



为平·妇女权益和性别平等
EQUALITY(BEIJING)

Submissions on Situation of Protection Orders & Shelters In China

TO: special Rapporteur on violence against women, its causes and consequences

From: Equality (Beijing), a NGO for women's Rights and Gender Equality

Shelters:

Legislative framework and/or guidelines regulating shelters' operations procedures and their shortcomings;

A [guidance for sheltering](#) had been jointly issued by [Ministry of Civil Affairs](#) and the [All-China Women's Federation](#) on Sept. 24, 2015¹. The guidance requires rescue management institutions across China designate special and specific areas to be set up as domestic-violence shelters. People who suffered domestic violence, both permanent and migrant residents (with or without our local household registration card), adults and child, are eligible to stay ordinary time limit no more than 10 days. The guidance also allows non-governmental sector a position to participate in sheltering and other related services. This is the first explicit policy on shelter².

The shortcomings and blind spots of this policy: Firstly, some particular vulnerable groups such as disabled, severely ill, and wounded women and children with special needs have not been mentioned; secondly, some other emergent needs of women and children such as assistance of finance, education are absent; thirdly, no arrangement such as **alternative accommodation and of second and third stage housing**. In addition, this policy does not cover the needs for shelter of survivors of other types of violence against women .

Since the new law on domestic violence effects from March 1, 2016, all government in county/district level are requested to arrange shelter facility. There is one article in the law says the government should ensure the finance for anti-domestic violence work.

¹ <http://www.mca.gov.cn/article/zwgk/mzyw/201510/20151000875993.shtml>,

<http://www.mca.gov.cn/article/yw/shsw/fgwj/201605/20160500000219.shtml>

² 《民政部 全国妇联关于做好家庭暴力受害人庇护救助工作的指导意见》政策解读,

<http://www.mca.gov.cn/article/zwgk/jd/201510/20151000875992.shtml>

民政部门户网站 时间: 2015-10-21 09:40 全国有近 400 个城市依托救助管理机构设立了“家庭暴力庇护中心”。据不完全统计, 2008 年以来全国各救助管理机构庇护救助家庭暴力受害人 5 万人次左右。



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However, so far, we have no data about how many shelters have been set up, and how many person, including children are served. We can only get few individual reports rather than a comprehensive picture. According to monitoring of the media report, Equality (Beijing) only find two women have been reported to get sheltering from March 1, 2016. Most of the reports on shelter just highlight the issue of lacking women live in. And women are blamed for not seeking help. There is a blind eye turn to the lack of publicity of the information, the quality of the services, the facilities, as well as the issue of qualified workers. There is no question to accessibility of the shelters, such as the procedures, the refer letters from local women's federation or the residents' committees.

Good practice:

There is very few alternative shelters run by NGO or other sectors. One good example is [Mingxin Social Work Service](#) . They have shelters “build in” the communities rather than a separated building isolated from resident area/ They accept women stay if they need.

Protection orders:

China's new law on domestic violence have a chapter on protection order, which is responsive to women's appeal. It includes the types and length of the protection order, who and how to apply it, the time for reviewing the application. It allows people apply protection order without issuing any lawsuit against the perpetrator, and women's Federation can apply it on the behalf of a survivor. There is one big shortcoming which is insufficient role of police during implementation. The law only say police as the same level as local Women's Federation and Community Committees for assistant the court to enforcing the protection order. This regulation hidrs many courts to grant protection order to the applicants for being afraid of effective enforcement.

The bellow text box is the translation of the chapter on protection order.



Chapter IV Personal Safety Protection Writ

Article 23 Where a party concerned applies to the people's court for personal safety protection writ due to suffering domestic violence or facing real danger of domestic violence, the people's court shall accept the application.

Where the party concerned is unable to apply for personal safety protection writ because he or she is a person with no or limited capacity for civil conduct, or is coerced or threatened, his or her close relatives, the public security organ, women's federation, residents' committee, villagers' committee or relief management institution may apply on his or her behalf.

Article 24 An application for personal safety protection writ shall be filed in writing; and if the applicant does have difficulty in filing a written application, he or she may file a verbal application, which shall be recorded by the people's court in transcripts.

Article 25 A case of personal safety protection writ shall fall under the jurisdiction of the basic people's court of the place of residence of the applicant or respondent, or of the place where the domestic violence occurs.

Article 26 A personal safety protection writ shall be granted by the people's court in the form of ruling.

Article 27 A personal safety protection writ shall be granted based on the following conditions:

- (1) There is a specific respondent.
- (2) There is a specific request.
- (3) There are circumstances of suffering domestic violence or facing the real danger of domestic violence.

Article 28 The people's court shall, upon acceptance of an application, grant a personal safety protection writ or dismiss the application within 72 hours; or do so within 24 hours in emergency.

Article 29 A personal safety protection writ may include the following measures:

- (1) Prohibiting the respondent from committing domestic violence.
- (2) Prohibiting the respondent from harassing, stalking, contacting the applicant and the relevant closed relatives thereof.
- (3) Ordering the respondent to move out of the applicant's residence.
- (4) Other measures to protect the applicant's personal safety.

Article 30 A personal safety protection writ shall be valid for not more than six months, commencing from the date when it is granted. Before a personal safety protection writ expires, the people's court may, upon application, cancel, modify or extend the writ.

Article 31 Where the applicant has any objection to the dismissal of application or the respondent has any objection to the personal safety protection writ, the applicant or respondent may, within five days from the date when the ruling takes effect, apply to the people's court rendering the ruling for a reconsideration. Where the people's court grants a personal safety protection writ in accordance with the law, the enforcement of the personal safety protection writ shall continue during the reconsideration period.

Article 32 The people's court shall, after granting a personal safety protection writ, serve it on the applicant, the respondent, the public security organ, residents' committee or villagers' committee, and other relevant organizations. The personal safety protection writ shall be enforced by the people's court, with the assistance of the public security organ, and residents' committee or villagers' committee, among others.



The law also has a paragraph about the legal liability for violation of the protection order

Article 34 Where the respondent's violation of the personal safety protection writ constitutes a crime, the respondent shall be subject to criminal liability in accordance with the law; and if the violation is not serious enough to constitute a crime, the people's court shall reprimand the respondent, and may, according to the seriousness of circumstances, fine the respondent not more than 1,000 yuan or detain the respondent for not more than 15 days.

The current problem: The courts are too strict to application, so far, less number of protection orders issued and so many applicants are failed by the courts. Shaanxi Province, one of the pioneer provinces to pilot protection order with 38 million population, had been issued only [50 protection orders after the anti-domestic violence law effects from March 1st till Nov., 2016.](#)

Most judges have not been trained to understand the domestic violence, and they still take very high standard (like severe injury, admission of the perpetrators) of evidence to prove the domestic violence. No approval for application requests on measures such as prohibition to grabbing, hiding, or keep under aged children to see one parent, order the perpetrator to attend workshop for getting education and violent behavior correction, the protection orders are limited as barring and expelling orders.

Example 1: a court in Jiangsu Province, which had issued the first protection order as practice of pilot in 2008, had dealt with 11 cases related to domestic violence in 2016, by November, domestic violence was convicted in 3 cases, and 2 cases got protection orders.³

Example 2, Ms. Xie, a case of Equality, a country school teacher in north China applied protection order to her county court, a judge did not only reject her application, but further displays to the perpetrator her application and the evidences her collected to support her application. Which cause great panic to Ms. Xie. The chairperson of local branch of women's Federation even criticizes Ms. Xie for applying protection order by saying that the act of ending the marriage, and urges her avoiding be brainwashed by the information Ms. Xie searched in the internet. She further requests her go home to please her husband, and promises that she will protect her. Ms. Xie does have a few months peaceful life, but suffers violence again from beginning of the Chinese New Year in the later January, 2017.

³ <http://lxqfy.chinacourt.org/article/detail/2016/11/id/2356351.shtml>

Good practice:

Jan. 5th, 2017, Shuangliu Court, Chengdu, Sichuan Province issued its first [protection order this year for Ms. Ma Hong](#), a woman was claimed be beaten and restraint and forcible limits on personal freedom by her ex-boyfriend, a police man. The Court issued the protection order within 24 hours after it receive the application. As contrast, the two police stations, one covers the area where Ms. Ma was restrained and rescued, one Ms. Ma lived and reported the case postponed to accepted the case for about 10 day. The protection order to Ms. Ma is particularly meaningful as she has tried to rid of the relationship for a while but cannot be allowed to do so. This is the first protection order to be issued to a police man in China. And it also is the first protection order for former partner. Given the text of the Anti-domestic violence law only covers current family members and people who live together, this protection order is groundbreaking.