

Research on Countermeasures for Family Dispute Cases in Sichuan Ethnic Regions Under the New Situation

Taking Region G as an Empirical Sample

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ABSTRACT

In recent years, the number of family cases resolved by courts across the country has continued to increase. In 2016, the Supreme People's Court of the People's Republic of China launched a pilot reform of family matters methods and working mechanisms. However, in the underdeveloped Sichuan ethnic regions, the courts have settled cases of family disputes in a relatively stable manner. To this end, this article selects the ethnic Region G as a sample, and through empirical research and analysis, puts forward corresponding suggestions for the reference of Sichuan ethnic regions to resolve family dispute cases.

Keywords: Sichuan ethnic regions, Family disputes, Empirical research.

1. INTRODUCTION

Family dispute cases mainly include marriage, custody, support and division of property. In recent years, love and marriage disputes have been characterized by multiple levels of social relations, diversification of contradictory subjects, and multiple fields of conflict of interest, and the number of family cases has continued to increase. The relationship between law and geography is also closely related.[1] In 2016, the Supreme People's Court of the People's Republic of China launched a pilot reform of family matters methods and working mechanisms. As the largest ethnic region in Sichuan, Region G has a representative multi-ethnic area with 43 nationalities including Tibetan, Han, Hui, Yi, Qiang, and Naxi and so on within its borders. Through investigations, it is found that in

Region G, the courts have settled cases of family disputes in a relatively stable manner, "For example, the number of family cases received by the court in Region G in 2018 was 469, 470 in 2019 and 463 in 2020".¹ Why are family disputes resolved through the courts in this region so stable? For this purpose, the author conducts field investigations in the grassroots courts, civil affairs bureaus, and township governments to answer questions.

2. CURRENT STATUS OF FAMILY DISPUTES IN REGION G

2.1 The Causes of Family Disputes Accepted by Courts

According to the economic and social development level, the author has selected four representative areas A, B, C, and D in Region G for in-depth investigation. Area A has the highest degree of economic and social development, followed by Area B, Area C is more remote, and

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1. Intermediate People's Court Work Report in Region G, 2019, 2020, 2021

Area D has the weakest degree of economic and social development. The time span is 2014-2020.

Table 1. The causes of family disputes accepted by courts from 2014 to 2020

Cause Area	Divorce dispute (piece)	Custody dispute (piece)	Dispute for support (piece)	Property dispute after divorce (piece)	Cohabitation relationship dispute (piece)
A	339	0	0	15	0
B	123	10	0	3	1
C	106	8	0	1	4
D	63	5	0	2	4

According to the above "Table 1": Area A with high economic and social development has the highest number of divorce disputes, followed by Area B; although Area C is remote, the number of divorces there is not much different from that of Area B; Area D has a low level of economic and social development and fewer divorce disputes. In custody disputes, Area A is 0, which may be related to the high degree of economic and social development and people's economic and family responsibility consciousness. The situation in areas B, C, and D may prove this point of view. There are no disputes for support in the 4 areas and it is highly probable that the "filial piety" culture is inherited very well in this region. Area A has the most property disputes after divorce while the remote Area C has the least; in terms of the number of cohabitation relationship disputes, Area A is 0, and Area C and Area D are the highest.

2.2 The Verdict of the First Instance

From the three dimensions of the judgment settlement rate, the mediation settlement rate, and the mediation and withdrawal rate, Area A has the highest proportion of judgment settlements, the mediation settlements in Area B are slightly higher than judgment settlements, the mediation settlements in areas C and D are much higher than judgment settlements, and the mediation settlements in areas B, C, and D are higher than judgment settlements, and the rate of dropping lawsuit has also increased proportionally.

2.3 The Divorce Situation (Taking Area D as a Sample)

Area D has a total area of 14,000 square kilometers and a resident population of 74,700; therefore, it is representative. From January 2014 to January 2021, the number of registered marriages was 3370, while the number of divorce by

agreement was 650, and the number of divorce by litigation was 63. The rate of divorce after marriage was 21%, which was completely lower than 39.33% of the country and 43.20% of the whole province.²

2.4 The Custody of Children

The survey of child support in 150 divorced families (90 in farming and stockbreeding areas and 60 in cities and towns) shows that: 1. After parents divorced in farming and stockbreeding areas, girls generally are brought up by their mothers and boys by their fathers; 2. If a couple in farming and stockbreeding areas get divorced due to the father's gambling and indolence, all of their children will be raised by the mother, and the mother won't require the father to pay child support.

2.5 The Reason of Family Disputes

First, the main reasons for divorce in the four areas are "incompatibility of temperament"; second, among the grounds for divorce due to domestic violence, the remote Area C and the economically and socially underdeveloped Area D are more serious, accounting for 25% and 28% respectively; third, among the grounds for divorce due to separation, areas A and B are relatively high; fourth, among the grounds for divorce due to gambling and other bad habits, the two areas C and D are obviously higher than the areas A and B; fifth, among the grounds for divorce due to a serious illness of one party, areas D and C are very low with only 1% and 2%; sixth, in the divorce due to household affairs, the two areas C and D are very low, with only 6% and 4%.

2. Accessed on September 25, 2021, <https://www.zhuhu.com/tardis/sogou/art/358402279>

2.6 The Property Situation Involved in Family Disputes

The 150 litigation divorce property division cases in the four areas of A, B, C, and D show: On the one hand, the divorced parties have little disputes over the property, the object is simple, and the amount is not large. The proportion of investment cases involving equity, stockholders' equity, etc. is only 0.62%. The sources of property for marriage and family are mainly agriculture-stock production and wages, but the investment benefit is relatively small.

On the other hand, the divided property is refined and closely related to life. For example, the judgment result of a certain case is: The plaintiff XX divorces the defendant XX, and the defendant will compensate the plaintiff with a one-off compensation of 100,000 yuan and return the dowry goods to the plaintiff (2000 catties of highland barley; a total of 40 pieces of copper utensils of various sizes; a complete set of Tibetan women's silver jewelry; 48 grams of gold earrings; a string of coral beads; a set of Gawu necklaces; one piece of woollen Tibetan robe; one piece of woollen lady's Tibetan outfit; 20 sets of ladies' Tibetan robes; a pair of Tibetan blankets).

2.7 Judge's Views on Family Disputes

The interviews with the judges of the four areas A, B, C, and D show: 1. Judges in areas A and B believe that family disputes in the area are characterized by more impulsive divorce disputes, and lack psychological counseling personnel and mechanisms, and it is difficult to reconcile and judge; 2. Judges in areas C and D believe that the characteristics of family disputes in the area are that the parties are sensitive about their reputation and believe that divorce is a disgraceful family scandal; 3. Judges in areas C and D must add the judgment of "guaranteeing the compulsory education of minor children" when making their ruling on the issue of raising minors in view of the local folk culture. 4. Judges believe that the relatively small number of local family disputes is closely related to traditional regional culture such as "being ashamed of divorce" and "family property being left to the

people of Zuojia"³. 5. It is a difficult problem to resolve the division of cohabitation property. One reason is the long cohabitation period, such as 20 years, and the other is that it is difficult for the parties to provide evidence. 6. Regarding divorce disputes, if mediation is conducted from the perspective of traditional culture and beliefs, 70% of divorce cases can "dispose of a matter as soon as the case is closed". 7. Judges in areas C and D believe that farmers and herdsmen widen their knowledge and then get divorced due to reasons such as going out to work.

2.8 The Views of the Staff of the Civil Affairs Department on the Disputes over Divorce by Agreement

The staff of the civil affairs department of areas A and B believe that the reasons for the divorce of the parties are all incompatibility, and most of them are post-80s and post-90s, and the post-60s and 70s are relatively rare.

The staff of the civil affairs department of areas C and D believe that: 1. The divorce parties they receive are mainly post-80s and post-90s, and those born in the post-60s and post-70s who come to the civil affairs department for divorce are mainly concentrated in the city; 2. The reasons for a small number in farming and stockbreeding areas are: For one thing, the property involved is too much and too detailed, and traditional folk customs make it difficult for both parties to reach a consensus on the division of property; for another, it is the influence of traditional customs. For a divorce, both spouses must obtain the consent of their parents and even the entire family.

2.9 The Views of Parties of Litigation Divorce on the Court's Way of Resolving Disputes

On one hand, the urban divorce parties agree to go to a court to resolve family disputes, but believe that the court interferes too much and it takes too long to resolve disputes. They also think that the judges don't understand the psychology of the

3. In Region G, the custom of staying with and taking care of their parents is called Zuojia (座家). The property of the parents will be inherited by the people of Zuojia, and there will be no disputes between brothers and sisters.

divorce parties, the judges don't take the initiative to help collect evidence and they are too rigid and use the law mechanically. The staff of the Women's Federation should actively help the divorced women, especially those who are divorced by their husbands.

On the other hand, 70% of divorce parties in farming and stockbreeding areas think that the cost of resolving family disputes in court is too high. Because of the long distance and long litigation process, they prefer the court to resolve disputes through mediation; at the same time, because of their weak awareness of the rule of law, they hope to be provided with legal aid; female divorcees are more inclined to resolve disputes by female judges. If they are male judges, they will feel very embarrassed; the parties in farming and stockbreeding areas also have a "fear of litigation" mentality.

2.10 Lawyers' Views on the Family Dispute Cases They Represent

The results of interviews with 6 lawyers representing family disputes are as follows: 1. The unanimous view is that the division of property in cohabitation relationship dispute is the most difficult problem, because it is difficult for the parties to provide evidence to prove the ownership of the property. In such disputes, especially the son-in-law by adoption and female in farming and stockbreeding areas are in bad situation; 2. In the division of real estate such as houses, the lack of local house price evaluation agencies, the high prices of entrusting other places' price evaluation agencies, and the unwillingness of other places' price evaluation agencies to go to the plateau have increased the difficulty of resolving family disputes; 3. The lack of assistance from the psychological counseling mechanism also increases the difficulty of mediating family disputes; 4. The people in farming and stockbreeding areas are more willing and trusting the township government to help coordinate and resolve family disputes; 5. People in remote and backward areas are more willing to resolve family disputes through reason rather than legal principles.

3. OBJECTIVELY LOOKING UPON AND ANALYZING FAMILY DISPUTE CASES IN REGION G

3.1 Divorce by Agreement Is the Main Method of Divorce, Which Is Conducive to Family Harmony

Taking Area D as an example, from January 2014 to January 2021, the number of registered marriages was 3370, while the number of divorce by agreement was 650, and the number of divorce by litigation was 63. This shows that the awareness of the rule of law and rights of the people in Region G has increased. In marriage and family, the choices of both parties are more respected, and the harm and conflicts to both parties and the families caused by divorce by litigation have also been avoided.

3.2 The Core Value of Respecting the Old and Cherishing the Young Is the Core and Hard Core for Few Cases of Custody and Support in Family Disputes

According to the survey, the number of cases in Area A on custody dispute is 0, and areas B, C, and D account for 8.1%, 7.5%, and 7.9% of the entire family disputes; for support dispute, there are no cases in the 4 areas. Through visits and investigations, it is found that under the influence of traditional culture, respecting the old and cherishing the young are the consensus that everyone has been willingly influenced from childhood and takes for granted. There is no consciousness imposed or instilled.

3.3 It Is Difficult to Protect the Property Right and Interests of the Weaker Party in the Termination of the Cohabitation Relationship

In the remote farming and stockbreeding areas of Region G, farmers and herdsmen have weak awareness of the rule of law, especially those born in the post-60s and post-70s, believing that cohabitation is a confirmation of the relationship between husband and wife. Cohabiting parties

seldom distinguish between property purchase and use, and even seldom take precautions. But once the two parties terminate the cohabitation relationship due to conflicts, the weaker party cannot provide evidence to prove the ownership of the property because of the lack of awareness of rights protection. If judges cannot balance property interests through mediation, they can only make judgments based on the principle of "who advocates, who presents evidence", and it is often difficult to protect the property rights of the weaker party.

3.4 The Success Rate of Joint Mediation Before Litigation Is Relatively High, Which Alleviates the Contradictions Caused by Family Disputes

Joint mediation before litigation refers to the joint mediation carried out before the start of litigation procedures. After the party goes to the court to file a lawsuit, after the people's court receives a bill of complaint or an oral complaint but before formally filing the case, it may appoint an administrative agency, a people's mediation organization, a commercial mediation organization, an industry mediation organization or other organizations with mediation functions to conduct mediation or invite mediators to conduct joint mediation in accordance with its authority or upon application by the party. The joint mediation before litigation presided over by the court is easier to resolve disputes with a more harmonious atmosphere. In the joint mediation before litigation in Region G, the easiest to be successfully mediated is family disputes. For example, from 2018 to July 2020, the court in County B had 12 cases of joint mediation before litigation, including 8 family disputes and 6 of them were mediated successfully; 4 civil and commercial disputes, and 3 of them were mediated successfully.

3.5 Domestic Violence, Gambling and Other Bad Habits Exist in Remote and Backward Areas, and at the Same Time, There Is Also Good Custom such as Sharing Happiness and Woe with Family Members

Through the survey, it is found that, being limited by modern civilization, underdeveloped

economy, characteristics of agriculture and husbandry, as well as the traditional concept of "women as tools for bearing children" in remote and backward areas, violence between spouses to solve problems is considered trivial and normal. In addition, due to the slow pace of life in Region G, especially in farming and stockbreeding areas, people have limited skills, their pursuits of life are not high, and the supply of entertainment during leisure time is insufficient, playing cards to spend time has become a way or even a habit for more participants. Although women are engaged in family affairs without grievances, as time passes, when one party is accustomed to indolence and gambling, the other party can only choose the road of divorce.

3.6 There Are Few Types of Property in Family Disputes, and the Object Is Not Large, but the Daily Necessities Are Complicated

According to the survey: Property in family disputes in Region G is mainly concentrated in real estate, deposits and motor vehicles, and stocks, funds, corporate equity, intellectual property, insurance investment, and trust investment are rare. Among the 150 family dispute cases investigated, only 9 cases involved the division of investment interests in stocks, funds, and corporate equity. Others such as intellectual property, insurance investment, and trust investment were zero. This situation has reduced the litigation burden of the parties and also reduced the burden of the judges.

But on the other hand, the daily necessities are complicated. For example, the dowry of highland barley of the female must be returned at the time of divorce, and the pots and pans, Tibetan blankets, and Tibetan barrels used to hold buttered tea must be divided. And because some daily necessities have been worn out due to the long time, but the parties still insist on the division, which more or less shows a bit of "haggle over every ounce" here.

3.7 Family Disputes Are Regarded as Family Scandals, and the Court Can Better "Dispose of a Matter as Soon as the Case Is Closed" Through Mediation

In economically underdeveloped areas, family disputes, especially divorce cases, are regarded as a "shame" and "a constant embarrassment". Although both parties go to the court to resolve the divorce as a last resort, if the judge knows their custom culture, he or she can make full use of it and "dispose of a matter as soon as the case is closed" through mediation.

3.8 The Lack of Psychological Counseling Mechanism in Family Disputes Increases the Difficulty of Dispute Resolution

Region G is more than 300 kilometers away from the provincial capital Chengdu, and the farthest area is more than 1,000 kilometers away from Chengdu. There is only one undergraduate college in the territory. As a result, there is a shortage of applied psychology talents, and it is difficult to establish a psychological counseling mechanism. As a judge of family disputes says: "We also hope that the courts here have a complete set of psychological counseling mechanism like Chengdu, so that we have less pressure, while reducing the litigation burden of litigation participants, and more importantly, avoiding the escalation of divorce disputes. However, there are few local talents in applied psychology, people from other places are unwilling to come, and those who are willing to come charge high prices. Whenever we encounter something like this, we are so worried".

3.9 The Guarantee of the Rights and Interests of Minors Needs To Be Strengthened

Although there are few custody disputes in Region G, the court's written judgement will always add that the legal guardian must "guarantee the nine-year compulsory education for minors", which on a certain level, also illustrates that it is difficult to protect the right to education of minor children in divorce cases. Especially in farming and

stockbreeding areas, single fathers or mothers raise their children alone, the economic conditions are poor, and the production methods such as agriculture and animal husbandry, picking wild mushrooms, and digging medicinal materials and so on do not require too much of labor. As a consequence, some single fathers or mothers unilaterally let minor children engage in corresponding productive labor, thereby affecting the education of minors. Despite the supervision of the education departments, the schools and the teachers, the parties involved will find all kinds of excuses to prevaricate.

4. SOLUTIONS

4.1 Establishing a System of Family Mediators and Family Investigators

According to the survey, the success rate of joint mediation before litigation for family disputes in Region G is high, but the personnel of joint mediation before litigation are uneven due to their ages and legal accomplishment, and they have limited control over the ills of family disputes. For this purpose, a team of professional family mediators and investigators can be formed by combining folk tradition and fold customs, being led by the justice bureaus of each county, and uniting the courts, women's federations, public security, the Communist Youth League, township governments and communities, etc., to select family mediators and investigators who are over 30 years old, with education level of high school or above, and understand local good custom and social and civil situations. Besides, efforts should be made to carry out at least 2 legal skills training for this team every year; the court appoints a judge to guide each mediator and investigator; the investigator should collect the situation of the family where the family dispute occurs and feed it back to the agency of joint mediation before litigation and the court, and at the same time, it should collect the implementation status after the family dispute is resolved in a timely manner, so as to provide the mediation agency and the court with a reflection and development path to resolve the family dispute.

4.2 Strengthening the Mechanism of Joint Mediation Before Litigation

The complexity of family disputes is that emotional factors are mixed with interest disputes, but disputes may only be the surface manifestation of grievances. It is not difficult to "patch up a quarrel". Dispute resolution can be dealt with objectively and fairly whether through litigation or non-litigation, but it is not easy to "reconcile the parties concerned"[2]. For family disputes sued to the court, the court will try its best to initiate the mechanism of joint mediation before litigation, and the selected family mediator will preside over it. The mediator can follow the legal principles and reasons of laws and regulations, public order and good custom, township regulations and conventions and so on without violating the mandatory provisions of national laws and administrative laws and regulations, combine the specific facts of the case, and take appropriate methods to resolve the emotional disputes between the parties. After the successful mediation by the family mediator, the dispute is resolved before the court files a case, not only saving litigation costs for the parties, but also effectively guaranteeing the rational allocation of judicial resources, and at the same time alleviating the contradictions of the parties in family disputes.

4.3 Further Strengthening the Mediation of Family Dispute Cases

Family mediation focuses on the restoration of family interpersonal relationships, which is conducive to giving play to the basic role of the family in the governance of modern society.[3] In view of the personal, moral, and rational characteristics of family disputes, mediation has more advantages in resolving family disputes. In the handling of family dispute cases, the interweaving of human relationship, morality and law often occurs. Implementing the principle of "mediation if possible and more mediation for lighter sentence" can often achieve better social effects.

4.4 Establishing a Coordinated Protection Mechanism for Minors

In family cases involving minors, minors are the objects of contention between the two parents, but they have no subjectivity status in family cases and

are easy to become victims of parents' interests.[4] Although there are almost no disputes over the issue of raising minors, it is also faced with the economic difficulties of one party, which makes it difficult to guarantee the material rights and right to education of minors. The newly revised Law of the People's Republic of China on the Protection of Minors requires the establishment of a coordinated mechanism for the protection of minors. To achieve this, first, with regard to the fosterage of minors after divorce, even if one party voluntarily undertakes it alone, it should also determine the other party's obligations in accordance with the law; second, it is necessary to establish minor protection agencies including township minor protection stations, paying special attention to the rights and interests of minors in towns and villages; third, it is needed to give full play to the function of a family dispute investigator to find out the difficulties and problems faced by single parent families and minors and timely feed them back to minor protection agencies.

4.5 Establishing and Perfecting a Sound Psychological Counseling Mechanism

The court takes the lead in establishing and perfecting the psychological counseling mechanism: First, it is necessary to establish a coordination mechanism with the psychological education institutions of local colleges and universities to provide psychological counseling to the parties involved in family cases and resolve psychological counseling talents nearby; second, in view of the location disadvantages, it is necessary to establish an "Internet +" collaboration mechanism for psychological counseling of parties to family cases with professional psychological counseling institutions in neighboring regions and psychological education institutions of institutions of higher learning, so as to explore online and remote counseling; third, the undertakers of family cases and relevant judicial personnel are responsible for screening psychological intervention cases. And after the court review, the court will intervene in psychological counselling if it considers that the parties are suitable to receive psychological counselling.

4.6 Respecting and Protecting the Privacy of the Parties

China's Civil Procedure Law clearly stipulates that cases involving the privacy of parties should be heard in private session. As far as family dispute cases are concerned, every case definitely involves the personal privacy of family members, and the law should protect it. Given that farmers and herdsmen still think that family disputes are "disgraceful" and "shameful", the publicity of a family dispute often attracts the attention of the residents of a village or even the town and even becomes the ridicule content of everyone at one's leisure, which will cause a lot of trouble to the parties' life. Therefore, when the court accepts every family dispute, it must respect and protect the privacy of each party to the dispute, and adhere to the principle of non-disclosure, especially family cases involving minors, to avoid negative impact on their growth.

4.7 Strengthening the Construction of Grassroots Public Legal Service Platform

Strengthening the construction of grassroots public legal service platform can facilitate the people in the jurisdiction to apply for legal aid and legal services such as lawyers, notarization, and judicial expertise on the spot, so as to create good conditions for guaranteeing and improving people's livelihood and safeguarding the legitimate rights and interests of the people. It is also necessary to strengthen the coordination, guidance and supervision of the work of legal advisers in the jurisdiction, and effectively play the role of legal advisers in ensuring the town (sub-district) decision-making, administration and village (resident) autonomous management in accordance with the law; what's more, it is needed to strengthen the coordination in the management of the selection and appointment of people's supervisors and people's assessors, ensure that citizens participate in trial activities in accordance with the law, and promote judicial justice.

5. CONCLUSION

The basis of family disputes is the personal status relationship, behind which are complicated interpersonal relationships. On the surface, family

disputes can be manifested as requests for payment of money such as division of property, spiritual comfort and upbringing. But in essence, deep-seated disputes are about emotional and psychological disputes between husband and wife and kin groups. [5] The spousal relationship is not only a gender relationship between man and woman, but also a cooperative relationship in which both husband and wife are jointly responsible for their children. The established group through marriage includes the husband and wife community and the family community. [6] In the context of the reform of family trial methods and working mechanisms, in order to properly handle family disputes in Sichuan ethnic regions and maintain social harmony and stability, the court should actively explore working ideas, innovate working mechanisms, establish a comprehensive coordination mechanism, and focus on emotional fix between the parties, psychological counseling, and protection of the legitimate rights and interests of minors and vulnerable groups in order to realize the diversified settlement of family disputes and dispose of a matter as soon as the case is closed.

AUTHORS' CONTRIBUTIONS

Xiaobin Ye wrote the manuscript and Yifei Tang contributed to revising and editing.

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