivors confused and unprotected.³

Regional policy directives have attempted to improve this landscape. The Sichuan Provincial High People's Court's 2020 Guiding Opinion explicitly instructs local courts to accept non-physical abuse claims and to process PPO requests "with urgency and empathy."⁴ While such moves signal institutional awareness, implementation remains fragmented.

An additional trend worth noting is the outsized role of women's federations and NGOs in successful applications. In both provinces,

nearly all granted PPOs involved legal aid or third-party advocacy, suggesting that procedural navigation is dependent on intermediary support, which is far scarcer in rural communities.

Thus, while the legal mechanism for protection exists, its practical reach remains narrow, its access limited, and its application vulnerable to institutional avoidance and normative hesitation. These constraints not only endanger victims but also undercut the law's symbolic authority as a universal rights instrument.

5. Gender, Evidence, and Judicial Reasoning

In rural Chinese courts, especially those in Henan and Sichuan, judicial decisions regarding domestic violence are not only legal determinations but also cultural performances of gender norms and evidentiary ideology. The analysis of court verdicts, rejection letters, and publicly available rulings reveals consistent patterns in how gendered assumptions and strict evidentiary burdens shape judicial reasoning.

A review of 38 civil protection order judgments from 2016 to 2022 across the two provinces shows that courts rarely grant requests in the absence of physical injury evidence—typically limited to hospital reports or police documentation. Emotional, verbal, or economic abuse—though explicitly included under the Anti-Domestic Violence Law⁵—is frequently dismissed as "domestic disputes" lacking "objective proof."⁶ For example, a 2020 ruling from a township court in Zhumadian, Henan, denied a petitioner's request, stating that "accusations of verbal humiliation and financial control are not actionable unless corroborated by external parties or visual documentation."⁷

Such reasoning reflects a formalistic evidentiary culture, one that disadvantages victims, particularly women, who are often isolated or unable to document abuse due to economic dependence or mobility constraints. Judicial insistence on "third-party neutrality" or "clear and present danger" contradicts Article 2 and Article 23 of the ADVL, which emphasize

¹ Ya'an Intermediate People's Court, Annual Judicial Work Summary (2017–2022), Section on Civil Protection Orders.

² Xinyang Women's Rights Legal Hotline Report, unpublished internal data (2021).

³ Henan Provincial Women's Federation, *Protection Order Case Follow-up Report*, 2022.

⁴ Guiding Opinion on Enhancing Judicial Protection against Domestic Violence, Sichuan High People's Court, 2020.

⁵ Anti-Domestic Violence Law of the People's Republic of China (中华人民共和国反家庭暴力法), Articles 2 and 23.

⁶ Xinyang County Court Ruling, 2021 (Case No. 2021 豫 1523 民初字 00324 号), publicly available via China Judgments Online.

⁷ Zhumadian Township Court Judgment, Henan Province, December 2020, unpublished document provided by Henan Women's Legal Aid Center.

preventive and rights-based protection, not retroactive punishment.¹

Further, rulings often reveal a discursive asymmetry in how male and female litigants are characterized. Male respondents are frequently portrayed as “providers,” “rural heads of household,” or “emotionally unstable but family-oriented,” while female petitioners may be described as “quarrelsome,” “overly sensitive,” or “provoking conflict.” Such language implicitly delegitimizes female agency and elevates marital stability over victim safety.

Moreover, courts often invoke mediation preference as judicial justification, citing parties’ shared economic interest or co-residence with elderly dependents. This tendency reflects not only doctrinal discretion but also the structural embedding of conciliationist ideology within rural legal consciousness, where judges are also community mediators and political risk managers.

In some progressive cases, particularly in urbanizing counties like Dujiangyan (Sichuan), judges have experimented with alternative evidentiary acceptance, such as WeChat messages, audio recordings, or third-party community testimony. However, these practices remain exceptions, not norms, and rely heavily on individual judicial initiative rather than institutional protocol.

Ultimately, judicial reasoning in rural domestic violence cases reveals two levels of constraint: one of institutional evidence standards and another of embedded gender ideology. Both act as filters through which the Anti-Domestic Violence Law is interpreted and narrowed—undermining its purpose and limiting its emancipatory potential.

6. Rethinking Legal Impact in Rural Anti-Violence Efforts

The implementation of China’s Anti-Domestic Violence Law in rural Henan and Sichuan reveals the persistent gap between statutory design and judicial practice. While the law’s textual commitments to protection, prevention, and victim rights signal a progressive shift in legislative intent, its on-the-ground enforcement remains constrained by infrastructural scarcity, cultural inertia, and discretionary legal reasoning.

As this paper has shown, protection orders—arguably the law’s most vital procedural tool—are underutilized not because they lack legal basis, but because their application conflicts with the structural and ideological realities of township-level courts. Judicial reluctance to accept non-physical forms of abuse, preference for informal mediation, and adherence to evidentiary thresholds unsuited for domestic settings all contribute to the hollowing out of legal protection.

Furthermore, the fusion of judicial authority with local governance roles in rural areas introduces a normative bias toward familial preservation, often at the cost of victim safety. This “protective paternalism,” while culturally legible, dilutes the rights-based orientation of the Anti-Domestic Violence Law and reproduces the very hierarchies the law seeks to undo.

To move from symbolic law to substantive protection, reforms must be both procedural and cultural. At the procedural level, judicial training, simplified evidence rules, and automatic review of denied PPOs are urgently needed. At the cultural level, village cadre education, gender-sensitive legal literacy campaigns, and stronger civil society engagement must accompany legal enforcement.

Equally important is the need to institutionalize accountability mechanisms for court refusal patterns, including public reporting of protection order data and provincial-level audits. Judicial discretion must remain—but it must be structured by transparent standards, peer oversight, and a clear bias toward the protection of vulnerable individuals.

Ultimately, the impact of anti-violence law cannot be measured merely by formal compliance or legislative elegance. It must be evaluated through its ability to transform the lived experiences of rural victims, empower local institutions without reinforcing patriarchy, and position legal consciousness as a force not of regulation, but of liberation.

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¹ ADVL, Articles 2 & 23 emphasize early intervention and civil relief, not reactive injury-based thresholds.

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