

CHAPTER NINE

FIGHT OR FLIGHT

Consequences of the Judicial Clampdown on Divorce

In this chapter, we shift our attention from divorce cases to criminal cases. China's judicial clampdown on divorce has diverted marital disputes into the criminal justice system. When judges failed to protect battered women, domestic violence sometimes escalated to criminal battery or homicide. Consequently, some women seeking relief in civil court ended up as victims in criminal court after their husbands harmed or murdered them, or as defendants when, in response to chronic abuse, they took matters into their own hands. So far, China's criminal courts appear not to recognize domestic violence as a sufficiently mitigating factor to merit acquittal in homicide cases. Nonetheless, reforms introduced in 2015 have clearly turned the tide toward leniency in sentencing.

Women abused by their husbands often pursued help before filing for divorce. They were aware of their legal rights and did their best to advance them by seeking the help of relevant public authorities, including public security organs, villagers' committees, residents' committees, work units, and branches of the All-China Women's Federation. Court decisions I present in this chapter are consistent with previous studies documenting public authorities' reluctance to intervene in "private domestic matters" as well as families' pressure to stay with abusive spouses (Fincher 2014; Han 2017; Lin et al. 2021; Liu and Chan 1999). The All-China Women's Federation gave false hope by routinely advising battered women to file for divorce without also advising them of the Sisyphean nature of Chinese divorce litigation. In their court petitions, women often reported that police failed

to intervene adequately – or at all. In a representative divorce case, the female plaintiff who made a domestic violence allegation stated that “the police wouldn’t take my incident report on the grounds that it was a domestic dispute [家庭纠纷]” (Decision #1573098, Yucheng County People’s Court, Henan Province, June 25, 2015; also see Zheng 2015:161).¹ Others reported that police intervention was limited to a brief mediation session that ended after their husbands expressed a requisite measure of contrition. Sometimes police officers or villagers’ committee members, in the course of carrying out mediation, likewise seemed content to have resolved the problem after making the husband apologize or write a pledge letter (Zheng 2015:161). Women who, for good reason, lack confidence in the commitment and ability of police to stop their husbands’ abuse may fear reporting domestic violence to the police at all. In the words of one abuse victim, “When he smashed things and verbally threatened me, I didn’t always report it to the police out of fear that he would retaliate” (Decision #4387302, Hangzhou Municipal Yuhang District People’s Court, Zhejiang Province, April 1, 2016; also see Fincher 2014:140).²

Many women testified that their families had also pressured them to stay with abusers. Owing to the pervasiveness of family persuasion and mediation aimed at marital reconciliation, and not wanting their parents to lose face or worry, some women reported that they feared telling their natal family members about the abuse they suffered (also see Zheng 2015:165, 168). In surveys of survivors of intimate partner violence in China, the majority of respondents reported seeking no help at all (Hu et al. 2020; Wang, Fang, and Li 2013:35–36).

Even if they know where to seek help and want to escape, battered women often fear doing so. One plaintiff stated to the court that whenever her husband “found something even slightly against his liking, he would curse and beat the plaintiff. For this reason, the plaintiff tried to leave him many times. Under the pressure of the defendant’s threats, however, she resigned herself to continuing to live together with the defendant.” Her husband denied the allegations and expressed unwillingness to divorce. The court, asserting that husband and wife could still reconcile if they treasured marital affection, denied the plaintiff’s divorce petition (Decision #2365494, Rui’an County People’s Court,

¹ Case ID (2015)虞民初字第1226号, archived at <https://perma.cc/ZF4K-VTHV>.

² Case ID (2015)杭余塘民初字第715号, archived at <https://perma.cc/F77W-B5KY>.

Zhejiang Province, August 5, 2010).³ Inadequate intervention from public authorities, including courts' reluctance to grant divorces, heightens the risk of prolonged domestic violence and thus motivates some victims to resort to desperate measures of self-help.

The majority of women threatened by domestic violence do not dare file for divorce in court. The minority of abused women who do initiate divorce litigation will be forced to remain exposed to domestic violence if they did not collect relevant evidence because judges will find its occurrence difficult to affirm. This kind of situation may cause physical injury and even death, or generate criminal acts of “combatting violence with violence” [以暴制暴]. (Li and Jia 2019:62)⁴

Recall from Chapter 2 that the drafters of the 1980 Marriage Law feared that a clampdown on divorce could result in homicides. We will see in this chapter that their fears have been realized.

What do abused women do when all their efforts to escape domestic violence fail? Some seek relief by way of “fight or flight.” At a literal level, the hormonal fight or flight response is a well-documented involuntary clinical reaction triggered by the traumatic stress of domestic violence (Walker 2017:325). At another level, it represents the pragmatic choices and coping strategies of women attempting to survive (Zheng 2015). When they receive no protection through official channels, sometimes they take flight and escape their abusers; sometimes they fight and kill their abusers.

Marital abuse can be terminated in several ways. One way is to mobilize the force of law by petitioning for divorce or requesting intervention from other public authorities. A second way is to take flight; in China, women often finance their flight from abuse through migrant labor force participation. A third way to terminate abuse is to terminate the victim; abusers sometimes kill their victims. A fourth way is to terminate the abuser; victims sometimes kill their abusers. The evidence I present throughout this book points to the near futility of the first way. In this chapter, a mix of quantitative findings and case examples reveals the too common consequences of that failure. I will begin by demonstrating that the divorce twofer prolonged abused women's exposure to violence when courts denied their first-attempt divorce petitions.

³ Case ID (2010)温瑞民初字第00120号, archived at <https://perma.cc/Q7H6-83A7>.

⁴ For the 1985 case of a woman who “met violence with violence” and killed her husband, see Honig and Hershtatter (1988:296).

LEAVING ABUSIVE MEN IS DANGEROUS

Staying with abusive men is dangerous. Leaving abusive men is also dangerous. Some women stay with their abusers when, in their assessment, the risks of leaving outweigh the risks of staying. In the United States, women's risk of getting murdered is greatest when they leave their abusive partners (Walker 2017:Chapter 12). Domestic abusers everywhere want the subjects of their abuse to get the message, "If I can't have you, no one will" (Walker 2017:114, 306). In China, too, abusive men's threats to murder their wives – such as, "If you don't kill me first, I'll make sure you die a horrific death" and "If you dare try to divorce me, I'll murder your entire family" – are pervasive (X. Wang 2017:25). In this section I show that they sometimes put their threats into action.

A criminal case in Zhejiang documents how close a woman came to losing her life when she insisted on divorcing her husband, Li Fufa.⁵ When discussing the practicalities of their divorce, including household debt, Li pinned his wife down on the sofa and started stabbing her face with a knife. At this moment his mother-in-law happened to enter the home. When she rushed into the living room and pulled the husband off, he stabbed her hand. His wife seized the opportunity to flee. Li chased and caught her outside a restaurant, where many people witnessed him continue to stab her face and neck. His mother-in-law once again pulled Li off, allowing the wife to escape. According to a forensic pathology report, Li's wife sustained a traumatic tracheal rupture, a traumatic transection of the thyroid, a laryngeal nerve injury, and multiple injuries to the left and right jaw as well as to the back of the skull. Li was sentenced to 11 years in prison for attempted homicide (Decision #3236920, Yiwu Municipal People's Court, Zhejiang Province, November 28, 2014).⁶

In a similar case, a man with the surname Zeng nearly killed his wife who was trying to divorce him. When Zeng was stabbing his wife in the head, chest, and other areas, his mother-in-law tackled him, allowing his father-in-law to disarm him, at which point his wife escaped and notified the police. She suffered a punctured tongue, an arm laceration, and a radial nerve rupture. The court gave Zeng an eight-year prison sentence for attempted homicide. To foreshadow

⁵ Criminal court decisions usually report defendants' names in full but only the surnames of victims.

⁶ Case ID (2014)金义刑初字第2591号, archived at <https://perma.cc/TV7J-T63G>.

my discussion later in this chapter about the role of compensation in criminal sentencing, the court attributed its lenient sentence to the wife's expression of forgiveness of Zeng offered in exchange for the compensation (of an unspecified amount) she received from his family (Decision #2638685, Ningbo Municipal, Yinzhou District People's Court, Zhejiang Province, December 30, 2013).⁷

Supplementary case examples set #9–1 is online at: <https://decoupling-book.org/>.

Many women do not survive attacks like these. Such was the fate of one woman who returned to her natal family after what the court euphemistically described as “arguing and fighting over trifles.” In his testimony, Li Suzhen admitted hitting his wife. He made several trips to her natal home to persuade her to return home with him. On his final rebuffed effort, she declared her desire to divorce him. As Li put it, “I was furious. I thought, if we couldn't be together, she should die, I should die, and that would be the end of it. I ran into her family's kitchen, grabbed a cleaver, and cut her neck with great force.” She bled to death after he severed her left neck artery and vein. Li was sentenced to life in prison. In the course of the trial, Li compensated her family with ¥230,000 and received a forgiveness letter from her parents in return, which may have spared him from a death sentence. Criminal reconciliation of this nature is a topic to which I will come later in this chapter (Decision #1184232, Puyang Municipal Intermediate People's Court, Henan Province, March 5, 2014).⁸

Supplementary case examples set #9–2 is online at: <https://decoupling-book.org/>.

Tragically, the foregoing criminal case examples are merely the tip of the iceberg. My samples contain hundreds more. According to official reports, about 10% of all homicides in China are related to domestic violence (Palmer 2017:290; Zheng 2015:162). A crude – and conservative – method I developed to identify criminal cases involving murders of spouses produces an identical estimate in the Henan sample

⁷ Case ID (2013)甬鄞刑初字第1732号, archived at <https://perma.cc/N8X2-KGB7>.

⁸ Case ID (2013)濮中刑一初字第18号, archived at <https://perma.cc/2KG8-N272>.

(10%) and a modestly lower estimate in the Zhejiang samples (8%). The criminal cases in this section are part of a larger pool of at least several hundred cases of spousal murder and over 1,500 cases of spousal battery in my two provincial samples.⁹ Later in this chapter I will analyze the full pool in more detail. But first I will show that the divorce twofer, by extending the divorce process, ipso facto also extends the time during which abused women are forced to remain with their husbands. When courts routinely deny their divorce petitions, the dangers of their situations are prolonged.

DIVORCE DENIALS PROLONG DANGERS TO WOMEN

Since courts began increasing their suppression of first-petition divorces, the population of divorce-seekers awaiting relief has swelled. The duration of time from first filing until divorce can be calculated in two ways: (1) by searching for first-attempt filing dates in the text of subsequent-attempt decisions and (2) by linking first-attempt and subsequent-attempt court decisions. In so doing, we learn that mean/median time to an adjudicated *denial* on the first attempt was 70/62 days and 45/35 days in the Henan and Zhejiang samples, respectively. When the divorce was *granted* on a subsequent attempt, total mean/median time was 410/408 days and 391/362 days in the two samples, respectively (beginning from the time when the initial petition was filed). Thus, simply subtracting the former values from the latter values, the mean/median delay to divorce caused by first-attempt adjudicated denials was 340/346 days and 346/327 days in the Henan and Zhejiang samples, respectively.¹⁰ Given what we know from Chapter 6 about judges' preference for applying the simplified civil procedure in adjudicated denials, the mean/median delay to a divorce might be more realistically estimated as the time from an adjudicated denial using the simplified procedure to time to granting a divorce using the ordinary

⁹ I identified cases of "homicides" (故意杀人罪) and "intentional injury" (故意伤害罪, what I sometimes call "criminal battery") involving spouses by searching for three types of patterns in my samples of court decisions: (1) variations of keywords for "marital affection" (夫妻感情), "marital relations" (夫妻关系), and "marital conflict" (夫妻矛盾, 夫妻吵架, and 夫妻打架); (2) references to "wife" or "husband" as victim; and (3) references to "the wife of" or "the husband of" the defendant. This method yields a crude and conservative estimate of fewer than 900 cases of criminal domestic battery and homicide over about one decade in the Zhejiang sample, which is only about half of the 1,700 cases of criminal domestic violence reported elsewhere for Zhejiang in the three years spanning 2008 and 2010 (J. Jiang 2019:229).

¹⁰ In an earlier publication, I mistakenly reported time to all adjudicated outcomes rather than time to adjudicated divorce. The correct numbers I report here deviate only slightly from those I previously reported (Michelson 2019a:355).

procedure: 380/381 days in Henan and 434/441 days in Zhejiang. By all measures, mean and median delays to divorce caused by the divorce twofer range from almost one year to over one year in both samples. If many plaintiffs can return to their home jurisdictions to file for divorce only once per year for the Spring Festival national holiday, as we saw in Chapter 4, we should not be surprised that the statutory six-month waiting period often becomes a one-year waiting period in practice.

If courts are more likely to deny first-attempt divorce petitions filed by women, as Chapter 8 proved, then it can only be true that the delay to freedom is longer for women than for men. Another way to view gender disparities in denials of and delays to divorce is to compare the number of attempts required to obtain an adjudicated divorce. Table 9.1 contains all court decisions from both samples in which divorce petitions were granted and in which plaintiff sex is known. It shows differences between women and men in the likelihood of requiring only one attempt to do so among plaintiffs who successfully obtained an adjudicated divorce.

TABLE 9.1 Proportion of plaintiffs (%) granted divorce, by number of attempts until divorce granted

	All plaintiffs	By plaintiff sex		Gender difference
		Female	Male	
Henan (2009–2015)				
Rural courts				
Granted on first attempt	66	61	74	-13
Granted on subsequent attempt	34	39	26	13
All granted divorces	100	100	100	
n	26,363	16,903	9,460	
Urban courts				
Granted on first attempt	64	63	65	-1
Granted on subsequent attempt	36	37	35	1
All granted divorces	100	100	100	
n	4,185	2,643	1,542	
All basic-level courts				
Granted on first attempt	65	61	73	-11
Granted on subsequent attempt	35	39	27	11
All granted divorces	100	100	100	
n	30,548	19,546	11,002	

TABLE 9.1 (cont.)

	All plaintiffs	By plaintiff sex		Gender difference
		Female	Male	
Zhejiang (2009–2016)				
Rural courts				
Granted on first attempt	39	31	52	-21
Granted on subsequent attempt	61	69	48	21
All granted divorces	100	100	100	
n	2,820	1,766	1,054	
Urban courts				
Granted on first attempt	45	42	51	-9
Granted on subsequent attempt	55	58	49	9
All granted divorces	100	100	100	
n	1,425	938	487	
All basic-level courts				
Granted on first attempt	41	35	52	-17
Granted on subsequent attempt	59	65	48	17
All granted divorces	100	100	100	
n	4,245	2,704	1,541	

Source: Author's calculations from Henan and Zhejiang provincial high courts' online decisions.

Note: The analysis is limited to divorces successfully obtained through adjudication (denied divorce petitions are excluded). Slight discrepancies between numbers in the "gender difference" column and numbers from which they were derived in the "by plaintiff sex" columns are due to rounding error. With the exception of urban courts in Henan, all sex differences are statistically significant (χ^2 , $P < .01$).

The first pattern to emerge from Table 9.1 is a familiar one: the divorce twofer was more prevalent in Zhejiang than in Henan. Of those who successfully divorced, the majority in Henan did so on the first attempt, whereas the majority in Zhejiang required at least two attempts. Differences between the two provinces narrowed over time as the judicial clampdown on divorce intensified in Henan and remained stable in Zhejiang (Chapter 6). Prior to 2012, 75% of divorces granted by adjudication in the Henan sample required only one attempt. By 2015, this proportion had declined to 53%; almost half of all divorces granted by adjudication in Henan had been previously denied. Second,

in both provinces women required more attempts than men. The probability of success on the first attempt was 11 and 17 percentage points greater for men than for women in the Henan and Zhejiang samples, respectively. In both provinces, gender disparities were greatest in rural areas, where divorces were concentrated. In rural courts, differences between men and women in the probability of success on the first attempt were 13 and 21 percentage points in Henan and Zhejiang, respectively. Meanwhile, in urban courts, gender gaps were a substantially narrower 1 and 9 percentage points, respectively. In short, rural women were the most impacted by the divorce twofer.

Table 9.2 builds on this analysis by considering specific durations of time required to obtain an adjudicated divorce. It contains fewer court decisions than Table 9.1 owing to a large number of missing filing dates. The first thing we notice is that few divorces granted by adjudication were finalized within three months of initial filing. Among plaintiffs whose petitions were granted within three months, gender differences range from nil to relatively small, with women enjoying

TABLE 9.2 Proportion of plaintiffs (%) granted divorce, by duration of time from initial filing to granted divorce

	All plaintiffs	By plaintiff sex		Gender difference
		Female	Male	
Henan (2009–2015)				
Rural courts				
Three months	26	28	22	5**
Six months	63	58	71	-13**
One year	72	70	77	-8**
Two years	96	96	96	-1
n	14,491	9,540	4,951	
Urban courts				
Three months	26	29	21	8**
Six months	60	59	60	-0.1
One year	68	68	69	-0.2
Two years	96	96	95	1
n	2,181	1,409	772	
All basic-level courts				
Three months	26	28	22	6**
Six months	62	58	69	-11**
One year	72	70	76	-7**
Two years	96	96	96	-0.2
n	16,672	10,949	5,723	

TABLE 9.2 (cont.)

	All plaintiffs	By plaintiff sex		Gender difference
		Female	Male	
Zhejiang (2009–2016)				
Rural courts				
Three months	31	30	32	-2
Six months	46	40	58	-19**
One year	71	67	76	-9**
Two years	95	95	95	-0.04
n	2,525	1,594	931	
Urban courts				
Three months	37	39	33	6*
Six months	52	50	55	-5
One year	72	72	73	-1
Two years	94	94	94	-0.4
n	1,267	833	434	
All basic-level courts				
Three months	33	33	32	0.4
Six months	48	43	57	-14**
One year	71	69	75	-6**
Two years	95	95	95	-0.2
n	3,792	2,427	1,365	

Source: Author’s calculations from Henan and Zhejiang provincial high courts’ online decisions.

Note: The analysis is limited to divorces successfully obtained through adjudication (denied divorce petitions are excluded). Slight discrepancies between numbers in the “gender difference” column and numbers from which they were derived in the “by plaintiff sex” columns are due to rounding error.

* $P < .05$ ** $P < .001$, χ^2 tests

the advantage, particularly in urban courts. Of all divorces granted by adjudication in both provinces, the vast majority (94–96%) were finalized within two years of initial filing, regardless of plaintiff sex. Among plaintiffs whose divorce petitions were ultimately granted by adjudication, 38% and 52% were still married six months after initially filing for divorce in Henan and Zhejiang, respectively. Over time this gap shrank as the two provinces converged in their embrace of the divorce twofer; by 2015, 48% of plaintiffs in Henan were still married at the six-month mark. Gender disparities are only pronounced at this stage

in rural courts, where the probability of a successful divorce within six months was 13 and 19 percentage points greater for men in Henan and Zhejiang, respectively. Gender disparities at the point of one year after initial filing are entirely consistent with but less pronounced than those at the point of six months after initial filing.

Table 9.3 brings together the previous two analyses – namely, of the number of attempts necessary to divorce and of the duration of time

TABLE 9.3 Correlates of time (days) from initial filing to granted divorce, unstandardized linear regression coefficients (means)/quantile regression coefficients (medians)

	(1)	(2)	(3)
Henan (2009–2015)			
Rural courts			
Female plaintiff	24***/7***	30***/10***	-12***/-5***
Ordinary civil procedure		73***/70***	68***/62***
Granted on subsequent attempt			303***/304***
Constant	370***/368***	303***/321***	82***/76***
R ²	.11/.08	.13/.09	.54/.53
n	14,491	14,491	14,491
Urban courts			
Female plaintiff	-12/-8	-6/-3	-3/-5
Ordinary civil procedure		90***/71***	77***/66***
Granted on subsequent attempt			308***/307***
Constant	354***/349***	271***/351***	47**/59
R ²	.12/.10	.15/.11	.54/.53
n	2,181	2,181	2,181
All basic-level courts			
Female plaintiff	19***/6**	25***/8***	-11***/-5***
Ordinary civil procedure		75***/70***	69***/63***
Granted on subsequent attempt			304***/305***
Constant	371***/368***	300***/350***	82***/79**
R ²	.11/.09	.13/.09	.54/.53
n	16,672	16,672	16,672

TABLE 9.3 (cont.)

	(1)	(2)	(3)
Zhejiang (2009–2016)			
Rural courts			
Female plaintiff	43***/45***	53***/55***	1/2
Ordinary civil procedure		80***/77***	90***/82***
Granted on subsequent attempt			317***/297***
Constant	354***/315***	314***/312***	127***/88***
R ²	.09/.08	.12/.09	.53/.52
n	2,525	2,525	2,525
Urban courts			
Female plaintiff	6/-3	21/12	-2/2
Ordinary civil procedure		119***/89***	115***/91***
Granted on subsequent attempt			330***/300***
Constant	306***/340***	256***/223	-7/15
R ²	.05/.03	.09/.05	.55/.54
n	1,267	1,267	1,267
All basic-level courts			
Female plaintiff	31**/33**	43***/39***	-.2/1
Ordinary civil procedure		92***/80***	98***/84***
Granted on subsequent attempt			322***/298***
Constant	376***/341***	335***/334***	138***/87***
R ²	.08/.06	.10/.07	.54/.53
n	3,792	3,792	3,792

Source: Author's calculations from Henan and Zhejiang provincial high courts' online decisions.

Note: Since male plaintiffs are the omitted reference group, a negative number means shorter times for women and a positive number means longer times for women. Ordinary civil procedure refers to the final trial in which the divorce was granted by adjudication. All models include court and year fixed effects. Significance tests in linear regression models are based on standard errors adjusted for nonindependence between decisions clustered within courts (161 and 90 in the Henan and Zhejiang samples, respectively). + $P < .10$ * $P < .05$ ** $P < .01$ *** $P < .001$, two-tailed tests

from initial filing to divorce – into a regression analysis. It reveals that women’s longer delays to divorce are explained almost entirely by their greater susceptibility to the divorce twofer. In Model 1, the baseline model without controls, we see that women’s mean/median time to divorce exceeded that of men by 19/6 days in Henan and 31/33 days in Zhejiang. Model 1 also shows that the gender gap was limited to rural courts, where women’s mean/median time to divorce was 24/7 days longer than men’s in Henan and 43/45 days longer than men’s in Zhejiang.

The type of civil procedure applied to the trial (ordinary vs. simplified) is added to Model 2. We know from Chapter 2 that the ordinary procedure slows down trials, and from Chapter 6 that this is the main reason why judges prefer to apply the simplified procedure. Not surprisingly, therefore, Model 2 shows that the application of the ordinary civil procedure delayed adjudicated divorce by between two and three months in both provinces in rural and urban courts alike.

Adding the civil procedure variable to Model 2 widened the gender gap in rural courts. We learned in Chapter 8 that male plaintiffs in rural courts were more than twice as likely to have their divorce petitions heard in public notice trials. For this reason, women – particularly rural women – were less likely to have the ordinary civil procedure applied to their divorce petitions. Owing to the SPC requirement that public notice trials be conducted according to the ordinary civil procedure (Chapter 4), delays associated with the ordinary civil procedure are partly a function of the 60-day public notice period (Chapter 2). Among plaintiffs, women’s relatively long delays to divorce were therefore mitigated by their relatively greater exposure to the simplified civil procedure, which, in turn, was partly a result of their relatively smaller exposure to public notice trials. In other words, the gender gap in time from initial filing to successful divorce would have been even wider had the ordinary civil procedure been applied at identical rates to the trials of female and male plaintiffs. In Model 2, among plaintiffs with identical levels of exposure to the ordinary civil procedure, women’s mean/median time to divorce was 25/8 days longer than men’s in Henan and 43/39 days longer than men’s in Zhejiang. Also in Model 2, the gender gap remains limited to rural courts: 30/10 days in Henan and 53/55 days in Zhejiang.

When my measure for the divorce twofer (“granted on subsequent attempt”) is added to Model 3, the gender gap disappears completely

in Zhejiang and even reverses direction in Henan. The interpretation of this pattern is simple: rural women's longer delays to adjudicated divorce were the direct consequence of their greater likelihood of experiencing the divorce twofer. They were far more likely than men to have refiled for divorce after an adjudicated denial. Rural women experienced relatively long delays to adjudicated divorce because rural courts were much more likely to deny their first-attempt petitions and thus to force them to refile after the statutory six-month waiting period. Many, however, appear not to have returned to court (Chapter 6). Among women whose initial petitions were denied, some may have sought to divorce outside the court system, and others may have abandoned their quests for divorce altogether.¹¹

Because adjudicated denials delay the divorce process, the divorce twofer elevates dangers to women's physical safety, particularly in rural areas. Courts' routine denial of first-attempt divorce petitions fuels the expansion of a population of frustrated and often vulnerable plaintiffs awaiting divorce, among whom women are vastly overrepresented. If female plaintiffs are more likely than male plaintiffs to be victims of domestic violence, which we know is true, then it must also be true that the divorce twofer prolongs women's exposure to domestic violence. Even if plaintiffs who return to court for another attempt are guaranteed a divorce, the mean and median delay of over one year introduced by the divorce twofer helps enable the continuation of violence. This epitomizes the principle that justice delayed is justice denied. Judges delay justice by denying divorce petitions and deny justice by delaying divorces. The next case example illustrates a homicide committed after a divorce twofer involving domestic violence.

A woman, surnamed Yu, filed her second divorce petition in May 2010. She claimed that her husband, Wang Jinya, frequently argued with and beat her over family trifles. Although online repositories of court decisions do not contain the court's denial of Yu's original divorce

¹¹ After the first attempt, courts in my samples were actually more likely to grant adjudicated divorces to female plaintiffs than to male plaintiffs. Among subsequent-attempt decisions, the probabilities of adjudicated divorces granted to female and male plaintiffs, respectively, were .82 and .68 ($n = 13,743$) in Henan and .77 and .73 ($n = 3,447$) in Zhejiang (gender differences in both samples are statistically significant). This, however, may be a Pyrrhic victory for women insofar as subsequent attempts are so far outnumbered by first attempts (Chapter 6). Moreover, the right-censored nature of the court decisions (plaintiffs may or may not return to court after the end of the period of observation) problematizes any effort to interpret the meaning and significance of women's apparent advantage on a subsequent attempt following a first-attempt adjudicated denial. Published court decisions are poorly suited for the systematic analysis of what happens to litigants after first-attempt adjudicated denials.

petition in 2007, her statement to the court on her subsequent attempt in 2010 – namely, that “in the time since then, the defendant has failed to rectify himself” – suggests she had made the same allegations the first time.¹² The court granted the divorce on June 13, 2010, almost three years after denying her prior petition. On June 23, 2010, when Yu was collecting her belongings, he tried to persuade her to move back in. When she refused, he murdered her by bludgeoning her head with a wooden hammer, after which he stabbed and cut her neck with a knife, and once again bludgeoned her head with a copper rod. According to the forensic pathology report, the knife wounds severed her trachea and esophagus, as well as an artery and a vein on the right side of her neck, causing massive blood loss, and the blunt force trauma from the hammer and rod crushed her skull. When their landlord heard Yu’s scream for help and knocked on the door, Wang said nothing was going on, that he and his ex-wife were simply having a chat. Later, after the landlord heard a loud banging noise, he knocked on the door again. When no one answered, he called the police, who entered the premises and discovered Wang hanging from the ceiling. They rushed him to the hospital, where he was saved. One of their three children testified that Wang’s regular abuse was the reason why Yu had filed for divorce. The court held that Wang’s actions were consistent with domestic violence and sentenced him to death (Decision #5012675, Ninghai County People’s Court, Zhejiang Province, December 21, 2010).¹³

Effective intervention from any number of sources might have saved Yu’s life. Yu’s divorce was needlessly – and, arguably, unlawfully – prolonged. To at least some degree, courts have blood on their hands. We have no way of knowing the extent to which the court’s adjudicated denial of Yu’s initial petition was responsible for her subsequent murder. However, had the authorities believed her allegations and taken them seriously the first time, the court may have granted her divorce years earlier than it did and reduced opportunities for Wang to kill her. After noting Wenzhou’s pioneering anti-domestic violence work (see Chapter 7), a judge from Zhejiang made the flabbergasting assertion that legal intervention to protect women like Yu is beyond the scope of public authorities: “If, after a divorce, a domestic abuser seeks to

¹² As we know, plaintiffs, in their efforts to convince judges of the impossibility of reconciliation, often claim that their husbands’ behavior failed to improve during the six-month statutory waiting period following an adjudicated denial (Chapter 7).

¹³ Case ID (2010)浙甬刑一初字第220号, archived at <https://perma.cc/8733-9QB7>. The divorce decision from the same court that led to this murder is Decision #2350347, Case ID (2010)甬宁民初字第00772号, archived at <https://perma.cc/Y92G-E9U4>.

commit revenge or a violent attack, it would be difficult to prevent. This would no longer be a legal matter.”¹⁴

Supplementary case examples set #9–3 is online at: <https://decoupling-book.org/>.

As we saw in Chapter 7, in their efforts to deny divorce petitions, courts trivialized and negated women’s domestic violence allegations. In so doing, courts simultaneously evaded their responsibility to refer criminal domestic violence cases to procurators. According to both the 2015 Opinions Concerning the Handling of Criminal Domestic Violence Cases in Accordance with the Law and the 2015 Anti-Domestic Violence Law, judges are supposed to transfer to the procuracy cases in which they discover domestic violence that constitutes a criminal offense. They are also supposed to inform victims of their right to initiate private criminal prosecution (provided by Article 112 in the Criminal Procedure Law; R. Zhang 2017:52). The Criminal Law also includes all kinds of provisions that could serve as the basis for criminally prosecuting domestic violence, such as maltreatment and desertion, assault and battery, rape, and homicide (e.g., Articles 17, 95, 234, 235, 236, 237, 260). Finally, the Marriage Law stipulates that public security organs, upon the request of domestic violence victims, should carry out administrative punishment of offenders (Article 43). It also stipulates that domestic violence victims have the right to initiate private criminal prosecution, at which point public security organs should conduct criminal investigations and the procuracy should initiate criminal prosecutions (Article 45). From judges’ perspective, notifying procurators of criminal wrongdoing they discover in divorce litigation would validate plaintiffs’ domestic violence claims, oblige judges to grant divorces on fault-based grounds, and thus undermine the professional benefits of the divorce twofer. Judges are reluctant to issue personal protection orders for the same reason (J. Jiang 2019:235).

Police, too, appeared to take a hands-off approach to domestic violence. The court decisions in my samples show that many women sought police help, but few received it. Thousands of divorce petitions in my samples contain both allegations of domestic violence and reported instances (often documented) of calls made to police

¹⁴ Susan Finder generously shared this quotation from her personal interview, October 9, 2018.

for help. According to their testimony, police often failed to provide adequate intervention – or to intervene at all – after women called 110 or reported domestic violence in other ways. Tens of thousands of court decisions – both civil and criminal – in my samples contain references to public security administrative punishment decisions. Rarely, however, do they pertain to domestic violence. Fewer than 200 divorce petitions in my samples contain both allegations of domestic violence and references to public security administrative punishment decisions, which can be and are used as evidence of wrongdoing. Even among the roughly 2,000 criminal cases I found in my samples involving intentional injury and murder between spouses, references to public security administrative punishment decisions are few and far between, also numbering fewer than 200. The most common types of criminal case involving administrative punishment are drunk driving resulting in injury or death – which is classified as the offense of “dangerous driving” (危险驾驶) – and theft (盗窃).

When courts deny divorce petitions, and in so doing prolong women’s exposure to their abusive husbands, women face difficult, high-stakes choices. Some may pursue divorce in the Civil Affairs Administration. However, the procedural requirement of mutual consent to divorce and mutual agreement on all terms of the divorce gives enormous bargaining leverage to the spouse who did not initiate the divorce. Consequently, when courts deny their divorce petitions, women often give up child custody and marital assets in exchange for freedom from their abusive husbands (Li 2022). Other women resign themselves to staying married rather than risking destitution, the loss of their children, and the potentially deadly consequences of leaving their abusive husbands. Battered women aware of the hidden rule of the divorce twofer understand that filing for divorce will likely fail on the first attempt and result in violent retaliation from their husbands (Deng 2017:113).

When courts fail to provide relief, some women seek protection from other public authorities. Study after study, however, shows inadequate intervention on the part of police, civil government agencies, local residents’ and villagers’ committees, and government-operated nongovernmental organizations such as the All-China Women’s Federation (Chen 2018; Cheng and Gao 2019; Fincher 2014; Guo 2019; H. Zhang 2014:232; Zheng 2015). Indeed, according to the author of one study of domestic violence victims, “all the women to whom I talked have sought help from the police and All Women’s Federation [sic], but to no avail. In their words, ‘The police and the All

Women's Federation [sic] are dog's fart (gou pi),' meaning that they are useless" (Zheng 2015:172).

After women experience domestic violence, the majority will instinctively seek the help of social organizations or state organs with public authority, such as the local police, the local branch of the All-China Women's Federation, the Civil Affairs Bureau, the local villagers' or residents' committee, unions, and similar organizations, and some will even go to court to apply for personal protection orders. For a variety of reasons, however, the aforementioned organizations will ordinarily regard the reported situations as common family conflicts and only carry out mediation. The effectiveness of personal protection orders is very limited, which causes some women to resort to filing for divorce in court. However, courts often treat domestic violence cases the same way they treat ordinary family disputes. For this reason, courts will treat the divorce petitions of abused women the same way they treat ordinary family disputes and first carry out mediation. The premise of mediation is that both sides share responsibility for the conflict. However, abused women cannot be blamed for the abuse they receive. Moreover, whereas mediation requires that both sides compromise, abused women have had their basic physical rights violated and therefore fundamentally have nothing to concede. (Cheng and Gao 2019:13)

As a result, many women take measures to protect themselves. Prominent among women's self-protection strategies is flight.

FLIGHT: FLEEING ABUSERS

My samples show that abuse victims who returned to court after the statutory six-month waiting period often claimed worsening violence (also see Xu 2007:204). As they awaited their next opportunity to divorce, many abuse victims often became marital violence refugees. One plaintiff indicated the following in her statement to the court:

After I gave birth to my second daughter, the defendant's cruelty towards me intensified. Oftentimes, upon returning home after being out all day, the defendant would beat and curse me. In order to escape this torture, I filed for divorce. In Case ID (2003)民初字第827号, the Minquan County People's Court denied my petition for divorce. I then fled with my older daughter and begged for food in order to survive. (Decision #422754, Minquan County People's Court, Henan Province, July 20, 2010)¹⁵

¹⁵ Case ID (2010)民初字第440号, archived at <https://perma.cc/RWN3-CWYG>.

In this case, the duration of the first attempt (from case filing to adjudicated denial) was 50 days, but the total duration of time between original first-attempt case filing and adjudicated divorce was 2,492 days: almost seven years.

Another plaintiff stated to the court: “In the time since suffering a beating by the defendant in 2007, I have been in hiding, afraid to return home, for over three years. In early 2010 my divorce petition was denied by the Song County People’s Court, after which I have still not dared to return home” (Decision #562570, Song County People’s Court, Henan Province, April 1, 2011).¹⁶ The litigation took over one year, but the overall process of divorcing lasted three or four years.

In her statement to the court, a woman claimed that after her first filing for divorce in 2009, her husband and his family prevented her from participating in the trial by physically blocking and verbally threatening her before dragging her back home, where they beat her. The court subsequently denied her second divorce petition three years later. On her third attempt in 2014, she testified that “currently I am raising our children elsewhere by myself, doing my utmost to avoid him, and living in a constant state of fear. At this point we have already been physically separated for five years.” Although the plaintiff did everything right by both satisfying the statutory physical separation requirement and submitting as evidence a copy of her husband’s “pledge letter” in which he admitted carrying out domestic violence, the court ignored her claim of physical separation and ruled the pledge letter inadmissible after the defendant recanted its contents. The basis of the court’s decision to deny her divorce petition was that “plaintiff and defendant have been married for 14 years and have a son and a daughter. Conflicts in their everyday life are difficult to avoid but not fundamentally insurmountable. Plaintiff and defendant should cherish the marital affection they have already established. They are capable of reconciling if, from this point forward, they improve their communication skills” (Decision #1168173, Changge Municipal People’s Court, Henan Province, February 8, 2014).¹⁷

One decision contains the story of a woman who, after the Lankao County People’s Court denied her initial divorce petition in December 2011, “had no choice but to escape the reality of my situation by getting a job outside my place of residence. I never imagined my suffering

¹⁶ Case ID (2011)嵩城民初字第54号, archived at <https://perma.cc/3WCP-T5WV>.

¹⁷ Case ID (2013)长民初字第01711号, archived at <https://perma.cc/ALB6-LYLT>.

would not lessen after I fled, much less that it would gradually deepen over time. My current state of mental health is on the verge of collapse” (Decision #890371, Lankao County People’s Court, Henan Province, November 7, 2012).¹⁸ In another second-attempt divorce petition, the plaintiff submitted police records of nine requests for police help in support of her claim of intensifying violence following the court’s denial of the first-attempt petition. The court denied the petition after affirming that the evidence proved only that calls to the police were made as a consequence of “disputes,” but not that domestic violence occurred (Decision #4405727, Changxing County People’s Court, Zhejiang Province, November 24, 2015).¹⁹

When defendants contested plaintiffs’ claims of uninterrupted separation, or if plaintiffs returned briefly for planting and harvesting crops in efforts to maintain claims to farmland, judges not infrequently held that plaintiffs failed the applicable statutory physical separation test and, on this basis, denied their second-attempt divorce petitions.

On June 3, 2012, owing to some trivial matter, the defendant hurled a bench towards my body. Luckily I ducked and escaped harm. One week later, the defendant attacked me and my younger sister using the same method. For this reason, I filed reports with police substations in both Wuzhen [Town] and Wutong [Subdistrict Office]. At the end of the same year, the defendant once again violently beat me, and also spread threats outside the home about wanting to beat me to death, causing me to dare not live at home and forcing me to live outside the home to this day. In addition, the defendant maliciously slandered my reputation by spreading rumors. On December 25, 2013, the defendant filed for divorce at the Tongxiang County People’s Court on the grounds of breakdown of mutual affection. [In its holding, the court affirmed that the decision of this prior petition shows the plaintiff’s consent to the defendant’s divorce request.] On March 10, 2014, the defendant withdrew his petition. Since then, marital affection not only did not improve, but on the contrary worsened. Harboring a deep grudge, the defendant threatened to kill me. The defendant came to my residence and smashed a hole in the glass and screen of the entrance door. After this happened I called the police.

The defendant in this case denied committing any act of domestic violence. The defendant further claimed that the plaintiff had occasionally

¹⁸ Case ID (2012)兰民初字第2803号, archived at <https://perma.cc/X2QW-XJEM>.

¹⁹ Case ID (2015)湖长太民初字第259号, archived at <https://perma.cc/4GK9-D25L>. I use a female pronoun even though the plaintiff’s sex is not disclosed.

returned home during the alleged period of physical estrangement. The court, citing the plaintiff's double failure to prove that domestic violence caused the breakdown of mutual affection and to meet the two-year separation test, denied her divorce petition (Decision #3525299, Tongxiang County People's Court, Zhejiang Province, December 9, 2014).²⁰

When women flee marital violence, their default destination is often their natal families. Because their husbands can so easily find them there, however, this poses risks not only to themselves but also to their family members. For this reason, many abused women go into hiding. They frequently participate in labor migration in order to escape their abusers, to support themselves, and to accumulate money necessary to finance the divorce (K. Li 2015a:101–6). China's migrant labor force thus includes marital violence refugees as well as women hoping to satisfy the one-year physical separation test before their next divorce attempt.

Themes shared by the following examples of women's flight from marital violence include husbands' jealousy and control, and wives' efforts to free themselves and earn a livelihood through migrant labor force participation. These examples also show, however, that their husbands often find them. I will begin with the applicant's statement in one of the very few protection orders in my samples of court decisions.

If the applicant had any contact with another person, the respondent would get suspicious and punch and kick the applicant. In order to escape the respondent and maintain a livelihood, the applicant struck out on her own as a migrant worker. The respondent immediately travelled to the applicant's new abode and workplace, and created unprovoked disturbances. He carried out domestic violence in front of her landlord and coworkers. Most intolerable to the applicant was the respondent's suspicious heart. Whenever he went to the applicant's rental home, he would search her cell phone. On October 9, 2016, the respondent once again went to her rental home and carried out domestic violence, hitting and injuring her face, chest, and other parts of her body. (Decision # 4828890, Songyang County People's Court, Zhejiang Province, October 27, 2016)²¹

The defendant in the next example similarly hunted down his wife after she fled to her parents' home and then to Guangdong Province, a common destination for migrant workers from Henan.

²⁰ Case ID (2014)嘉桐乌民初字第441号, archived at <https://perma.cc/DHC5-5N7U>.

²¹ Case ID (2016)浙1124民保令3号, archived at <https://perma.cc/2HY4-VNV2>.

One day in the fall of 1997, we had an argument over some trifle. That night, the defendant demanded to have sex with me. When I refused, he argued with me some more, and then started punching my body. I had no choice but to return to my natal family. Afterwards the defendant went there to take me back. In the spring of 2000, in order to escape the defendant, I was forced to migrate to Guangdong Province to work. When, in 2003, the defendant learned I was in Guangdong, he went there too. In 2005, when I returned to Tianguan [Town] to open a hair salon, the defendant stayed in Guangdong. In September 2008, after returning, the defendant went to my hair salon and threw a hissy fit. That night he tried to force me to have sex. When I refused, he intimidated me with a knife. I was so angry I started a hunger strike. The defendant wrote a pledge letter promising not to harass me again. Who knew that a couple of weeks later, when he tried once again to have sex with me and I refused, he would beat me again. Since then I have not seen the defendant.

The court denied the plaintiff's divorce request on the grounds that they had bought a house together – supposed proof of the strength of their marital foundation – and that the defendant exhibited contrition by recognizing his mistakes (Decision #338557, Xixia County People's Court, Henan Province, June 28, 2010).²²

Supplementary case examples set #9–4 is online at: <https://decoupling-book.org/>.

In some ways, the women whose stories are captured in these court decisions are the lucky ones. Taking flight may have increased their chances of survival. The women whose stories appear in the next section were less fortunate.

FIGHT: KILLING ABUSERS

For almost two decades, Chen Min has provided expert testimony in criminal trials on behalf of women prosecuted for killing their abusive husbands, including two in my Zhejiang sample. In the 2003 trial of Liu Shuanxia (variously 刘栓霞 and 刘拴霞), who, after over a decade of chronic and increasingly frequent beatings, killed her abusive husband by adding rat poison to his noodles two days after he attacked

²² Case ID (2010)西丹民初字第61号, archived at <https://perma.cc/5HD4-7BC6>.

her with an axe, Chen provided the first expert witness testimony on “battered woman syndrome” (受虐妇女综合征 and 受虐妇女综合症) in China.

Although Lenore Walker is hardly the sole voice on why abused women stay with and sometimes kill their abusers, her theory of “battered woman syndrome” (Walker 2017) not only remains the dominant explanation in general (Rothenberg 2002, 2003), but has also exerted considerable influence in scholarly and advocacy circles in China (Chen and Yang 2016; Li and Jia 2019; Liu and Liu 2020; X. Wang 2015; Xing 2013; Yun 2019) and on Chen Min’s work in particular (Chen 2004). At the time of the trial, Chen worked at the China Law Society. As a graduate student at the University of British Columbia in the late 1990s, Chen studied Canada’s landmark 1990 Supreme Court ruling, *R. v Lavallee*, which acquitted Angelique Lyn Lavallee even though it found she had killed her abusive boyfriend. In so doing, the court formally recognized the existence of battered woman syndrome, legitimated self-defense on the part of women who satisfy its defining characteristics, and permitted the admission of expert testimony in cases involving battered women in Canada’s legal system (Shaffer 1990). After returning to China in 1999, Chen devoted herself to the pursuit of legal recognition for battered woman syndrome in Chinese courts (Pan 2018). In courts elsewhere, including Australia, New Zealand, and the United States, battered woman syndrome is accepted as a type of post-traumatic stress disorder experienced by women subjected to their abusers’ coercive control, jealousy, possessiveness, violence, and death threats, and as a potential trigger of lethal self-defense (Rothenberg 2002, 2003; Sheehy, Stubbs, and Tolmie 2012; Walker 2017:49, Chapter 12). So far, however, Chen’s quest remains elusive.

Returning to the trial of Liu Shuanxia, Hebei Province’s Ningjin County People’s Court failed to accept Chen’s justifiable self-defense argument, much less the concept of battered woman syndrome she introduced, but did recognize domestic violence as a mitigating circumstance that warranted leniency. Liu was sentenced to 12 years in prison (Liu and Liu 2020:46; Sohu.com 2003; Sprick 2018:295; X. Wang 2017:17–18; Yun 2019:81n19).

Although this trial included the first expert witness testimony of its kind, it does not represent the first attempt to mount a battered woman syndrome defense in a Chinese murder trial. Liu Wei (刘巍) and Liu Xiuzhen (刘秀珍) made the first such attempt in 2000 as

lawyers working on behalf of Peking University's Center for Women's Law Studies and Legal Services. The defendant's husband in this case had inflicted horrific abuse on her for years. She had a dozen or so scars on her face, chest, and other areas from cigarette burns caused by her husband. On one occasion he pushed her into a pot of boiling water before cutting her face with a broken beer bottle. The hot water scalding was so severe she received inpatient hospital treatment for one month. Throughout the trial, the prosecution repeatedly characterized the husband's violence as "mutual fighting" (打架). Perhaps because she killed not only her husband but also the prostitute who was in bed with him (in their marital bed after he ordered his wife to get out of it and sleep somewhere else), she was sentenced to death. Liu Wei participated in the second-instance trial, in which she introduced the concept of battered woman syndrome. The court of second instance changed the sentence to death with a two-year reprieve (Li 2003:3; Yun 2019:80–81), which automatically becomes a life sentence if the defendant exhibits good behavior.

After joining the SPC's China Institute of Applied Jurisprudence in 2007, Chen authored the 2008 Guidelines, which served as an important basis for the subsequent 2015 Anti-Domestic Violence Law (Pan 2018). The 2008 Guidelines also helped set the stage for the participation of expert witnesses in criminal domestic violence cases. In 2012, four courts, including intermediate courts in Zhejiang Province's Wenzhou (Chen's hometown) and Anhui Province's Ma'anshan, began to admit expert witness testimony on a pilot basis (Liu and Shi 2016; C. Wang 2016). In 2013, Chen published a book for judges trying cases involving domestic violence (M. Chen 2013).

Until the early 2010s, battered women who killed their husbands were routinely sentenced to life in prison and sometimes even immediately executed (Chen and Yang 2016:22; Xing 2013:25; Zheng 2015:163). The year 2015 was a turning point (Chen and Yang 2016:20; Liu and Liu 2020:44). Much like the 2015 Anti-Domestic Violence Law, the 2015 Opinions of the SPC Concerning the Handling of Criminal Domestic Violence Cases in Accordance with the Law (hereafter, the "2015 Opinions") brought together relevant provisions scattered across a number of bodies of laws and clarified their relevance to the determination of criminal offenses and criminal sentencing related to domestic violence. Although the concept of justifiable self-defense (正当防卫) was already part of China's Criminal Law, the 2015 Opinions clarified its application in the context of

domestic violence (Cheng and Gao 2019:13; Guo 2019:240; X. Wang 2015:87). In particular, Articles 19 and 20 in the 2015 Opinions offer clear guidance on the application of provisions on mitigated punishment or clemency (减轻或者免除处罚) – which were also already in the Criminal Law (including Article 20) – in cases involving wrongdoing by the victim giving rise to the injury or death at issue. At the same time, in 2014 and 2015, the SPC issued “model cases” to provide guidance to judges in criminal trials involving domestic violence (D’Attoma 2019).

Also occurring in 2015, the retrial of Li Yan (李彦) received considerable attention from scholars and journalists around the world (J. Jiang 2019:241–42; Palmer 2017:291–92; Tan 2016:315; Tatlow 2015; Zhao and Zhang 2017:202; Zheng 2015:162–63). In the course of suffering gruesome and recurrent abuse over her marriage of less than two years, Li had sought help from public authorities – including the police, the All-China Women’s Federation, a hospital, and the local justice department – to no avail when they each “advised her to just ‘bear it.’” Li testified that her husband “grabbed her hair and hit her head against the wall, stubbed out cigarettes on her face and legs, and locked her outside on cold nights. ... Often after beating her, he abused her sexually, she said.” In 2010, when her husband beat her with an air rifle and threatened to kill her with it, she “grabbed the weapon and slammed the barrel against his head twice, killing him, she told the police at the time.” She then dismembered his corpse (Tatlow 2015; also see Palmer 2017:291–92). In her first-instance trial in 2011, the Ziyang Municipal Intermediate People’s Court in Sichuan Province – no different from how divorce courts in Henan and Zhejiang so often deal with allegations and evidence of domestic violence (Chapters 7 and 8) – affirmed Li’s injuries but held that she was unable to prove that they had been caused by her husband (J. Jiang 2019:246n13). The court sentenced her to death with immediate execution. All death sentences must be reviewed by the SPC. In this case, the SPC did not approve the lower court’s death sentence and instructed the Sichuan Provincial High Court to retry the case. In her 2014 retrial, which was concluded in April 2015, the court – perhaps under pressure from domestic and international outcries of support for Li, and perhaps anticipating the sea change about to be catalyzed by the 2015 Opinions – changed her sentence to death with a two-year reprieve, which, practically speaking, amounts to a life sentence (J. Jiang 2019:241; Palmer 2017:290; Tan 2016:315; Tatlow 2015).

Although most domestic homicides are husbands killing their wives, a sizeable proportion of all women in Chinese prisons are there for killing their husbands (Chen 2014; Li 2003; Li and Jia 2019:61–62; Xing 2013; Zheng 2015:162). According to one estimate, over half of all violent crimes committed by women were in response to domestic violence (Li and Jia 2019: 62, 69). According to another estimate, there were about 140 criminal domestic violence cases per year between 2014 and 2018 in China, of which about 20 were wives who killed or attempted to kill their husbands (Cheng and Gao 2019:11). This estimate is consistent with another of about one or two cases per month of women killing their abusive husbands in China (Li and Jia 2019:66). Cases of women who kill (or try to kill) their husbands are concentrated in rural areas (Cheng and Gao 2019:12; Li and Jia 2019:62). These estimates imply that Henan and Zhejiang taken together, with about 11% of China's population, should have experienced about two cases per year of women killing and attempting to kill their abusive husbands.²³

Owing to limitations in their methods of searching for relevant cases, however, the authors of these studies vastly underestimated the incidence of criminal domestic violence cases. In my two provincial samples of court decisions, I found about 55 cases of women who killed their (sometimes former) intimate partners, of whom about 43 were abusers. Most of the victims in these cases were husbands, but a few were ex-spouses and nonspousal intimate partners. Added to these are an estimated ten or so attempted homicides, yielding a grand total of about 53 cases of women killing or attempting to kill their abusive husbands between 2009 and 2015 in Henan and between 2009 and 2017 in Zhejiang.²⁴ This is a substantial undercount owing to imperfections in the methods I applied. Moreover, even if I were able to identify every relevant case in my samples, I would still underestimate the true number because my samples are not comprehensive; courts do not publish all of their decisions. Finally, murder-suicides do not appear in the court decisions because there is no defendant to prosecute. For obvious reasons, suicide – which is on the minds of

²³ A study of media coverage of domestic violence homicides found that 213 men and 839 women were murdered by family members from March 2016 (when the Anti-Domestic Violence Law took effect) through the end of 2019 (Equality 2020).

²⁴ I derived these estimates by extrapolating from a sample of 200 court decisions (100 from each provincial sample) that I read and coded out of a total of 451 court decisions (279 from Henan and 172 from Zhejiang) that satisfy my crude criteria (discussed earlier) for homicides or attempted homicides involving spouses.

many abuse victims and carried out in nontrivial numbers (Fincher 2014:159; Zheng 2015) – is generally not recorded in a court decision unless it is unsuccessful. According to my rough and highly conservative estimates, Henan and Zhejiang alone had about seven cases per year, which implies about 70 per year nationwide if these two provinces are representative of China as a whole.

My samples reveal several salient patterns. First, among those who killed their intimate partners, men far outnumbered women. More specifically, women killed by their male intimate partners outnumbered men killed by their female intimate partners by a ratio of 2.9:1 (2.2:1 in Henan and 4.3:1 in Zhejiang). This imbalance is almost identical to the 2.8:1 ratio of female to male intimate partner homicide victims in the United States. Corresponding ratios elsewhere in the world range from 1.3:1 in Japan, 1.5:1 in France, and 2.3:1 in the Netherlands on the low end of the spectrum to 3.0:1 in Hong Kong, 3.9:1 in Canada, 4.2:1 in Taiwan, 4.4:1 in England and Wales, 4.5:1 in Germany, and 15.7:1 in India (Stöckl et al. 2013:Appendix).

Second, men who murdered their wives tended to do so out of jealousy and possessiveness, whereas women who killed their husbands did so typically to escape chronic violence. The most important factor associated with cases of men murdering their wives was divorce. In about half of all such homicides, female victims were trying to divorce or had already divorced their husbands. In over one-third of all such homicides, male offenders suspected their wives were cheating on them. Both motives were far more prevalent among male defendants. Not surprisingly, in each provincial sample, cases of men murdering their wives' (alleged) lovers outnumbered cases of women murdering their husbands' (alleged) lovers by a ratio of almost 2:1.

In sharp contrast, by far the most important factor among female homicide offenders was domestic violence. Indeed, this was the only salient factor in cases of women killing their husbands. As noted earlier, about 80% (roughly 43 out of 55) of all cases of women who killed their intimate partners alleged chronic abuse.

Third, defense lawyers almost never argued for acquittal. They instead tended to argue for leniency (McConville et al. 2011; Zuo and Ma 2013). Leniency in sentencing did indeed become conspicuous beginning in 2015. Comparing sentencing patterns between 2009–2014 and 2015–2017, the proportion of intimate partner homicides resulting in life sentences dropped precipitously from 57% to 35%, respectively, and the proportion resulting in fixed-term prison

sentences increased commensurately. Leniency toward female defendants was even more conspicuous. According to the Criminal Law, the statutory minimum sentence for intentional homicide is ten years. Only when “circumstances are relatively minor” can sentences be mitigated. Sentences lighter than ten years are therefore, by definition, lenient (Article 232). Among women prosecuted for killing their abusers, the proportion given lenient prison sentences of less than ten years increased between the two time periods from 9% to 46%, and the proportion given prison sentences ranging from ten years to life dropped commensurately from 91% to 54%. Again, all sentencing patterns I present come from first-instance trials and do not reflect subsequent decisions to change original sentences.

Despite a clear uptick in leniency beginning in 2015, criminal sentencing of women who killed their abusive husbands continued to exhibit tremendous variation (Chen and Yang 2016:20). Indeed, the proportion of such women in my samples sentenced to life in prison remained stable at about one-third in both time periods. One study of women who killed their abusive husbands found that “similar cases were not decided similarly” (同案不同判), that sentences ranged from three years in prison to death with two-year reprieves, leaned toward the harsh end of the spectrum, and almost never included probation even though judges have that option (Li and Jia 2019:65–67). Another study of criminal sentencing of women who killed their abusive husbands and ex-husbands found the most lenient sentence to be a suspended three-year prison term with three years of probation (Xing 2013:25).

Owing to such enormous variation in sentencing, many women who killed their abusive husbands received harsh sentences. Take, for example, the case of a woman who, in response to her husband’s long-term and frequent domestic violence, and after family members talked her out of divorcing him, killed him by serving him a dish of shredded radish laced with rat poison (tetramine). She then bought gasoline and attempted to incinerate his corpse in the family’s pigsty before packing the remains in a bag and throwing it into a well. Explicitly taking the victim’s wrongdoing and the victim’s family’s forgiveness into consideration, the court characterized her life sentence as “lenient” (从轻处罚, Decision #759786, Zhumadian Municipal Intermediate People’s Court, Henan Province, March 15, 2011).²⁵

²⁵ Case ID (2011)驻刑二初字第12号, archived at <https://perma.cc/PQ6S-R6V6>.

Other women received far more lenient sentences. Consider the homicide case of Xu Ping. In its decision, the court affirmed that while “both sides exchanged blows after arguing” (发生争吵, 后相互厮打), Xu’s husband knocked her to the floor, after which she grabbed a fruit knife. As he moved to dodge the knife, Xu, in panic and confusion, stabbed her husband in the chest, puncturing his heart. Although the court recorded no information about a history of domestic violence and affirmed that the stabbing was intentional, it also affirmed that the defendant was at fault for causing the victim’s death and that her actions constituted imperfect self-defense in light of the fact that she wielded a knife only because her husband was beating her. After stabbing her husband, Xu cried for help and, together with a neighbor, rushed him to the town hospital, where he was declared dead. Village authorities and village residents vouched for Xu’s good character and beseeched the court to extend mercy with a lenient sentence. Although the court rejected her defense lawyers’ request for probation, it affirmed Xu’s imperfect self-defense and gave her a relatively lenient sentence of three years in prison (Decision #809501, Guangshan County People’s Court, Henan Province, June 14, 2012).²⁶

Supplementary case examples set #9–5 is online at: <https://decoupling-book.org/>.

Courts rarely, if ever, affirm justifiable self-defense in criminal domestic violence trials. In 2013, for example, the Xi’an Municipal Intermediate People’s Court in Shaanxi Province found Wang Taoping guilty of intentional injury (not homicide) and sentenced her to life in prison for beating her husband to death with a scale weight, cutting board, and hot water thermos. The court held that both sides were at fault for violence in their marriage and that her lawyers failed to provide evidence that she suffered from battered woman syndrome (Yun 2019:78). In cases like this, courts extend leniency (as the court in this case characterized Wang’s life sentence) not on the basis of justifiable self-defense, but rather according to the defendant’s cooperative attitude, confession, admission of guilt, risk to society, and payment of compensation to the victim’s family.²⁷

²⁶ Case ID (2012)光刑初字第65号, archived at <https://perma.cc/7G3H-9H6C>.

²⁷ Case ID (2014)陕刑三终字第00045号, archived at <https://perma.cc/QJD5-98BL>.

Courts affirmed justifiable self-defense in criminal domestic violence cases only sparingly at best. To the best of my knowledge, they have never invoked – much less affirmed – battered woman syndrome. Indeed, the term appears in only two court decisions I found on China Judgements Online (one from Shaanxi just discussed, and the other from Sichuan discussed next). In both cases, the term was introduced by lawyers. Not a single decision in my Henan and Zhejiang samples contains this term.

Between 2015 and 2017, Chen Min provided expert witness testimony in a number of homicide trials across China on behalf of battered women (Rong 2020:47). In the five court decisions I could find that contain Chen Min's expert witness testimony, two of which are in my Zhejiang sample, not once did she utter the term "battered woman syndrome." In a 2016 trial in which Chen testified, however, the defendant's lawyers did use the term.

Yang Shengmei had been battered by her ex-husband since they were married in 1989. They divorced in 2004 but continued to live together. In 2015, they argued about his intention to sell property; Yang wanted their daughters to inherit it. One day, when preparing his lunch, she added rat poison (tetramine) to his alcohol and food. When local medical personnel were unable to diagnose his symptoms, they recommended he be transferred to a different hospital. Fearing getting caught, Yang instead moved him back home, where he died. Together with two accomplices, she dismembered the corpse and scattered the pieces throughout the area before turning herself in. Perhaps because the 2015 Opinions calls for leniency in cases of "serious domestic violence" in which the victim, in self-defense, intentionally kills or harms the perpetrator, the procurators argued that "the 'degree of domestic violence' can only be affirmed as 'ordinary domestic violence,' and does not justify Yang Shengmei's homicide of Li X." They recommended a sentence within the range of "death, life imprisonment, or fixed-term imprisonment of not less than ten years" in accordance with Article 232 of the Criminal Law. Yang's lawyers countered by arguing that her ex-husband's domestic violence rose to the level of "serious" owing to his history of committing domestic violence in public areas, choking her, and committing domestic violence in front of their children. They further argued that Yang's behavior possessed the hallmarks of battered woman syndrome insofar she killed in self-defense with the sole goal of freeing herself from the control of domestic violence. In her testimony, Chen Min explained the

psychology of battered women like Yang, who kill their abusers, why battered women like Yang often choose poisoning as their method of homicide, and why battered women like Yang dismember and dispose of the corpse after killing their abusers. Accepting Yang's lawyers' argument that the circumstances of her crime were "relatively minor" and merited leniency, the court sentenced her to ten years in prison (Guang'an Municipal Intermediate People's Court, Sichuan Province, April 27, 2016; also cited in Song 2016).²⁸

Although Chen has refrained from using the term "battered woman syndrome" in her expert witness testimony to courts across China, she has nonetheless introduced some of its key elements. In each case, she represented the homicide as reasonable and justified by making some or all of the following points. Domestic violence is a means of asserting control. Owing to abusers' coercive control, victims often stay with them. Victims may be financially unable to leave or believe that tolerating domestic violence, compared to leaving, is less dangerous to themselves and their family members. Victims of domestic violence kill their abusers in self-defense when outside intervention is lacking or fails, they reach the limit of their ability to endure abuse, and they fear for their own life or the lives of their family members. When victims of domestic violence kill their abusers, they often choose methods that minimize the risk of a violent counterattack. Victims sometimes dismember parts or the entirety of the corpse in order to hide or render unrecognizable the parts that elicit fear. Finally, victims of domestic violence who kill their abusers pose no risk to society.

Chen also testified in the 2016 homicide trial of Guo Qinyuan in Yunnan Province. In this case, Guo's husband had routinely beaten her and threatened her safety. He had been forcibly detained by police in a drug detoxification center. He had also undergone public security administrative punishment for stabbing her father with a switchblade knife. Over the years, Guo had sought help from relatives and friends, the All-China Women's Federation, and local justice authorities. She had reported her husband to the police. She had even filed for divorce in court citing domestic violence as the cause. She ultimately withdrew her divorce petition. Nothing, however, stopped her husband's abusive behavior. The court affirmed the following events precipitating the homicide. Guo was eating dinner with her parents when her husband stormed in, demanding money. During the ensuing altercation, he

²⁸ Case ID (2016)川16刑初7号, archived at <https://perma.cc/JPY6-3VEK>.

threatened to murder the whole family, dragged Guo's mother by her hair into the courtyard, pushed her down, and brandished a switch-blade knife. When Guo intervened, he knocked her down. Guo then grabbed a wooden club from behind the courtyard gate. When he turned away, she seized her chance to attack, hitting him on the head until he collapsed and died. Guo called the police to report the crime and waited for them to arrive. According to Chen's expert testimony,

carrying out violence is not the goal but is rather a means of exercising control. It happens whenever the victim disobeys or objects. The result of violence is the victim's obedience, the victim's fear of doing anything the offender does not want her to do. ... Even when victims are subjected to extremely serious violence, they may choose to endure it because they believe preserving the marriage is safer than leaving or because they lack the financial means to leave. However, when the offender threatens to murder the victim's parents, she may choose to kill the offender after concluding that doing so is the only way to protect her family. ... Owing both to differences in physical strength and to psychological terror, victims often wait until offenders are unprepared.

After Chen testified, Guo's defense lawyers made the following sentencing recommendation:

Acquitting Guo Qinjuan will help realize the positive social impact of law. The victim's family has said that the defendant may go unpunished and has requested that the prosecution withdraw its case. Villagers also believe the defendant should be released and allowed to raise her child and take care of her aging parents. These are the sincere reactions and wishes of society's masses for Guo Qinjuan after she beat her husband to death.

The court held that Guo deserved leniency because her husband was so clearly at fault for the events precipitating his death, she reported her crime, she waited for the police to arrive, she provided a confession, she displayed repentance, and she posed no public safety threat, and furthermore because the victim's family forwent all claims for civil damages, submitted a forgiveness letter on its own initiative, and requested the court treat her leniently. During the pretrial police investigation, ten family members of the victim signed the forgiveness letter pleading on behalf of Guo for mercy and no prison time. Over 100 residents of Guo's village signed a petition requesting leniency. She received a suspended three-year prison term with five years of probation.

Guo's case is unusual in at least two respects, namely, the extent to which the court accepted her defense lawyers' arguments and the leniency of her sentence. First, the court came tantalizingly close to recognizing battered woman syndrome. In response to the defense lawyers' claim that "her actions were the reasonable self-defensive responses of a battered woman [受暴妇女] and belong to battered women's special type of self-defense," the court held that "her actions reflect the resistance of a battered woman, have the nature of self-defense, were specifically directed at the other side, and the harms they pose to society are different from those of other homicide cases. The defense's argument for mercy should be adopted" (Chuxiong Yi Autonomous Prefecture Intermediate People's Court, Yunnan Province, November 7, 2016).²⁹

Second, Guo's case is an exceedingly rare example of a sentence of probation. Indeed, I was unable to find a single homicide case involving spouses in my Henan and Zhejiang samples that resulted in a probation sentence, much less an acquittal. As we saw in Chapter 6, acquittal rates were close to zero among all criminal cases (Table 6.5). By contrast, in a study of 113 cases of women who killed their intimate partners in Australia, Canada, and New Zealand, acquittals account for 20% (Sheehy et al. 2012). As mentioned earlier, Chinese defense lawyers tend to argue for lenient punishments rather than acquittals (McConville et al. 2011; Zuo and Ma 2013). Moreover, procuratorial performance evaluation systems that reward convictions and punish acquittals incentivize procurators to withdraw cases they fear they might lose (McConville et al. 2011:196).

In other ways, however, Guo's case illuminates several themes widely shared by court cases involving domestic violence victims. First, accounts of their experiences with domestic violence are virtually identical among both plaintiffs seeking divorce in civil court and defendants facing charges of homicide in criminal court. Second, her divorce petition withdrawal was probably involuntary. As we saw in Chapter 6, when abused women withdrew their divorce petitions, they often did so under duress.

Third, her lawyers' argument for an acquittal ("Acquitting Guo Qinjuan will help realize the positive social impact of law") included a thinly veiled appeal to Chinese judges' general concern about the potential for public backlash against court decisions widely perceived as unfair. In this context, the term "social impact" (社会效果) refers to

²⁹ Case ID (2016)云23刑初15号, archived at <https://perma.cc/6X49-3NCU>.

“whether judicial decisions have resulted in [or could result in] social or mass instability” (Kinkel and Hurst 2015:942). The judges’ holding that “over 100 of Guo Qinjuan’s fellow villagers actively petitioned for leniency, which confirms that granting probation to Guo Qinjuan will have no major harmful influence on the residential community” could be a tacit acknowledgement of their concern about the potential for discontent or even unrest in the village – or higher-level collective petitioning by villagers – if Guo were imprisoned or executed. Similarly, in the Liu Shuanxia case discussed earlier, the court may have been swayed by a collective plea for leniency it received from her entire village (Sprick 2018:295; X. Wang 2017:10, 17). As we know, judges lose points on their performance evaluations for making decisions that harm social stability. Under pressure to maintain social stability, judges do consider public sentiment when ruling on criminal cases (J. He 2016:81–95; Miao 2013).

Supplementary case examples set #9–6 is online at: <https://decoupling-book.org/>.

The iconic Deng Yujiao case is a case in point. Procurators, under enormous pressure from overwhelming public sympathy for Deng, who, apparently in self-defense, killed a county government official whom she alleged was trying to rape her, lowered their original charge of murder to intentional injury. Deng’s release without punishment is often used to illustrate courts’ responsiveness to public opinion as they carry out their political mandate to maintain social stability (Lei and Zhou 2015:559; Sprick 2018:283; Zhang 2016a:24–25).

Fourth, abusers threaten to harm and kill not only their intimate partners, but also the family members of their intimate partners (Walker 2017:306–7; Zheng 2015). Documented examples include: “If you dare go to the KTV club I’ll break your legs,” “If you dare commit suicide I’ll force your mother to marry your younger sister to me, and if your mother doesn’t agree I’ll murder your whole family,” and “If you dare leave me, I’ll make sure your family line is exterminated!” (Chen 2018:6). (Chapter 7 contains a number of similar threats against women and their families.)

Fifth, a lot of women who killed their abusive husbands had previously sought help from public authorities. Homicide was a last, desperate resort. When battered women seek help from local police,

villagers' committees or urban residents' committees, the Civil Affairs Administration, and court, they hope that any one of them will stop their husbands' violent behavior, as stipulated by the Marriage Law (Article 43, a provision omitted from the 2020 Civil Code). Public authorities often fail to provide or facilitate effective domestic violence intervention. In one study of criminal prosecutions of women who injured or killed their abusive husbands, a sizeable proportion had previously sought help – to no avail – from various official sources, including divorce courts (Cheng and Gao 2019:12).

When abused women seek the help of police because of domestic violence, their requests are not handled with adequate care and attention, and when they then resort to divorce litigation, they often face obstructionism from their husbands who withhold consent to divorce. Failure to get relief through channels of public authority causes women, left with no other choice, to fight back by killing their husbands. (Guo 2019:240)

As we saw in Chapters 7 and 8, no matter how egregious a husband's abuse is, and no matter how well his wife documents it with evidence, he can effectively block his wife's divorce petition simply by withholding consent.

As a consequence, the judicial clampdown on divorce also endangers men. The following case underscores the safety risks to both women and men when abuse victims stay with their abusers. The couple in this case married, divorced, and remarried. Situations like this are not altogether uncommon; victims and their abusers sometimes remarry each other after they divorce (Li 2003:4; also see the case of Xue Aihua in the next section of this chapter). The defendant had filed for a new divorce only a week before the incident for which she was criminally charged and in which she used a hammer to attack her husband. In his testimony to the court, he stated:

I pulled her hair, slapped her, and used a cleaver and hammer to intimidate her. Afterwards, when I held the door shut with both of my hands in order to prevent her from leaving, she hit me on back of my head with the hammer, causing me to fall unconscious to the floor. What happened next is unclear to me. When I regained consciousness I was in bed, and there was blood on my head and blood on my mouth. My throat and crotch were extremely painful. An ambulance took me to the hospital. Our relationship is quite bad, and we frequently argue. I often beat and curse her, and she has reported me to the police on many occasions.

The procurator accused her of using the hammer to hit his head, face, chest, scrotum, and testicles. Rejecting her defense lawyer's claim of justifiable self-defense, the court sentenced her to two years in prison (Decision #4685540, Yuyao Municipal People's Court, Zhejiang Province, August 31, 2016).³⁰

Some men do not survive similar attacks. Consider, for example, the case of Zhang Dianru. She killed her husband after seeking the help of police, who did not intervene but rather advised her to hide. The defense team made the following statement to the court on Zhang's behalf:

After extreme and prolonged abuse, the defendant exhausted the sources of help of which she was aware. When she sought police help, public security personnel told her to hide out at a hotel. When she asked her husband for a divorce, he refused. Having lost her ability to work, she was subjected to the victim's economic control. When she went to the All-China Women's Federation for help, she was told to go to court and file for divorce. She was unable to file for divorce owing to her lack of both common legal knowledge and money. When she asked relatives for help, the answer she received was "put up with it."

Zhang had previously sustained an injury, after jumping off a cliff in a suicide attempt, that resulted in her inability to work. On the night of the homicide, the victim came home drunk, argued with Zhang, and threatened to murder her older brother. When he fell asleep, she gathered tools to use as weapons. As in most homicide cases I studied, she used common household items. First she hit the victim on the head with a scale weight, a hammer, and a wrench. His cause of death was severe open head trauma. She then stabbed him over 40 times in the chest and abdominal areas. Finally, when she thought about the times he raped her, she cut off his external reproductive organs before calling the police to turn herself in. In her expert testimony to the court, Chen Min explained:

Owing both to differences in physical strength and to psychological terror, victims often wait until offenders are unprepared, such as when they are asleep, drunk, or otherwise physically incapacitated. They may poison offenders or attack them with clubs, rods, or knives. When a victim attacks an offender, she wants to make sure he is dead in order to prevent him from murdering her in revenge. ... Some (former) victims will dispose of parts of (former) offenders' corpses by cutting off organs

³⁰ Case ID (2016)浙0281刑初169号, archived at <https://perma.cc/L4CS-KYHR>.

that caused victims to feel particularly fearful. Cutting off a reproductive organ represents the victim's experience of sexual violence. The victim sees the dead offender's reproductive organ as a source of her suffering and a symbol of her pain and humiliation.

Although the court rejected the defense lawyer's argument for probation, it showed leniency by giving Zhang a mitigated prison sentence of eight years in consideration of her cooperation, remorse, and lack of risk to society. Also playing a role in the court's lenient sentence was the forgiveness letter furnished by her parents-in-law after Zhang said she was unable to pay compensation. The court nonetheless ordered Zhang to compensate her parents-in-law ¥40,000 (Chuxiong Yi Autonomous Prefecture Intermediate People's Court, Yunnan Province, May 6, 2016; also cited in Liu and Shi 2016).³¹

Supplementary case examples set #9–7 is online at: <https://decoupling-book.org/>.

Over time, and particularly since 2015, criminal courts – in sharp contrast to divorce courts – in China have taken an increasingly empathetic, compassionate, and merciful stance toward female victims of domestic violence, albeit falling short of acquittal. This trend is partly a function of new laws and legal guidelines reviewed in this section, as well as a function of China's more general “kill fewer, kill cautiously” shift away from capital punishment in criminal sentencing that began in the mid-2000s (Miao 2013; Trevaskes 2008, 2010). Finally, as we will see next, it is to some degree a function of courts' mandate to maintain social stability.

LENIENCY IN CRIMINAL DOMESTIC VIOLENCE CASES

We have seen that courts, in their written decisions, indicated that they extended leniency to defendants who surrendered to the police, gave full confessions, cooperated throughout the investigation, displayed sincere remorse, and so on. Most of these conditions for leniency are written into the Criminal Law's provisions on sentencing (e.g., Articles 62, 63,

³¹ Case ID (2015)楚中刑初字第114号, archived at <https://perma.cc/UUV5-X4B9>.

67, and 78). We have also seen that courts at most only rarely affirmed justifiable self-defense as the basis for leniency.

In the homicide case of Yao Shuangxia, the court attributed its lenient sentence to the following: the crime occurred at home, the victim bore fault for triggering the crime, Yao was a first-time offender, she reported the crime on her own accord, she surrendered to the police, and she confessed to her crime. Yao described the events culminating in her killing her husband.

After getting married in 1997, Xi X [her husband] often beat me. I was afraid my family would be angry so I never told them. Beginning in 2003, I heard gossip at the factory about a female co-worker named Li X who regularly visited my home. I was afraid to ask [my husband] about this. At the end of 2003 I went to my mother-in-law's home to give birth to my daughter. When I returned to work in 2004, Li X was living in my home [with my husband], and stayed there until 2006. In 2007, I moved back into my home. At this point Xi X had an alcohol addiction. He drank daily. Each day he drank at least six or seven bottles of beer. He would also finish a bottle of liquor in three days. Whenever he drank he beat me. On Chinese New Year's Eve in 2012 we returned to [Xi X's parents' home in] Beihou [Village] for the Spring Festival. That night my daughter asked if she could sleep with me, and I agreed. Xi X, our daughter, and I all shared a bed. Xi X, probably unhappy about this, got me up in the middle of the night to make him a bowl of noodles. When I served him his noodles, he said I did a bad job making them. He then held me against the floor and beat me. My crying woke up our daughter. When I saw my daughter had woken up, I stopped crying. After I carried her to my mother-in-law, I went to the storage room and grabbed a bottle of pesticide to kill myself. However, since there wasn't enough left in the bottle to kill me, and drinking it without killing myself would only cause trouble for my family, I didn't drink it. ... On the night of the first day of the New Year, I slept on the sofa in the living room. Xi X insisted I sleep in the bedroom, and dragged me by my feet into the bedroom and kicked and beat me for a while. My in-laws heard the abuse and separated us. The next day I returned to my natal home. On the fifth day of the New Year, Xi X came to retrieve me. Not wanting to anger my mother, I went home with Xi X. At 8 pm on February 28, 2013, I went to the factory with Xi X to start my shift. At around 10 pm, Xi X found me and asked me to get him a bottle of beer. I took one out of the work cabinet for him. After he finished drinking it, he asked for another. As I reached to hand him another bottle, it slipped out of my hand and shattered on the floor, immediately triggering Xi X's abuse. After he finished drinking another bottle of beer, he told me to go home

with him. At the time, the factory gate was already locked. Xi X called someone to open the gate and we left. When we returned home he wanted more beer. He opened a bottle and poured it into a teapot. Then he wanted liquor. He poured himself half a cup. As the two of us lay on the bed, he drank beer and liquor. After drinking, he beat me for a while and made me pour him more to drink. Xi X drank and read in bed while I poured his drinks. When I tried to sleep, Xi X hit me in the face, causing my face to swell up. In between beatings, he used a cigarette lighter to burn my face. This continued until 9 am, when Xi X wanted to have sex with me again. When he was done, I used toilet paper to wipe him. Xi X continued to read on his cell phone. I poured him more beer. Xi X continued to drink and read until about 11 am. After drinking a total of four bottles of beer and about 100–200 ml of liquor, he fell asleep. I got out of bed and got dressed. As I sat on the sofa in the living room and looked at Xi X, I felt increasingly angry. As I thought about how Xi X drank and beat me every day, and how impossible life had become, I wanted to choke Xi X and then die together with him. I found a black cell phone charging cable. After adjusting Xi X's head, I wrapped the cable around the back of his neck, crossed both ends of the cable over each other in front of his neck, and pulled with both hands as hard as I could. Then the cable snapped. Xi X opened his eyes, glared at me, and reached out for my hair. I squeezed his neck with my bare hands while I straddled his body. One of Xi X's hands remained under the blanket, and the other hand flailed in the direction of my hands. I clutched his neck with all my might and did not release my grip. After a while Xi X stopped moving, and I released my hands. When I got up I noticed a foul smell. I lifted up the blanket and saw a big wet spot. Xi X had defecated in his underpants. Because his body was still warm, and I was afraid he would wake up and discover feces in his underpants, I removed his striped underpants, used toilet paper to wipe off the feces, and put on a pair of brown underpants. I also dressed him in thermal underpants and a thermal undershirt. I removed the soiled blanket and covered him with a smaller one. I put his dirty underpants and dirty toilet paper in a red plastic bag and threw it in the outside trash. When I returned home I expected Xi X to wake up, but his body became colder and colder. I started to think he was dead. I didn't know what to do. I called my father's sister, who told me to stay at the scene and call the police. I then called my son's school and asked his teacher to tell my son to contact my father's sister after school. After that I called the police to turn myself in.

Forensic evidence such as the victim's elevated blood alcohol level and semen collected from Yao's body corroborated her testimony.

Moreover, several witnesses, including relatives and co-workers, corroborated Yao's allegations of her husband's domestic violence, infidelity, and alcohol abuse. Her mother also testified that, following the Spring Festival incident, Yao wanted a divorce, but that family members had intervened. Although the court did not affirm justifiable self-defense, it came close by affirming that "unbearable domestic violence and psychological torture inflicted by the victim caused the defendant to kill him." Likewise, although the court rejected the defense lawyer's argument that the circumstances of her crime were "relatively minor," it accepted the argument that the homicide victim was at grave fault. For these reasons, and in light of the defendant's cooperation, the court sentenced the defendant to eight years in prison. Because it was only a tiny fraction of the ¥821,359 her in-laws requested in the civil lawsuit they attached to the criminal prosecution, the court's order that Yao compensate them ¥17,115 for funeral expenses was probably at most only a marginal factor in the leniency of her sentence (Decision #1059225, Zhengzhou Municipal Intermediate People's Court, Henan Province, November 8, 2013).³²

Beyond this specific case, however, compensation for civil damages plays an important role in criminal sentencing. Since the mid-2000s, the SPC has promoted criminal reconciliation as part of China's broader stability maintenance agenda. The theory behind what has been dubbed "blood money" (Ng and He 2017b) and "cash for clemency" (Trevaskes 2015) is that the criminal offender's payment of compensation to the victim's family can nip two potential sources of social unrest in the bud. In exchange for compensation, the victim's family makes a formal expression of forgiveness and the court spares the offender's life. Criminal reconciliation practices were thus designed to placate the anger of the *victim's* family members with compensation and thus to reduce the likelihood they will protest or petition in response to what they perceive as an unjust ruling not to execute the offender. By the same token, by preempting the anger of the *offender's* family that might otherwise be caused by a death sentence, leniency serves to reduce the likelihood the other side will protest or petition the court decision (Liebman 2015:214–15). Compensation is sometimes ordered by courts in their rulings on petitions for civil damages attached to criminal cases (刑事附带民事诉讼) – what McConville et al. (2011) call "incidental civil action" in criminal litigation. Courts

³² Case ID (2013)郑刑一初字第41号, archived at <https://perma.cc/FS22-4YRK>.

also recognize compensation agreements reached privately or through mediation outside the court system.

Criminal reconciliation has been formalized through “standard cases” (典型案例) issued by the SPC as models to establish best practices in criminal sentencing (Trevaskes 2015). Beyond standard cases, the 2010 Provisional Guiding Opinions of the SPC on Criminal Sentencing (which in 2017 became the Guiding Opinions of the SPC on Sentencing for Common Crimes) stipulates that compensating the victim’s economic losses can mitigate prison sentences by up to 30% (Article 9) and that forgiveness from the victim or the victim’s family can mitigate prison sentences by up to 20% (Article 10; Xing 2013:27). The payment of compensation from the offender or the offender’s immediate family in exchange for both forgiveness from the victim’s family and sentencing leniency from the court has become an institutionalized practice in China’s criminal courts (Liebman 2015:180–85). Criminal reconciliation has even become part of judicial performance evaluation systems (Yanhong Wang 2013:33). According to one study, victims’ families submitted “forgiveness letters” (谅解书) to the court in 80% of cases of women who killed their husbands. Some of these letters were jointly signed by local residents (Li and Jia 2019:64, 67). In some cases, the parents of homicide victims knelt in front of the judges begging for leniency (Xing 2013:27).

In my samples of homicide cases involving spouses, women’s sentences were far more lenient than men’s. Whereas 13% of men convicted of murder received death sentences (most of which were suspended), not a single woman was sentenced to death. Likewise, 55% of male defendants and 39% of female defendants received life sentences. Finally, the remaining 32% of men and 61% of women received prison sentences ranging from two to 15 years. Among defendants who received fixed-term prison sentences, women (19%) were three times more likely than men (6%) to receive mitigated sentences of less than ten years for the “relatively minor circumstances” of their cases (according to Article 232 of the Criminal Law). Female and male defendants in the criminal domestic violence cases in my samples were almost equally likely to receive forgiveness (41% and 39%, respectively). Sentencing disparities between women and men therefore cannot be attributed to differences in the likelihood of receiving forgiveness. Courts’ greater leniency toward female defendants seems to have more to do with judges’ greater likelihood of finding them to be more cooperative, their risk to society to be smaller, the criminal

circumstances of their cases to be less serious, and their criminal acts more likely to constitute justifiable or imperfect self-defense.

Forgiveness was associated with leniency for both female and male defendants. However, forgiveness in the absence of compensation was relatively rare for male defendants. Men convicted of murder tended to buy forgiveness from their victims' families and thus to buy leniency from courts. Perhaps because they had greater financial wherewithal to pay compensation, men were twice as likely as women to compensate their victims' families (35% and 18%, respectively). Among male defendants, 76% received forgiveness when they provided compensation compared to only 19% when they did not. Women's lower incidence of paying compensation, however, did not reduce their likelihood of receiving forgiveness. Indeed, in contrast to male defendants who tended to receive forgiveness in exchange for compensation, female defendants tended to receive forgiveness without compensation.

Some husbands who murdered or attempted to murder their wives were given remarkably lenient sentences after paying compensation. A man in the city of Wenzhou named Yu Qing made a murder-suicide plan after his wife insisted on a divorce despite his numerous efforts to talk her out of it. After his final effort failed, he choked her to death before slitting his own throat and wrists. His suicide attempt failed when he was discovered and rushed to the hospital. In court, Yu's defense lawyer argued for leniency on the basis of reasonable suspicion that his wife was having an affair and therefore bore a certain responsibility for her own murder. He further argued that the character of maliciousness in murders like this one is inherently different from that in ordinary murders and that the reason he chose to murder her and kill himself was because "he loved her too much." In consideration of the victim's family's expression of forgiveness in exchange for ¥170,000 in compensation, the court gave him a lenient prison sentence of 15 years (Decision #4848656, Wenzhou Municipal Intermediate People's Court, Zhejiang Province, September 28, 2016).³³

Supplementary case examples set #9–8 is online at: <https://decoupling-book.org/>.

³³ Case ID (2016)浙03刑初73号, archived at <https://perma.cc/U4YL-2JXG>.

Some women also compensated their victims' families. Wu Jinrong had been subjected to over a decade of marital violence in her second marriage. On one occasion, her husband beat her so hard she permanently lost hearing in one ear. According to the court, "on a regular basis, after getting drunk, he physically injured her, insulted her dignity, psychologically threatened her, smashed and burned household objects, and committed other forms of domestic violence." One night, after coming home drunk, he entered her daughter-in-law's bedroom (the wife of the son from her first marriage) and smacked her grandson until he woke up. After her daughter-in-law protested, he began to break objects in the living room and, wielding a cleaver, threatened to harm family members. The defendant, recalling many similar incidents, killed him by bludgeoning his head with a hoe and a shovel. Both village authorities and the court initiated mediation between the defendant and the victim's family. In exchange for financial compensation of ¥50,000 and a minivan, the victim's family expressed its forgiveness. Although the court rejected the defense lawyers' request for probation, it showed leniency by giving her a mitigated prison sentence of five years (Decision #821646, Nanyang Municipal Wancheng District People's Court, Henan Province, July 3, 2012).³⁴

Cases like this, however, are unusual. Relatively few women who killed their husbands provided compensation, and the payment of compensation had little effect on their sentences. Women who killed their husbands were far more likely than their male counterparts to receive forgiveness without compensation. Victims' families and the public were naturally inclined to extend their empathy, sympathy, and forgiveness to women who killed their abusers. By contrast, forgiveness of men who killed their wives tended to be financially induced.

The case of Xue Aihua exemplifies one of the hallmarks of abusive men: "pathological jealousy" that is "a cornerstone to homicidal rage" (Walker 2017:307). Xue killed her husband by chopping his face, head, and neck with an axe, resulting in hemorrhagic shock from a ruptured jugular vein. Owing to his chronic abuse, Xue had previously divorced him, after which – under the husband's coercion – they remarried. She had started working at a cotton mill with the help of her sister-in-law, who also worked there. Prior to this she stayed mostly at home doing farm work. Her husband, owing to his jealousy, was in the habit of

³⁴ Case ID (2012)南宛刑初字第90号, archived at <https://perma.cc/FE74-TELX>.

checking in on her at work. She stated in her testimony to the court that, on the day before the homicide, he

went to the factory and beat me because he didn't trust me and suspected I was sleeping with my male colleagues So he hit me, choked me, and, holding me against a machine, punched my head, face, and mouth, giving me a fat lip. That night when I was eating dinner he made me call his sister to ask her to submit my resignation for me. Before I had a chance to say more than a few words he started cursing me, saying that a woman like me only brought shame and that he wanted to murder my whole family. When my sister-in-law overheard this she asked me to pass the phone to him, and they then argued over the phone. I went to bed. When he entered the bedroom he demanded that I tell him about my attempts to seduce men, and that if I refused he would use gasoline to burn me to death and torture me to death. When he finished ranting, he tugged me by my hair and punched my head with his fist. My husband often beat me. Recently the beatings increased in frequency. He threatened to torture me to death, to use gasoline to burn me to death, and to bury me alive.³⁵ It made me angry, but I was also very afraid he would harm me. Because I was previously married to someone else, he was repulsed by the fact that I wasn't a virgin when he married me, and frequently suspected I was messing around with other men. ... Sometimes when I spent a long time buying groceries he'd say, "that took a while, did you get together with so-and-so?" Sometimes when I worked late he'd say, "did you turn off the machine and run somewhere to get together with so-and-so?" When the bank account was off by ¥500–600, he would say I spent the money on hotel rooms with men. He wouldn't let me wear a bra. After he said bras were to seduce men, he beat me. He wouldn't let me speak to other men. He wouldn't let me comb my hair or brush my teeth because he said they were to seduce men. If I wanted to buy clothes I needed his approval. He wouldn't let me buy clothes with flowers because he said they were to seduce men. He wouldn't let me

³⁵ Lhamo (拉姆), a popular live streamer from an ethnically Tibetan county in Sichuan Province, was burned to death by her ex-husband in 2020. Like Xue Aihua, Lhamo had remarried her abusive husband under duress. She originally divorced him in the Civil Affairs Administration after he choked her and beat her with a wooden bench, breaking her arm. After the divorce, she returned to her natal home to recuperate. Soon afterward, her ex-husband showed up to express his remorse and beg her to remarry him. When she refused, he put a knife to the neck of one of their two children before taking both of their children to the river and threatening to jump unless she remarried him. After they remarried, he continued to beat her. Though she sought police help on numerous occasions, the police failed to intervene. She turned to the local branch of the All-China Women's Federation, which was similarly unhelpful. When she divorced her husband for the second time, this time in court, the court granted custody of both children to her husband even though he had continuously threatened to murder the children unless she returned to him (BBC 2020; Chen 2020; Hou 2020). As we will see in Chapter 10, courts routinely grant child custody to wife-beaters.

grow my hair long because he said it was to seduce men. Whenever I cut my hair he would say I was commemorating another man. He often told me, "I don't see anything good about you, I see only flaws; how unfortunate I was to find someone like you."³⁶

Xue's ten-year-old son, mother, sister-in-law, husband's nephew, and brother-in-law all corroborated her testimony and vouched for her good character. Her oldest daughter testified that her father

had a suspicious heart and frequently suspected she [Xue] was involved with other men. If she exchanged words with a man by the front door, he would hurl curses at her out of suspicion. A few years ago she started working at a factory that is only 100 meters from our house. She got off work at 8:00, and if she were to return home at 8:30 he would demand to know what she had done in the intervening half an hour.

Xue's testimony about the homicide itself was as follows:

At around 6:40 am, I got up to make breakfast. He was still lying in bed with our son. When I thought about his suspicion, his physical abuse, and his anger over all these years, I got the idea of hacking him to death with an axe. I first turned off the main power switch to the house. I then took out the axe from the black suitcase in the east room and walked next to the bed on which they lay. He saw me standing next to him and, thinking there was a power failure, handed me a flashlight. I took the flashlight with one hand. When he started glaring at me, I suddenly filled with anger, lifted up the axe, and aimed for his head. He reached out to hit me. I lifted the axe and chopped a few more times. As I hacked him with the axe, I asked, "Are you going to hit me? Get up and hit me! All these years I never once wronged you, and all you did was beat me" My son then pulled me away and took the axe. I saw he [the victim] was bleeding out, and heard the sound of blood dripping onto the floor. When I saw he was motionless and believed he was dead, I took my son out of the bedroom and into the kitchen, where I called my sister-in-law to tell her I hacked her brother to death. I asked her to come look after the boy so I could turn myself in to the police.

In her testimony, the sister-in-law recounted the defendant's answer to her question of why she hacked him to death. She said she only wanted

³⁶ According to Walker, "Based on our data, this jealousy is most often unfounded; the abused women in our research were not that interested in another sexual relationship. However, the batterers' need to control their women leads them to be suspicious and intrusive" (Walker 2017:307). Walker reports that an escalation of violence over time is also a predictor of homicide carried out by one side against the other (Walker 2017:308).

to hack his eyes so he could no longer beat her, but once she started hacking, she lost control of herself.

In its holding, the court cited provisions in the 2015 Opinions on mitigating circumstances and justifiable self-defense in intentional homicide. Also citing the victim's family's forgiveness and request for leniency as well as Xue's remorse, the court sentenced her to five years in prison (Decision #1401817, Xinye County People's Court, Henan Province, April 24, 2015).³⁷ This is the only court decision in my Henan sample that cites the 2015 Opinions. My Zhejiang sample likewise contains only one decision that cites the 2015 Opinions. Indeed, according to a keyword search on China Judgements Online, the 2015 Opinions have been cited in fewer than 100 court decisions (as of June 2020). Perhaps because the contents of the 2015 Opinions are largely derivative of other bodies of law, judges and lawyers have chosen to cite the original sources of their contents. Or perhaps judges and lawyers apply its provisions without citing it by name.

Abused women sometimes fear divorce owing to their economic dependence on their abusers (Cheng and Gao 2019:12; Zheng 2015:176), that is, owing to the economic control of their abusers. Over the years, Yao Rongxiang's philandering husband had doused her with scalding water, hit her head against the floor, hit her with a steel pipe, and hit her with a beer bottle. One night he announced his decision to divorce her and split custody of their four children. In despair at the prospect of having no means to raise her children, Yao concluded that she no longer had a reason to live. She waited until he was sound asleep before bludgeoning his head with a threaded steel pipe and then cutting his neck with a cleaver. He died on the scene from a craniocerebral injury and massive blood loss. Yao stated that her original plan was to commit suicide, but, after thinking about her children, she decided instead to surrender to the police. In their testimony to the court, the victim's parents expressed their forgiveness, requested a lenient sentence, and withdrew their original request for civil damages. In her expert testimony to the court, Chen Min stated:

At its core, domestic violence is control. Violence itself is not the end but rather a means of achieving control over the victim. Even when the offender forces the victim to divorce, he is doing so to control the victim, to make the victim obey him. Victims who can no longer endure

³⁷ Case ID (2015)新刑初字第00117号, archived at <https://perma.cc/5UL7-JGJP>. This case was reported in the media (Zhao 2015).

chronic domestic violence often commit suicide or kill the offenders. In order to avoid aggravated attacks, female victims will use extreme methods to kill offenders when offenders have temporarily lost their ability to fight back. Female victims who inflict harm ordinarily direct such behavior against offenders. After offenders die, the female victims who killed them pose no risk of harm to anyone else.

In the only decision in my Zhejiang sample to cite the 2015 Opinions, the court sentenced the defendant to five years in prison (Decision #3431222, Wenzhou Municipal Intermediate People's Court, Zhejiang Province, March 5, 2015; also cited in Chen and Yang [2016:21]).³⁸

In addition to illuminating the influence of forgiveness on sentencing, this final example also foreshadows a finding I present in Chapter 10. When couples with minor children do get divorced, sibling children tend to be split between their parents, often according to arrangements determined by the father.

SUMMARY AND CONCLUSIONS

As we know, a failed initial divorce petition granted on a subsequent attempt is the divorce twofer's primary defining characteristic. Insofar as almost everyone who seeks a divorce can eventually get one, some observers might wonder what the harm is in waiting. Perhaps, skeptics might contend, the primary harm is merely inconvenience, which might be more than offset by the benefits some couples enjoy by reconciling after an adjudicated denial.

This book documents the manifold harms of the divorce twofer. If the divorce twofer provides any benefits, they are monopolized by judges in the form of gains to their work efficiency and performance evaluation scores (Chapters 3, 5, and 6). From the standpoint of families, the social and personal harms of the divorce twofer clearly outweigh their benefits. We have seen that a lot of adjudicated denials never return to court (Chapter 6). Perhaps divorce-seekers let down by courts ended up pursuing mutual-consent "divorces by agreement" in the Civil Affairs Administration. Given that abusers, simply by withholding their consent, could activate the divorce twofer in court (Chapters 8 and 9) and prevent Civil Affairs divorces outside the court

³⁸ Case ID (2015)浙温刑初字第4号, archived at <https://perma.cc/BAE2-BWWR>. This case also received media attention (Yao 2015; Zou 2015).

system, women desperate to divorce grievously sacrificed property and child custody in exchange for their husband's consent (Li 2022). We will see the prevalence of precisely this trade-off in the context of child custody determinations in Chapter 10. Unable to make the financial sacrifices their husbands demand and unwilling to give up custody of their children, some women resigned themselves to staying married.

This chapter documents the mortal harms associated with the divorce twofer: its grave physical security and public health implications. An official justification for the divorce twofer is that it introduces a de facto cooling-off period designed to de-escalate conflicts (Chapter 3). Among battered women who eventually obtained an adjudicated divorce, the divorce twofer typically protracted their exposure to domestic violence by one year or more. Indeed, domestic violence often intensified between divorce attempts. Delays caused by the divorce twofer have swelled the ranks of marital violence refugees who take flight from their abusive husbands. After participating in labor migration, often as an escape route from domestic violence, some women resign themselves to remaining married but separated owing to the logistical difficulties of returning to their residential court jurisdictions to file for divorce and participate in trial proceedings (K. Li 2015a:98). The divorce twofer thus puts many women in a sort of divorce purgatory.

This is primarily a rural story. Divorce petitions were concentrated in rural courts. Likewise, the gender gaps in delays to divorce were limited to rural courts. Finally, most of the case examples in this chapter are from rural areas.

Among women who did not or could not take flight, delays caused by the divorce twofer may have done more to prolong and intensify marital abuse than to cool it off. As a consequence, some women unable to take flight may have felt compelled to fight. Judges were delusional if they truly believed they were saving marriages by denying divorces. They professed concern that *granting* divorces to battered plaintiffs would generate instability and even murders. Even if their concerns were partially valid, the opposite was undoubtedly equally or more valid: *denying* divorces to abuse victims generated murders and suicides, the very essence of instability. Judges more faithfully fulfilled their *ideological* mandate to rescue marriages by denying divorces than their *legal* mandate to rescue abuse victims by granting divorces.

Granting divorces the first time would certainly save lives. To be sure, we cannot blame the divorce twofer for all incidents of violence

that follow in the wake of adjudicated denials of divorce petitions. After all, men also beat and kill their ex-wives. Public authorities, however, are undoubtedly less reluctant to intervene in violent incidents between two people who are not married to each other. If an abuser were no longer married to his victim, public authorities would have even flimsier excuses for not intervening. If police were as willing to arrest and punish wife-beaters as they were to arrest and punish drunk drivers, the likely consequence would be fewer men killing their wives and fewer women killing their husbands.

Policies and practices that prevent divorces have done less to create harmonious families than to prolong marital misery and violence. Recall from Chapter 2 that one impetus for the introduction of the breakdownism standard in the 1980 Marriage Law was to prevent homicides that might otherwise result from forcibly preserving acrimonious marriages. By turning the breakdownism standard on its head and using it to deny divorce petitions, courts have transformed civil cases into criminal cases in a way the original drafters of the breakdownism standard feared. Recall also from Chapter 3 that Chinese government leaders have justified the divorce twofer by invoking a widespread claim that divorce contributes to juvenile crime. If juvenile crime is driven as much by marital *conflict* as by marital *dissolution* (Amato 2000; Amato and Cheadle 2008), then China's judicial clampdown on divorce, by forcibly preserving unhappy marriages, may contribute more than divorce itself to juvenile crime, another source of criminal cases.

A considerable number of eminently preventable criminal cases have stemmed from the poor outcomes of women's prior help-seeking efforts. Women are at risk of *sustaining* harm when they seek to divorce their abusive husbands. Women are also at risk of *inflicting* harm on their abusers when their help-seeking efforts are stymied. In trials of women charged with killing their abusive husbands, criminal courts have steadfastly eschewed the concept of battered woman syndrome, and have therefore been averse to acquit – or even to sentence to probation in lieu of prison time – the very women they affirmed to be victims of domestic violence. Nonetheless, I have shown in this chapter that China's criminal courts have taken domestic violence increasingly seriously, particularly beginning in 2015. Indeed, domestic violence appears to be taken far more seriously in criminal courts than in divorce courts. China's criminal courts experienced a watershed in 2015, when they started more fully and consistently recognizing

domestic violence as a mitigating factor in criminal trials of women who killed their husbands. China's divorce courts experienced no corresponding watershed. On the contrary, China's judicial clampdown on divorce intensified after 2015 (Chapter 6).

When women take flight to escape their abusive husbands, they often have little choice but to leave their children at home. As we will see next, judges tend to grant custody to the parent with physical possession of the child even when the child's living arrangement is the direct consequence of domestic violence.