

Why do Chinese Women Refrain from suing their Violent
Husbands?

An Examination of the Relationship between Human Rights and
Domestic Violence in Contemporary China

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Abstract

This thesis entitled ‘Why does Chinese Women Refrain from Suing their Violent Husbands’: An Examination of the Relationship between Human Rights and Domestic Violence in Contemporary China’ is an exploration of the relationship between domestic violence and human rights in contemporary China. No one can deny the fact that nowadays there still have lots of women suffer domestic violence in China. Further, with the social economy developing, the trend of domestic violence has slow risen year by year. Despite domestic violence is examined as a type of violence happening among family members, there are a large number of people argued that this kind of violence behavior not potentially seriously damages the victims’ health and violates their lawful rights, but it can also lead to psychological problems. Even though the judicial department of the People’s Republic of China has already established several laws aimed at protecting victims of domestic violence, such as administrative law, civil law, criminal law, many victims are still unwilling to sue their husband. So, in order to even better protect the victims’ rights and interests, it is necessary to use different aspects to analyze why do women refrain from suing their husbands even if they suffer domestic violence in their family?

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1 Introduction

A 26-year-old Beijing woman, Dong Shanshan died as a result of domestic violence on the 19th of October 2009. Since she was married in the second half of 2008, Dong Shanshan's husband began to beat her regularly and severely. The domestic violence lasted for ten months, and in the beginning, whenever the beating stopped, Wang Guanyu would ask Dong Shanshan to forgive him. At first, Dong Shanshan thought that Wang Guanyu was drunk and that this was what gave rise to her husband's inability to control his temper. So, she gave an opportunity to Wang Guanyu to improve. However, Dong Shanshan continued to be battered by her husband. During the month of March, 2009, she decided to run away from home. Dong Shanshan for the first time disclosed her situation to the family and the police subjected her husband beat her regularly. She told them, her husband always used different way to beat her, such as kicking, biting, shoving, restraining, slapping and that she could not tolerate it any more. Meanwhile, she already went to the court and required divorce with her husband. Nevertheless, Wang Guanyu did not agree to divorce, he tried to kidnap his wife and threatened to kill Dong Shanshan's parents. Moreover, Wang Guanyu beat his wife very badly when he kidnapped her. In order for, Dong Shanshan to withdraw her complaint. So, the court accordingly discontinued the case on the ground that the applicant had withdrawn her complaint. Consequently, Wang Guanyu did not stop beating his wife. During this period, Dong called the police eight times, but the police did not respond to any of her eight calls, they instead pointed out that they did not want to intervene in the affairs of a married couple. They found it acceptable that a husband would abuse his

wife. It is not regarded as wrong or unacceptable, or unforgivable.¹ Meanwhile, they think domestic violence is a private family issue. They do not want to intervention their family affairs. They were only willing to listen when she was found on her deathbed with a belly swollen from a hemorrhage. Yet, when the police came to the hospital to let Dongshanshan give her testimony, her mouth was filled with tubes. She was dying and had no ability to say anything. On July of this year, Chaoyang Wang Guangyu Court of first instance sentenced to ill-treatment 6 and a half years imprisonment (ill-treatment maximum sentence is 7 years)² On October 19, 2009. Dong died from infection in her internal organs caused by severe beating.

Dong's case reveals so many hidden problems about domestic violence in China. Such as 'a lack of specificity about implementation mechanisms and the absence of provisions for effective legal remedies, and no provisions for financing needed solution'³ or from the ingrained idea that domestic violence is a private matter that should be lightly treated in the face of the law, further, despite it is stated as a probable cause for divorce under China's Marriage law, the country does not have a separate legislation that clearly defines domestic violence. This situation is exacerbated by the lack of laws that directly addresses domestic violence.⁴ 'According to statistics provided by <Tonight newspapers>, through investigating 2000 people, the newspaper noticed that 18.9% have experienced domestic violence in their family life. The percentage is 45.8% in 300 instances of divorce.'⁵ 'Meanwhile, according to the results of a government survey released in October this year, out of the over 105,000 Chinese

¹ Valerie Tan, China considers law against domestic violence, at <http://www.channelnewsasia.com/stories/eastasia/view/1166259/1/.html> (consulted on 18 November 2011)

² Wenchen, His wife was beaten to death by domestic violence 8 times the alarm has not reso at <http://hi.baidu.com/wenchen2s88/blog/item/0537fee87c47b03763d09f36.html> (Consulted on 24, November, 2010)

³ Sharon k.Hom, 2010,p.59.

⁴ Banbiantian, Domestic violence at <http://half-the-sky.org/en/domestic-violence/> (Consulted in 2010)

⁵ Wang ge ya, 2000, P.102 .

women surveyed, nearly 25 percent of them said they have been beaten, verbally abused, deprived of freedom or raped by their husbands. In Beijing, statistics show that out of 100 divorce cases filed in court, more than a quarter of them involve the husband abusing the wife.⁶ Moreover, in most cases, even when police do take statements, they do not have a clear definition of what constitutes domestic violence. They think do not regard of domestic violence as being a question of women' rights. Rather they think that domestic violence is a private dispute. They are reluctant to interfere in other families' business. At the same time, finding witnesses who are willing to testify would have been far more difficult in a city. Because on the one hand they think that domestic violence happened in other's family, it is not about their business, they prefer let things drift if they do not affect one personally. Further, there is no denying the fact that it is adventure to be a witness in China. Because in China, there is no effect law mechanism to protect witness's safety that might give rise to them suffer violence attack. So, most of people even though they witness the incident process, they still unwilling to interfere in the case. So, in this case, the lack of evidence has been the main reason why more than 90per cent of domestic abuse cases are not granted divorces by the court.⁷ So, this thesis will examine kinds of case studies in order to analyze and discuss the reasons why the victims are unwilling to sue their husband, even though nowadays there are lots laws that could protect them, and help them find the way out.

At least, the specific stipulations on prevention and sanction of domestic violence are embodied in administrative law, civil law, criminal law and etc.⁸ but according to the 2009 Survey Report on the Needs of Female Victims of Domestic Violence, ways in which victims expect to deal with perpetrators include 'persuasion and education

⁶ Valerie Tan, China considers law against domestic violence, at <http://www.asafeworldforwomen.org/domestic-violence/d-central-and-south-asia/dv-china/1573-china-considers-law-against-domestic-violence.html> (consulted on 18 November 2011)

⁷ Ibidem.

⁸ Long yifi , Yang yijie, 2000, pp.33-42.

(24.3%) , psychological counseling (15.1%), divorce (14.2%), warning (8.8%), compulsory treatment (7.6%), detention (7.5%), law and order punishment (7.1%), prison sentence (5.4%), community service (3.1%), levying fines (2.6%), media exposure (2.3%) ,administrative punishment (1.4%) and economic compensation (0.5%)'.⁹ At this case, it is easily noticeable that the victims tend to prefer to use a “soft way” to punish their husband such as education, persuasion rather than take law measures to protect themselves. By doing so, it is necessary to analyze the reason why victim are unwilling to sue their husband

1.1 Research Question

The research question for this thesis is:

Even though nowadays there are lots of laws, which could protect women from domestic violence, why do women refrain from suing their husbands?

This thesis consists of five chapters. The first chapter is about the research question and method. The second chapter use different kinds of perspective to analyze the theoretical approaches to domestic violence in China, first of all, through analyze the instances of violence in China to know the subject of violence, the character of victim, the form of violence and the degree of injury. After that, using some literatures and statistics to analyze the responses to violence and mention that domestic violence might relate to the criminal case. The third chapter will contextualize my topic in relation to the anthropology of human rights, including the question of the universality of human rights in law and in practice. The fourth chapter asks why women refrain from suing their husbands. The fifth chapter will assess the measures taken against domestic violence in China.

1.2Method

⁹ ABA rule of Law initiative, 2005, p.31.

This thesis will mainly use survey methods, literature research and case studies in order to explore the reason why most Chinese women refrain from suing their husbands. Through Dong Shangshan's case and some survey statistics it will explore and investigate the contemporary social phenomenon of domestic violence. After that, using different kinds of literatures is more specific to make an in-depth explanation of domestic violence in China. Finally, I will analyze the reasons why women do not sue their husbands to point out some measures against domestic violence in China. However, even though use these methods could contribute to the reader even more comprehends the actualities of violence in families in China, there still exist some limitations of these methods. For example, for the survey method, the participants might not tell the truth when they face a sensitive question, such as, if you ask a woman, have you ever suffered domestic violence in your family? If there are lots of people around this women, most of time even though they suffer domestic violence, they might answer no, because Chinese people are often keen on face-saving, they think that it is very a shameful thing to tell people that they suffer domestic violence. So, as usual, in order to save their face, they might fake information to answer questions that makes the statistics less truthful. As for the literature research, after all, lots of experts express their opinions about domestic violence in China, but it is very difficult to find out whether this content is biased or not. The anthropological approach to assessing the impact of domestic violence in China would have been to carry out participant-observation as well as in-depth interviews with involved parties. For reasons of time and funding this has not been possible in my case. And furthermore, as Wu Fei's study on violence and suicide in China reminds us, such research is highly sensitive and difficult to carry out¹⁰. It requires establishing long-term relationships of great confidentiality. As we can see from Wu Fei's study of suicide in rural China, he too had recourse to using documents as ethnographic material rather than relying only on his own face-to-face fieldwork

¹⁰ Wu Fei, 2011, pp.214-236.

encounters. This being said the fact that I am a native Chinese has enabled me to make use of my own personal knowledge background and experience to choose which type of content I find most convincing and thus choose to in my thesis. This could be considered a limitation. On the other hand this is to some extent the precondition for all social science research and anthropology recognizes this explicitly. There is no way of speaking objectively from nowhere. Knowledge is always situated and positioned in time and place.

It could also be said that a limitation of the material used in this thesis is that it gives priority to the point of view of women rather than the point of view of men. If we are to understand violence as something which plays out in social relationships, it would have been desirable to give more weight to the point of view of men also. In this thesis they may come across as evil monsters, whose actions are only partially understandable. However, little research has been done into this aspect, so I have not been able to fully deal with both sides of the coin. However, by also placing the question of violence in relation to the social transformation of society, I hint to an important feature, namely that men may feel that they are under substation pressure to live up to their roles as bread-winners and head of the family as Chinese women continue to gain greater measures of independence.

2Domestic violence in China

According to the All-China Women's Federation's report, one in every ten of the complaints or calls of complaint from the people to the ACWF and the local women federations is about domestic violence. Domestic violence occurs in both cities and the rural areas. It is prevalent in the rural areas where about 800 million people live. Domestic violence also takes place among the population which has received higher

education.¹¹ In my view, the reason why there are a large number of domestic violence issues happening in China is in part because there is no clear definition of domestic violence in Chinese contemporary law. Furthermore, most Chinese people still think that domestic violence mainly referred to violence to women in family, which is considered normal. However, violence infringes on women's lives and health rights, personality right to harm their human body and spirit to some extent between family members by means of force or coercion.¹² Depending on the harmful extent, domestic violence could be divided into serious violence and ordinary violence. The domestic violence, which is seen as criminal offences violating criminal law, includes serious violence, such as murdering, raping and grave maltreatment.¹³

2.1 Actualities of violence in families in China

The sociological literature on China in the nineteenth and early twentieth century indicates that wife-beating was an institutionalized form of male domination¹⁴ Because China is a patriarchal society, from ancient times, and some argue until contemporary times, people think men are superior to women. Women can not enjoy the same rights as men. Most people think that the only right and proper thing is for a husband to batter his wife (*laogong da laopo shi tianjing diyi*)¹⁵ That's the reason why Chinese people don't think domestic violence is a public issue. They think this is common thing, nothing special. They point out that domestic violence as a result of a couple's inability to get along, is a normal conflict between spouses that has simply developed to a certain stage and escalated. Women with battered faces or broken arms, is often seen as indication that there is something wrong with them, something that made violence

¹¹ Anjingyan, 2007, p.17.

¹² Zheng Zhaofang ,1997,pp.93-94.

¹³ Wu Miaohua ,1997,pp.111-112.

¹⁴ C.Gilmartin, 1991 , PP.203-21.

¹⁵ Nicola Spakowski and Cecilia Milwertz, 2005,

understandable.¹⁶ Moreover, this is also a society where few people are willing to talk openly about domestic abuse. It's unusual to discuss one's private problems outside the home, and domestic violence is still largely considered a family affair¹⁷ However, with more and more domestic violence cases happening in China, people start to pay attention on the domestic violence.

2.1.1 The subject of violence

Domestic violence is a pattern of abusive behaviors by one partner against another including husbands to wives, wives to husbands, parents to children (mostly minor children) and children to parents (mostly the elderly and weak ones). In most cases, men do violence to women and violence from husbands to wives is particularly more common. 'Among the perpetrators, low-educated people (at or below high school or secondary technical school level) are the majority.'¹⁸

In addition, according to a research by Women's Federation in China in 2002,¹⁹ varying degrees of domestic violence exists in 30% of the 270 million families, of which nine out of ten abusers are men. According to the research by Marriage and Family Association in Beijing,²⁰ 21.3% women suffer from violence of their husbands to some extent, approximately 1% often get battered by husbands. In real life, the figure mentioned above may be even higher.

¹⁶ Interview 29 April 2001, transcript 2.4

¹⁷ Kathleen E. Mclaughlin, Globalpost , China's domestic violence problem at http://www.salon.com/2011/09/14/china_domestic_violence/ (Consulted on 15, SEP, 2011)

¹⁸ Anti-domestic violence Network of China Law Society, 2009, p.13.

¹⁹ Xinhua, China Women's Federation survey shows that: 30% of families with domestic violence at http://news.xinhuanet.com/politics/2007-11/25/content_7141041.htm (Consulted on 25, November , 2007)

²⁰ Zhaorui qin, 2003, pp.41-42.

2.1.2 Victims

According to the Beijing Court of Justice, a survey of 101 cases from 1986 to 1997 involving husband abusing wives²¹, found the injured females can be grouped into several categories according to occupation with 44 cases of workers and farmers, 21 cases of civil servants, 17 cases of company employees, 19 cases others. Females with high educational backgrounds also suffer from domestic violence. According to the statistics from Red Maple Women Hotline, 40% victims have a college degree or above, 10 people have a master's degree. We can see that most of the victims are those with a lower educational degree, but a number of females with high degrees are becoming the targets of violence.²²

2.1.3 Form of violence and the degree of injury

Domestic violence has many different forms of expression. Main manifestations include violent behaviors including physical aggression or assault (hitting, kicking, biting, shoving, restraining, slapping, throwing objects), or threats thereof; sexual abuse; emotional abuse; controlling or domineering; intimidation; stalking; passive/covert abuse; and economic deprivation.²³ According to the 101 cases from 1986 to 1997 involving husband abusing wives offered by Beijing Court of Justice,²⁴ 7 were seriously injured(6.93), 50 injured(49.50), 44 slightly injured(43.56), of which 13 were disabled and 5 were disfigured(12.87). The overall degree of injury is relatively high.²⁵ No one

²¹ Ludi&Zhang fengqing, 1997, pp. 18-20.

²² Anjingyan, 2007, p.15-16.

²³ Anjingyan, 2007, p.16.

²⁴ ibidem.

²⁵ ibidem .

can deny that fact that domestic violence could cause physical injury and deeply injure the victim's psychologically. 'Especially for the psychological harm of spousal violence against women obviously covers dread, psychological problems, mental disorder and most seriously disparaged personality. '²⁶ According to the 2009 survey report on the needs of Female victims of domestic violence, the statistics mention that the psychological violence occupied 57%, physical violence occupied 36.9% and sexual violence 6.3%. It is easily noticeable that the percentages of victims who suffer from psychological violence are much higher than physical violence and sexual violence.²⁷ Some victims think their husband infringed their personality and dignity that stamped deeply in their memories, Due to this kind of violent environment that gives rise to the victim's lose of self-confidence and do not believe in marriage any more, such as Yu. Before she got divorced, she was often battered by her husband. He always used humiliating words to insult her personality, or fatal threats of violence and deprivation of her liberty. Even though, she has now left her abusive partner, she always said that "when I saw white cars I could not help feeling miserable because his car is a white Santana. I was afraid of the light then, drawing the curtain even in daytime. I had been so scared. It was terrible to recall those days, every night I had nightmare. I had body aches, headaches and fatigue. Moreover, when I stay with a man I always remembered my husband and his abuses that lead to me live in the dread life. "²⁸ That's the reason why for a lot of victims, it is very difficult for them to start their life.

2.1.4 Responses to violence

Fengxian Wang, vice researcher of Academy of social sciences and supervisor of Red Maple Women Hotline in Beijing studied 100 domestic violence cases and found

²⁶ Xue Ninglan, 2005, P.11.

²⁷ Anti-domestic violence Network of China Law Society, 2009, p.17.

²⁸ Xue Ninglan, 2005, p.11.

some modern females tried to rebel against violence. They chose to divorce (28%), try to temporarily resolve the issue along or with family and friends (20%), turn to other channels for help (12%), and live separately (12%). However, the results were disappointing. 58% efforts turned out to fail. 5% victims even receives severer violence after they tried to rebel against it. ²⁹At the same time, according to a survey of Domestic violence in Jiangxi Province, there is 36.35% victims said they would simply submit themselves to humiliation and 17.67% of them responded that they would hide themselves when they suffer from domestic violence. Meanwhile, when the husband violates the law, there are 42% of victims who said that they would not file complaints. Out of these 33.64% of them said they feared that marriage may break down if they lodge complaints, and 87% of them they do not want their child to live in the single family that they would do nothing even if they suffer domestic violence in the family. ³⁰Most abused wives become indifferent or accept passively, they only choose to get divorced when there is no other way out. Some women even commit suicide by ‘inhaling pesticide, taking an overdose of sleeping pills or by cutting their wrists when they failed in seeking help from relatives or divorce.’³¹ They think suicide could help them end of their miserable life, or use extreme ways to retaliate their husband, such as kill their husband, etc.

2.1.5 Domestic violence and criminal case

Once domestic violence has not been timely and effective controlled, it can easily lead to vicious criminal cases. On the one hand, the perpetrators would acts become more intensified - the violence owing to the patience of the battered and the ignorance and tolerance from the outside, which might facilitate the escalation of the slight

²⁹ Anjingyan, 2005, p.16-17.

³⁰ Jiangxi Provincial Women’s Federation, 2005, p.110.

³¹ Xue Ninglan, 2005, p.10.

violence becoming serious and vicious criminal cases. On the other hand, under the circumstances of the intolerability, the battered people might process a counterattack in self-defense which might cause the injury or death of the perpetrator in the case of desperation. In Guangdong province, from 1988 to 1992, the 1300 people committed criminal homicides, and there were 21 females in 1988, and after that the growth of the number had become 22% every year.³² Over half of female criminals are under the situation of domestic violence in Liaoning Province, and over 80% of serious criminals and criminal homicides females prisoners are because of domestic violence. In the female prisons of Liaoning Province, among the 1000 prisoners, there are over 100 people who killed their husbands. In less than three years, in Tieling County, there are seven crimes that involve wives killing their husbands because of intolerable domestic violence. On the 4th November, 1999, a guest from the Police Department indicated that about 30% to 40% of criminal homicides which happened between man and wife, or lovers, which broadcasted in the Legal Report show on CCTV1.³³ In 1999, the senior court of Wuhan city decided 14 criminal homicides which result from domestic violence.³⁴ For example, Liu, 39-years old, married Zhu for several years. She was always beaten black and blue by her husband. In 1997, in order to get rid of family violence, Liu was divorced from Zhu under the condition of giving up all of her property. But Zhu still pestered Liu very often and even beat her up. After few days, Liu could not tolerate it any more. She called the police for help time after time, but the police did not want to intervene. They thought this is internal affairs that they did not willing to deal with this family affairs. By doing so, Liu could not find any help. Meanwhile, Zhu threatened to kill Liu's family members and went to Liu's residential place with some mobsters to intimidate her. Once Liu's husband abducted her and took

³² Kong Xia, domestic violence cause the criminal of battered women, at <http://china.findlaw.cn/lawyers/article/d16687.html>(Consulted on 13 June 2010)

³³ Anjingyan, 2007, p.17.

³⁴ *ibidem*.

her to a rest house. He not only beat and raped Liu, but also demanded 100000 Yuan from her. At this point, Liu felt so desperate that no one can help her get rid of family violence, she thought that only if kill her husband that she could not suffer domestic violence any more and ensure the safety of the whole family. So, she asked three guys to help her to bring Zhu to a place and strangle him.³⁵ In this way battered people sometimes use an extreme way to counterattack their perpetrator. The attorney pointed out that this kind of behavior is called “Syndrome of Battered Females which means that a special behavioral model resulted from a long time abuse. The females find it difficult to control their temper and easy to lose their self-confidence and become sensitive, frail and unsociable. They believe nothing, and can even become insane, commit suicide or kill their husband.”³⁶ Let us consider Liu’s case in relation to this theory. She suffered domestic violence for a long time and could not break away from it. She not only could not get rid of, but also could not stop her husband’s violence. She was powerless since nobody wanted to help her. Furthermore, Zhu always threatened to kill all her family members. She was too weak to stop the violence and threat of her husband, by doing so, she thought that only kill her husband with fear to protect her own life. Through analyze Liu’s case, it is easily noticed that due to violence from husband both in body and in mind for a long period that give rise to the criminal act of the wife happened. In the end violence seemed like the only way to try to attain some measure of agency.³⁷

3 The anthropology of human rights

‘The relationship between anthropology and human rights has been marked by confusion and above all, a sense that anthropology’s most important contributions to

³⁵ Qihuaying, 2003, p.177.

³⁶ *ibidem*, p.178.

³⁷ Liu Wei, 2003, pp.333-334.

human rights theory and practice are yet to come. ’³⁸ For example, ‘anthropology continually has pressed for better cognizance and appreciation of the multiple human rights standards existing in different cultures and the utilization of these understandings to improve global conceptualizations and implementation.’³⁹ At the same time, anthropology could provide conceptual frameworks to structure human rights understandings that could modify human rights behaviors. However, in order to even more protect and promote people’s human rights, it is essential to take consideration of potential causes of violations of these rights which are economic conditions, structural social factors, and political expediency, etc. after all, human rights violations are because of human action or inaction. The reason why this phenomenon exists is because of individual persons act or fails to act in certain ways. ‘People may be driven by selfish motives of greed for wealth and power, or by a misguided perception of the public good. Even when motivated by selfish ends, human rights violators normally seek to rationalize their behavior as consistent with, or conducive to, some morally sanctioned purpose. ’⁴⁰ Due to insufficiency of cultural legitimacy of human rights standards that might cause violence in social life. So, ‘it is necessary to enhance the universal culture legitimacy and develop it retrospectively in relation to fundamental human rights through enlightened interpretations of culture norms.’⁴¹

3.1 The universality of human rights in practice

So far, China already accepted different kinds of laws to protect women’s rights such as, the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and the Platform of Action. Meanwhile ‘the

³⁸ Mark Goodale, 2009,p.1.

³⁹ Ellen Messer, 2009,p.105.

⁴⁰ Abdullahi Ahmed An-Na’im, 2009,p.68.

⁴¹ *ibidem*,p.69.

Declaration recognizes the advancements in the status of women,⁴² but there is no denying the fact that in China there still exist inequalities or violent relationships which violate women's rights, such the fact that Chinese women easily suffer discrimination in the workplace, or Chinese judicial departments seem to fail to take into account the fact that domestic violence violate women's rights. That's the reason why China is often criticized by UN and human rights organizations for violations of women's rights. Furthermore, 'even though the fact that addendum1 mentions inspections and investigations of the enforcement of the women's law, the Chinese government does not describe to which "problem" were "identified".'⁴³ Meanwhile, 'according to the article 48 of China's Constitution stipulates that "enjoy equal rights with men in all spheres of life" however, it makes no mention of prohibiting discrimination against women, or discrimination against any other category of persons.'⁴⁴ Moreover, 'Article 13 of China's Labor Law states, that "Women and men enjoy equal rights to employment"'⁴⁵ but the fact is in China women cannot enjoy the same rights as men in the social structure such as the right to work, the right to same opportunities, etc. Even though there are some laws about how to protect people's rights in terms of employment, women still have suffered disproportionately from unemployment resulting from economic restructuring.⁴⁶

However, no one can deny the fact that the state has their responsibility to guarantee that every citizen and residents in the country can enjoy their human rights. But the question is China already to be a signatory to several international rights covenants and conventions, its political leadership remains generally skeptical of the notion of human

⁴² Sharon K.Hom, 2010, p.60.

⁴³ Human rights in China Asia Monitor Resource Centre, China Labor Bulletin , Hongkong Christian Industrial Committee, 1998,p.2.

⁴⁴ *ibidem*,p.7.

⁴⁵ *ibidem*,p.9.

⁴⁶ *ibidem*,p.9.

rights.⁴⁷ However, in order to deflect international criticism, the state has taken some measures to improve human rights in China. Among other things, the government is willing to make human rights dialogue with the European Union, the government has started to use some money to establish lots of academic centers to research human rights and asked universities to set up some courses which are about the international human rights for law student, etc.⁴⁸ Nevertheless, even though the government has been taking these steps to protect citizen's human rights in China, they still consistently emphasize the collective right to development. Because China is still a developing country, in order to improve citizen's living standard, it is necessary to develop the economy first, and as such, it maintains the right to special consideration of so called 'Chinese values'. After all, 'classical Chinese had no word to express the abstract concept of rights.'⁴⁹ Even though nowadays China has some conception of rights, most people still think that the terms of the 'right' is about loyalty and of parents to filial respect. Moreover, 'there is a persistently strong patriarchal basis to family and social life.'⁵⁰ due to Confucian's influence, most Chinese people still think that as a married woman she must obey her husband and they have to henceforth centre on the family .

So, due to lack of women's sense of laws and due to a Confucian influence that has caused them not to have enough power to enjoy and exercise rights and have little sense of protection of their own rights, many Chinese women who suffer from domestic violence, such as being maltreated or seriously injured in their family, will choose tolerate it or seek for help from her parents and some women organizations. They do not want to use the law to help them to solve their problems and to protect their own rights and interests. They are not aware that domestic violence can be considered a gender and human rights issue. Owing to living with the discrimination caused by the traditional

⁴⁷ Nick Young, 2004,p.54.

⁴⁸ *ibidem*,p.54.

⁴⁹ Wang Gungwu, 1991, pp.167-169.

⁵⁰ J.stacey, 1983, p.4.

ideas about gender, which include domestic violence as being socially acceptable, they do not think discrimination limits them and violates their human rights. No one can deny the fact that domestic violence might restrain and puzzlement in spirit seriously constrains women's development of ability and potential.⁵¹ Moreover, as people know life and health are the basic human rights. But domestic violence could cause injury to the right of life and health. Using violence to threaten the victims that makes victims feels fear, also impairs on their psychological health. Use of hitting, abusing and maltreatment may cause injury to the victim's body. This kind of behavior violates the victim's right of life and health. At the same time, the domestic violence limits the personal freedom, injures the personality, interferes with the marriage freedom and infringes on the sexual rights of women. The doer limits the personal freedom of the members of family through binding, illegal custody, duress or use violence to intervene in the marriage and prohibit divorce action of family members. Meanwhile, the violators sometimes use language to humiliates the victims and ask them to do over-physical work, maltreats the victims physically and psychology. Or sexually maltreating a wife o other female members against their will can be considered a form of sexual violence. This kind of behavior is a violation of the sexual rights of a wife.⁵²

4 Why do women refrain from suing their husbands?

In contemporary of China, the judicial department established lots of general laws but none of them deal specifically with domestic violence in China .Most of time, the specific stipulations on prevention and sanction of domestic violence are embodied in administrative law, civil law, criminal law and etc.⁵³

For the Administrative law, Security Administration Punishment Act of PRC stipulates that whoever commits one of the following acts infringing upon a citizen's

⁵¹ GuoBing, 2000, pp.148-149.

⁵² Hongxiang LI, 2000 , pp.76-77 .

⁵³ Long yifi , Yang yijie, 2000, pp.33-42 .

rights of the person, but not serious enough for criminal punishment, shall be detained for a maximum of fifteen days, fined a maximum of two hundred yuan or given a warning: illegal restriction of personal freedom of others, maltreatment of family member and threatening others' safety or disturbing others' normal lives by writing letters of intimidation or by other methods.⁵⁴ Protection of the Rights and Interests of Women Law of PRC stipulates that where punishments are prescribed by other laws or regulations for the infringement upon the lawful rights and interests of women in violation of the provisions of this Law, punishments prescribed in such laws or regulations shall apply and administrative punishment method to punish defilement of women and illegal restriction of personal freedom of women⁵⁵ .

For the part of civil law, the General Principles of civil law of PRC stipulates, “Citizens shall enjoy the right of marriage by choice. Mercenary marriages, marriages upon arbitrary decision by any third party and any other acts of interference in the freedom shall be prohibited.”⁵⁶The main methods of bearing civil liability caused by domestic violence shall be cessation of infringements, compensation for losses and extension of apology.⁵⁷ General Principles of Civil law of the PRC also stipulate, ‘anyone who infringes upon a citizen’s body and causes physical injury shall pay his medical expenses and his losses in income due to missed working time and shall pay him living subsidies if he is disabled; if the victim dies, the infringer shall also pay the funeral expenses, the necessary living expenses of the deceased’s dependents and other such expenses.’⁵⁸

As for the Criminal law, if domestic violence commits an offence, according to the degree of injury, Criminal law of PRC regulates different criminal penalties according

⁵⁴ Article 22, Security Administration Punishment Act of PRC .

⁵⁵ Article 49, 50, Protection of the Rights and Interests Law of PRC .

⁵⁶ Article 103, General Principle of Civil law of PRC .

⁵⁷ Article 134, General Principle of Civil law of PRC .

⁵⁸ Article 119, General Principle of Civil law of PRC .

to accusation, such as bloodguilt, crime of damnification, forcible rape, crime of illegal constraint, crime of maltreatment, etc.⁵⁹

Even though there are already established some laws which stipulate how to protect victims who suffer from domestic violence, the victims still do not want to sue their husband. Let me try to assess the reasons:

4.1 The effect of traditional cultural values

In traditional Chinese social values, most Chinese people think that ‘the man as the economic supporter of the family are responsible for handling all external affairs, since women have fewer opportunities in terms of education and employment and their participation in public activities is relatively limited, so, they are supposed to manage family affairs, they have responsibility to take care of family members and foster children. Chinese people think that Chinese women’s mission is to bring happiness and harmony to the family, not to be an independent career woman. This stereotyped gender role results in portraying women’s characters as dependent, sacrificial, etc. while men’s character is firm, aggressive and independent.’⁶⁰ Due to these different characters, man is gradually seen as superior and in a dominant position in the society. Obedience and self-discipline become a woman’s virtue. Moreover, in “The theory basis of domestic violence come from Confucian’s three cardinal guides and five constant virtues of which still preach the principle of men’s superiority and women’s inferiority, women were expected to be subordinate to them. So, some men think that they are praised for being able to discipline and wife is their personal property, they have right to control their wife and her behavior and they deem themselves as “true man”⁶¹ Generally speaking, If their wife does not follow their instruction, as usual, they will use violence

⁵⁹ Article 232~238、240、246、257、260、261 页, Criminal law of PRC

⁶⁰ Chen Xiaoyan, 2005,p.54.

⁶¹ Wu Meirong, 2005,p.144.

force their wife to obey their decision. Due to this effect of this traditional culture values they think that it is not a big deal to beat their wife.”⁶² What’s more, when women are repeatedly and constantly abused by their husband, because of traditional culture values, they gradually accept the fact that this is destiny. They believe that the reason why they suffer domestic violence because of they themselves have done something wrong that make their husband feel angry that beat them. Besides, ‘women are influenced by the mainstream concept of society, they think that violence only occurs among a small group of irregular people, so that violence against them is excluded and abuses by husbands are thought to be an expression of love.’⁶³

In addition, most of Chinese people think that the interest of the family as a whole is what matters most. It is possible to achieve this goal by neglecting the family member’s individual rights. Even though domestic violence might violate victim’s personal rights, they think that it is worthy to have a harmonious family life. Further, people claim that wife beating is a family dispute. After all, the quarrel between wife and husband is a common situation. During the period of quarrel, people can not easily control their temper that may give rise to domestic violence, so, as usual, if violence appears in the family, under the impact of the idea “Do not wash your dirty linen in public”,⁶⁴ no matter victims or doers, both of them are always try to hide the fact of domestic violence from the outside world and exclude the intervention of the outside world. Because they are afraid their friends, relatives or neighbors will laugh at them. Woman who suffer from domestic violence, prefer to tolerate rather than sue their husband and take some measures to end of their marriage. Due to Chinese traditional values, people tend to think that if a couple wants to divorce, there must be have some problems with female’s behavior, for instance, she might be betraying her husband or she does not express enough filial piety to her husband’s parents and so on. In this case, most

⁶² Jiang Yue, 2000, p.171 .

⁶³ Xue NingLan, 2005, p.20.

⁶⁴ Qi huaying, 2003, p.25 .

Chinese people will look down on them. Moreover, their parents and their child might suffer from similar situation. People will satirize them. Meanwhile, people point out that non-family member should not be involved in other people's family issues. This traditional value has deep cultural roots. Even if the neighbors who heard the curses and crying, they feel it was inconvenient to interfere in it. Even some law enforcement personnel act coldly and slowly. They think that it was hard for a honest and upright official to deal with a family dispute that they unwilling to deal with this kind of issue. Meanwhile, due to the lack of condemnation from the public, there is not that much measure to stop the domestic violence. At this point, domestic violence is connived to become more and more intensified.⁶⁵

4.1.1 Filial piety

From ancient time until now, filial piety is seen as an important virtue in the family life.⁶⁶ People think that children not only have duty to take care of their parents, especially to provide emotional and moral care, but it is also emphasized in Chinese laws. Moreover, for most of Chinese people, they claim that children still has obligation to support their parents financially. This is a kind of filial piety behavior in China. However, filial piety always raises lots of issues in the family life. Especially for the conflict between mothers-in-law and daughters-in law, after all, in the contemporary Chinese countryside, it is not easy to deal with a conflict between in –laws. The relationship between mothers-in-law and daughters-in –law is highly complex.⁶⁷ Because the ‘Chinese family is now a “cooperative- conflict” unit, “where family members car about each other and cooperate to improve the quality of life but also may

⁶⁵ Qi huaying, 2003, p.193.

⁶⁶ David B.Xue, 2011,

⁶⁷ Wu Fei , 2011, pp.220-230.

exhibit aspects of conflict”⁶⁸ after all, ‘harmony in the family is a kind of unstable homeostasis. One can be happy only through continuous conflict and negotiation with family members. This is especially so in today’s Chinese families’⁶⁹

For the mothers-in-law perspective, they think that daughters-in-law have obligation to obedient them. For the daughters-in-law perspective, they do not think a conjugal conflict is related to the wife and the entire family of her husband. At the same time, conjugal conflict seen as a private dispute in the family, they do not want mothers-in-law intervene in their marriage. In this case, it is very easy to raise some domestic conflict in the family.⁷⁰ However, husband is the proper person to mediate the conflict between the parents-in-law and the daughter-in-law. The husband as a member of both nuclear families, he has responsibility to make the whole family harmonious. So, when his mother not satisfied with his wife and complains to him, meanwhile, his wife also complains to him about his mother, he should know how to satisfy both women and make the whole family harmonious. Nevertheless, if there have conflict between them, most of men. In order to keep their reputation for filial respect, they might choose to criticize and punish their wife.⁷¹

4.2 The influence of social transformation

'Being a country at the elementary stage of socialist construction, China is reforming her economic system, with market economy coming to replace planned economy, and political system. The whole society is undertaking the task of deepening the reform that gives rise to China undergoes social development at the most rapid of rates.'⁷² Everyone in modern society faces the keen competition. Being unable to

⁶⁸ Chen Feinian, 2001,p.63.

⁶⁹ Wu Fei, 2005, p.50.

⁷⁰ Wu Fei , 2011, pp.220-230.

⁷¹ ibidem, pp.220-230.

⁷² Jin yuner, Li Ting, 2000 , p.123 .

tolerate work pressure may cause men to beat their wives as a way to release their pressure. At the same time, nowadays there is a strange social phenomenon in China. For most girls, the first and main standard to choose their spouse is about money. They care about money more than love. If a guy without house, car or enough money to pursue a girl who he falls in love with, he will be refused by this girl. Moreover, even though both of them fall in love with each other, if this guy does not have enough money to let this girl have a middle class standard in China, the girl's family will obstruct the relationship of the couple. According to this social phenomenon, most people claim that even though the Chinese economy continues to be developing quickly, in China there is not a well developed social security system and the rules surrounding the reimbursement of medical expenses are unclear. If you get sick and need to go to the hospital, you have to pay lots of money on your medicine. If you want to buy a house which is located in the central city, you have to pay more than 500 thousand yuan. Nevertheless, the average salary is not sufficient to pay for these expenses. Moreover, many families are suffering from great social insecurity. Salaries and pensions are not being paid and health insurance is virtually non-existent.⁷³ That's the reason why the majority of people believe that the best way to guarantee their life's expenses is to find a man who has enough money to give them an ideal life. This lets some men think 'If I can give you an ideal life, if I am not in a good mood why can I not beat you?'

At the same time, some scholars have argued because of 'the period of de-collectivization and the gradual introduction of a market economy, the high price paid for increased individual space and determination among younger people was a loss of civility and the growth of ego centered consumerism.'⁷⁴ So, 'family life is to raise resources that support family members to cultivate a common hope for the future and an

⁷³ Hastrup, Kirsten, Human rights on common grounds, the quest for universality. The Hague: kluwer. 2009

⁷⁴ Yan, 2003,p.39.

improved family lifestyle. Living a successful family life requires diligence, hard work, and the material and symbolic capacity to support family aspirations. When economic problems make these impossible, the failure of family life might lead to domestic violence, further, Chinese long cultural tradition is in acute tension with modernity in complex ways.’⁷⁵

4.2.1 Marriage

Most Chinese people think that the best way to maintain a marriage is to have a harmonious family life. In order to maintain this kind of harmonious family life, it is possible to sacrifice family members' rights to achieve this goal. Because from most of Chinese people's traditional values, they think that the harmonious family life not only contributes people to enjoy their marriage, but also can help people to get along with each other in the family. However, it is not very easy to achieve a harmonious family life in China. Because for the Chinese traditional marriage values, Chinese people think that the marriage is not only about a couple but also is related to the whole family, such as parents or any other relatives. In case, if people want to have a harmonious family life it is necessary to learn how to deal with complex family relationships in China, such as conjugal conflicts and in-law relationships. Moreover, they have to try their best to accept family member's personalities and try to adopt their family politics which is wife should obey their husband and husband's family's decisions. It is not very easy to handle or cope with. Especially for the family politics, it is about love, emotional attachment and moral responsibility. Some of family members want to get an upper hand in family politic. At the same time, they still seek to earn each other's love and respect. Hence, there are many games of power in the Chinese family. Moreover, when a family member can not meet another's expectation, there will appear “domestic injustice” phenomenon that may raise lots of conjugal conflicts in the family, such as domestic

⁷⁵ Wu Fei , 2011, p.225.

violence and sexual affairs.⁷⁶ Besides, in cases of spouse violence in the family, most of the victims would firstly tell the parents- in-law or other husband's relatives. They wish these third parties could help them to solve this issue. But most of these kinds of people think that "it is preferable to pull down ten examples than to break up a marriage" and "it is a disgrace to divorce and no good person will want a divorce."⁷⁷ Generally speaking, they will try their best to persuade victim to swallow her anger and carry on. Some people see domestic violence as an internal matter. If spouse violence took place in the family, they might get all the family members together and ask them to provide some suggestions which could help the couple to solve domestic violence issues. After that, through simply compare the number of members in the two families, according to the male and female proportion to decide the final result. There are precedents that both families resorted to fight and caused death. These measures in my view weaken women's determination, it could not truly solve domestic violence happened in the family.⁷⁸

At the same time, due to the occurrence of illegal sexual relations that give rise to domestic violence appear in the family. 'Affected by such notions as "sexual liberation" or "sex freedom" advocated by the bourgeoisie, many people especially those who have become wealthy. They think that nowadays they already have enough money to have their material life, and they want to obtain satisfaction by finding prostitutes or mistresses.'⁷⁹ 'According to the divorce cases of second instance heard by the Ji An intermediate People's court, Jiangxi province, it can be seen that more than 25% divorce cases are about one person's extra marital relationships . Further, the percentage of men's extramarital relationships is more than that of women's. '⁸⁰ So, for men, before

⁷⁶ Wu Fei , 2011, pp.214 -215.

⁷⁷ Xue Ninglan, 2005, p.15.

⁷⁸ Wu ChangZhen, 2000.p13.

⁷⁹ Jin yuner, Li Ting, 2000,p.123.

⁸⁰ Ibidem.

they start to find their lovers, they have to get rid of their legal wife. However, for the wife, on the one hand, they could not easily accept a fact which her husband betrayed their marriage. It is too sad to hear that their husband does not love them any more. On the other hand, even though these kinds of women notice that their husband had an affair with other women. Most of women still do not want to divorce with their husband. They may reject the husband's application for divorce.' Because of they do not want their child live in the single family that might bring negative influence on the child. According to statistics collected from Ganzhou, after all growing up in the single family, 61.2% of children are poor in their study, 31.8% of them have an odd and unsociable personality, children are easy to fall into fear, boredom, depressed and feeling humble, with no trust in others. 7% of them escape from family when they can no longer endure the quarrels between their parents. They are most likely to become beggars in the street and even become criminals. ⁸¹Let me tell the story of such as a couple from Zhanggong District. They always quarreled and wrangled all the time after marriage. Growing up in such an environment, their child started to tell lies and play truant ever since a very young age. As he grew up, he developed the tendency to steal and was sent to school of reeducation through labor when he was less than 15. There are a large number of delinquents who violate the law and discipline in China because of negative influence of divorce. ⁸²So, most of female prefer to bear domestic violence rather than separate their family. Meanwhile, in retaliation for her husband's extramarital affair, they will refuse their husband's divorce request. By doing so, it will give make it impossible for their husband to marry his lover. Further, the society will condemn those people who had an affair. In this case, in order to avoid condemnation, most husbands who have an affair are willing to use domestic violence to force their wife to agree on divorce.'⁸³ The case of abuse of Li could totally explain this situation. Zhang is Li's husband. In the early

⁸¹ Jiangxi Provincial Women's Federation, 2005, pp.110-112.

⁸² Ibidem.

⁸³ Ibidem.

days of their marriage, Zhang always beat Li. 'Li showed no restraint because of her mentality that a woman should subject to her husband after marriage'⁸⁴, at this point, this traditional value let her husband feel no pressure to use force to her further. With the promotion of Zhang's position, he always stayed out of family with a mistress. In order to stay with his lover and keep his reputation, He went to the court and claimed that he wanted to divorce his wife and transferred their common property, but Li refused this request. She wanted to save her reputation and preserve an integrated family. By doing so, Zhang did not hesitate to beat his wife and torture her more cruelly in order to force Li to divorce with him. During that period of time, Li was beaten so heavy, Zhang threatened and battered Li more than 30 times. There were 4 times those give rises to Li lost consciousness and stayed in the hospital to accept for first medical aid. Furthermore, Li's eyesight gradually turned from 1.5 to 0.3, and 2 pieces of her ribs were broken. Due to long-term beating, she noticed that she did not want to swallow an insult and suffer different kinds of domestic violence. Finally, she made a tough decision which was divorced with her husband. ⁸⁵But most of time, women still hope to maintain their marriage even if their husband betray them. 'Upon request by women victims, there are 87% of women victims seeking help filed for divorce. But some of them still made requests to judicial departments, they still want maintain the marriage.'⁸⁶ At this point the public security organs should handle the matter according to the legal procedure procedures prescribed in relevant laws and statutes. Penalties provided in the regulations include warning, fine and arrest. The parties concerned were required to be present even when cases are settled. ' ⁸⁷No one can deny the fact that this kind of measure will influence both parties psychologically and is not good for maintaining the marriage. Therefore, women victims are unwilling to let the police interfere in this kind

⁸⁴ Qi hua ying, 2003, pp.297-299.

⁸⁵ Ibidem,pp.297-298.

⁸⁶ Meiqing Hua, 2005, p.269.

⁸⁷ ibidem.

of family issue. They do not want to use judicial measures to solve this issue. For example, Lei had been married to Wu for several years. Due to the fact that Lei gave birth to a girl after marriage – not a boy- her husband felt very angry about this situation. Therefore, he always beat his wife. On August 4, 2002, because Lei opened the windows to let in fresh air, he got mad and beat her again. Due to suffering from domestic violence for a long time, finally, she went to Pingganlu precinct station to report the case. During the period of investigation, the policeman noticed that she suffered a heavy body injury, so, the policemen took her to the hospital to treat her wounds and told her that the judicial departments will handle her case. However, Lei thought that she still wanted to maintain her marriage and she refused police involvement'.⁸⁸

4.2.2 The power structure in the domestic violence

'Even though China has faced social transformations, the traditional notions about family and marriage, which once dominated the minds of Chinese people, have not completely gone into history, and new ideas about family and marriage, which should be fit for the development of the new stage, also has not been fully formed . Against this kind of background, there are presently some conflicts between the old and the new notions about family and marriage. In doing so, it might exacerbate the amount of family violence'.⁸⁹ For contemporary Chinese people, usually a youth couple prefers to choose romantic love way to know one another rather than matchmaking. They want to use their own way to acquaint with each other, at least apart from any actions by their families⁹⁰. 'they think that the ideal of free love was a modern, and for them very important practice which their parents and grandparents did not necessarily understand,

⁸⁸ Meiqing Hua, 2005, p.269.

⁸⁹ Jin yuner, Li Ting, 2000, p.123 .

⁹⁰ Cohen, Myron L. 2005

and had certainly not been able to live according to.’⁹¹ at the same time, in order to get a ideal marriage which they dream of, before deciding upon marriage, most of them would date several people for a longer or shorter period of time depending on age, and then reach a final decision and introduce one of them to their parents.⁹² But older people are worried that young people in love are blind. They think that before people fall in love, they have to think carefully about the spouse’s family background, personalities and defects, and through evaluating these elements one can decide whether to marry or not. For the elderly people they think that family life is different from love. People have to face different kinds of trivial things and complex interpersonal relationships in their marriage. If there is too much of a difference in family backgrounds, it will give rise to an imbalance in the couple’s power structure that may raise conjugal conflicts especially for when one spouse owns money and property. After all, Chinese people think that ‘the economic basis decides on the superstructure. At the same time, the economic seen as a basic condition of stability and peace of a family. Besides, with the transformation to the market economy and the introduction of the competition mechanism, more and more people are lay-off, which leads to the families’ instability, the rise of divorce rate etc.’⁹³ That’s the reason why domestic violence might easily happen in the family. For example, Hefang and Kang Hui is a well-known case of romantic love. Hefang is an actress in a theatrical troupe. Kang Hui is an electrician in the same troupe. Even though Hefang’s mother strongly objects to her daughters marriage to Kang Hui, Hefang finally still married Kang Hui. At the beginning of the marriage, this couple had a very good relationship with each other, but when she finds that Kang Hui cannot earn much money, moreover, Kang Hui use lots of money to buy expensive cigarettes, she feel so angry that use some words to insult her husband's self-esteem and self-confidence. Furthermore, she cannot control her temper and she beat him. At first, Kang Hui thinks

⁹¹ Mette Halskov, Cuiming Pang, 2010, p.44.

⁹² *ibidem*, p.46.

⁹³ Guo Bing, 2000, p.142.

that Hefang sacrificed a lot of things to marry him, so he should be kind to her. Moreover, he feels so guilty that he cannot give her an ideal life, so he granted her the right to beat him and was willing to stand at a disadvantaged position in the power structure of family. However, the more Hefang beat him, the greater the accumulated moral capital hurt him. Finally, he can not tolerate any more, he felt he was justified in fighting back, so, he beat his wife violently.

After all, China is a patriarchal society. Chinese people think that the traditional value of men is superior to women already deep root in the people's mind for many years. The public always like to laugh at men who can not win the power structure in the family. They think that it is shame of men stay at lower position than women in the marriage. So, under the effects of the contemporary market economy, which creates substantial social pressure, most men gradually notice that domestic violence might be a best way to win the power structure in the family. However, most victims think that they should not break the traditional value through which men are superior to women. Men should be the master of the house. That 's reason why even though they are battered by their husband, they prefer to tolerate rather than sue their husband, because it is their fault to give too much pressure to their husband and ignore their personal opinion in the family.

4.3 Lack of legal framework

Even though it is stated as a probable cause for divorce under China's Marriage law, the country does not have a separate legislation that clearly defines domestic violence. According to the international society standards, domestic violence manifests itself in four ways. China only recognizes one and that is behavioral abuse which is essentially physical abuse. But globally, domestic violence also includes psychological abuse,

sexual assault and financial control.⁹⁴ Moreover, even though the supreme people's court of the People's Republic of China have given a vague definition of domestic violence. This definition does not mention how to punish this criminal behavior and how to prevent domestic violence. Even if the victim can get damage compensation from her husband, the fine will probably be paid out of family resources, which is jointly owned by husband and wife, so that he will use part of his wife's property to pay for the damage he has inflicted on her. For this reason, she does not want to lose her money, so, she decides to seek help from her family or All-China Women's Federation. But the experience of violence is more complex. For example, the husband may use some offensive language to insult his wife. In this case, the judicial organs can not use the existing law to deal with all kinds of domestic violence in family. Furthermore, 'As for the cases about common domestic violence, some law enforcement agencies will play down the crime as the business between husband and wife and neglect the complaints from the women.'⁹⁵

Also, 'since the Criminal Law does not define acts of domestic violence as criminal crimes, in judicial practice, a husband's beating up of his wife is generally treated as the crime of injury and maltreatment.'⁹⁶ So, domestic violence can not be classified as other criminal or civil cases. In Chinese law, a husband's beating of his wife is considered as a maltreatment crime. The punishment is relatively light. That's the reason why nowadays there are lots of domestic violence behavior commit the crimes of intentional injury. But most of courts use crimes of abuse instead of crimes of intentional to punish violator or not guilty. Li 's case could totally explain this situation. Zhang is Li's husband. During the period of 21 years of married life, Zhang always beat

⁹⁴ Valerie Tan, China considers law against domestic violence, at <http://www.channelnewsasia.com/stories/eastasia/view/1166259/1/.html> (consulted on 18 November 2011)

⁹⁵ Yuan Biyun, Rpng Xiuqin, 2000, p.270.

⁹⁶ Guo huimin, 2005, p.39.

his wife and this caused Li's partial loss of eyesight, two of her ribs were broken and she has still suffers from this deformity. She decided to sue her husband and accuse Zhang of abuse and demand that Zhang compensate for her medical cost. But the court made the adjudication that the private prosecutor and the accused have been married for over 20 years. Due to couple's different personalities, it is very normal situation that both of them often quarreled with each other. Even though the accused beat Liu more than 10 times and this has been proved, the assault and battery of the accused happened only by accident. It was not regular, continuous, and consistent maltreatment with wicked means. Thus, the conduct of the accused was not seen to constitute the crime of abuse. Li was not satisfied, and presented an appeal. The intermediate court of city still determined that the accused was not guilty. Li decided to make a complaint to the High people's Court of the Province. The High People's Court held a meeting of expertise. But there was still not made a final adjudication.⁹⁷

In my opinion, this case indicates to us that the criminal legislation still needs to be improved. Even though Liu suffers from domestic violence for several times and give rise to Liu's body injury, the violator was not guilty. This is an unfair judgment. Further more, at the beginning of the thesis, Dong Shanshan's case mention that Dong died from infection in her internal organs which had sustained severe beating. It is easily noticeable that Dong's husband's behavior should be considered a crime of intentional injury. But the Chaoyang Wang Guangyu Court of first instance sentenced him to ill-treatment 6 and a half years imprisonment (ill-treatment maximum sentence is 7 years)⁹⁸. The judicial departments claims that according to the Criminal law, only victims who can provide forensic authentication of at least flesh wound, call the police in time and ask them to provide a written authorization for forensic authentication can be

⁹⁷ Qi huaying, 2003, pp.183-184.

⁹⁸ Valerie Tan, China considers law against domestic violence, at <http://www.channelnewsasia.com/stories/eastasia/view/1166259/1/.html> (consulted on 18 November 2011)

determined as the crime of intentional injury.⁹⁹ The fact is that nowadays lots of judicial personnel still think domestic violence is a family issue, even though victims call the police several times, they are unwilling to deal with this internal dispute. They neither take any notes nor provide written authorization for forensic authentication that may enable the victim to obtain evidence. Because in China only public security authorities, public prosecution offices and courts write authorization, the judicial forensic authorities could prove authentication for the degree of wounds to victims. This medical report could prove that the battered females are slightly or seriously wounded that can cause sanctions to be imposed on force users. By doing so, if judicial departments do not provide authorization that lead to victims can not collect evidence to sue their husband and not be able to have legal protection. So, the judicial department attitude could determine the size and numbers of concealed and unsolved crime for a great extent.¹⁰⁰

Moreover, according to the Criminal law of PRC, only the domestic violence causes minor injuries, or crimes of maltreatment and crimes of defilement, the judicial organs will take some measures to interfere in the case.¹⁰¹ And ‘according to the Regulation of Determination of Minor Injuries of Bodies on a Trial Basis, minor injury refers to injury caused to the structure of tissue organs to a certain degree or injury caused to part of functional disorder by various external factors such as physical, chemical and biological factors.’¹⁰² The reality is that even though a large number of women suffer from domestic violence, which causes injuries to their bodies, the point is that not all of such body injuries meet met the requirements of the extent of minor injury. For example, according to a survey of Domestic violence in Jiangxi Province, ‘female victims of

⁹⁹ Valerie Tan, China considers law against domestic violence, at <http://www.channelnewsasia.com/stories/eastasia/view/1166259/1.html> (consulted on 18 November 2011)

¹⁰⁰ Guo Huiming, 2005,p.41.

¹⁰¹ Article 246,257,260, Criminal Law of PRC.

¹⁰² Guo Huimin, 2005, p.37.

domestic violence with slight injuries account for about 70% of victims, those with minor injuries make up 20%, and those with severe injuries, violence causing disability and death, constitute about 10%. That is domestic violence usually causes slight injury and most of these cases do not meet the requirement of minor injury. In fact only few cases would constitute grave cases of domestic violence. ¹⁰³ So, even if the hospital provides some evidence, which could prove that these women are sufferers of domestic violence inflicted upon them by their husband, the court still will turn down their requests, because they think this kind of case is lacking in legal grounds. As a result in practice, they just accept some cases which relate to the severe injury or cases causing death. ‘A survey conducted in Hunan Province revealed that among 254 cases of domestic violence, only 55 of them were intervened, and only 27 persons among the perpetrators were made to assume criminal responsibility. All the rest were subject to administrative penalty or punishment. Those under criminal punishment usually inflicted severe bodily injury to the person’¹⁰⁴

At the same time, <The circular of the civil Law> mainly deals with civil cases. Administrative liability is investigated by < The Penal Rulers of public Security and Administration>. The principle of voluntariness is adopted. The court and police can depend on the victim’s requirement in order to investigate the case. If the victim decides to withdraw the suit during the period of survey, the court will stop surveying the case immediately. However, a number of domestic violence cases relate to financial issues, so, if the cases involve a measure of compensation or a serious administrative burden, the rules of law must be enforced prudently. ¹⁰⁵

In addition, even though the Marriage Law of the PRC has made a definition of domestic violence and ‘affirmed that domestic violence is prohibited and maltreatment

¹⁰³ Jiangxi Provincial Women’s Federation, 2005, p.109.

¹⁰⁴ Guo Huimin, 2005, p.38.

¹⁰⁵ Hongxiang LI, 2000, p.81 .

and abandonment of family members are also prohibited, the law does not define those offences and does not provided elaboration through enumeration.’¹⁰⁶Furthermore, in the Marriage Law, there are no explicit provisions for the matters in the judicial practice, such as how to understand the relationship between domestic violence and abuse; whether the compensation for the damage should be included in the compensation for damages in a case of divorce resulted in by domestic violence, etc. The law does not provide judicial intervention under emergent circumstances and lacks provision of injunction.¹⁰⁷ So, ‘this accounts for confusion in judicial practice in determining violence against women or domestic violence.’¹⁰⁸Even though the Marriage Law has established the system of compensation for divorce as a result of domestic violence, it is only a ground compensation of the party who has offended the other party in the case of divorce. But due to the policy of “Common property” of a married couple enforcing such a policy under the current system of marriage and property is very difficult. Particularly, for some people who are still in the marriage, it is too difficult to address the claim for compensation for domestic violence.¹⁰⁹At the same time, the Marriage Law does not mention how to regulate the respect of the right of fostering children that might lead to women not easy to get gain custody of her child.’¹¹⁰ because according to the power structures in the family, most Chinese women are in a lower position than their husband and in a disadvantaged status that might influence females to compete for the right of fostering children. After all, in China, the judges always use different kinds of aspects s to estimate whether either husband or wife has ability to foster their child. If woman always stay lower status than man, they can not gain the right to foster her child.

Further, The Marriage Law does not mention imposing necessary compulsory

¹⁰⁶ Guo huiming, 2005, p.39.

¹⁰⁷ ibidem, p.44.

¹⁰⁸ ibidem, p.39-40.

¹⁰⁹ ibidem, p.40.

¹¹⁰ Qi huaying, 2003, p.199.

measures to prevent violence from occurring again.¹¹¹ The Marriage Law does not establish some articles which could protect the weaker party. In addition, ‘the Marriage law does not explicitly make clear prescriptions for the functions and responsibilities of the authorities.’¹¹² By doing so, it is very difficult to determine in what way the police and judicial organs are responsible parties, how and when they should act and what kind of role a neighborhood committee and a village committee should play. Therefore, various institutions do not know how to perform their duties and how to cooperate with each other. Further, ‘the regulations to supervise and urge these authorities to help the battered females and stop domestic violence are not strict enough.’¹¹³

As for the Crime of Rape in marriage, up until now there are still no legal regulations which can determine whether rape in marriage constitutes a crime, either Criminal Code 1979, nor amendments of Criminal Code of 1997. Furthermore, the current Criminal Code still does not stipulate that rape in marriage constitutes a crime. At the same time, the Criminal Code doesn’t exclude the sexual intercourses by a husband with violence from rapes. This has led to an increasing number of instances where women claim to have been raped by their husbands. ‘Among 3,300 divorce disputes decided by courts in a city in Shangxi Province, above one quarter of them belongs to cases arising from marital rape committed by husband,’¹¹⁴ for example one women, Yaomarrried Bai in 1994. After a few years, both of them noticed that they are did not get along with each other. They always quarreled.. In order to get rid of disputes in the family, Yao decided to file for divorce and went back to her parent’s home. Although several committees mediated in relation to their divorce issue, they still did not make an agreement. On May 2nd 1995 Bai went to Yao’s residential place and ask

¹¹¹ Qi huaying, 2003, p.203.

¹¹² ibidem, p.199.

¹¹³ Ibidem.

¹¹⁴ Guo Huiming, 2005, p.38.

Yao to return the bride's price. When he came to her room, he notice that she was taking off her clothes and going to bed, and at that time, he wanted to have sex with her. Yao refused and fought with him. In so doing, Bai got so angry that he sat on Yao's body and used a pair of scissors to cut off her shorts. Yao continued to fight with him, but he turned her over, tied her hands and did that once more. He violated her for 5 hours, it caused her to faint. She had to stay in the hospital to have first aid treatment. When she woke up, she decided to sue her husband. After a few days, she went to the court to accuse her husband, but the Yi Country Court of Liaoning Province pronounced that Bai was not guilty on Oct.13, 1997.¹¹⁵ The court claimed that 'there is no harm to the wife's right of sex autonomy between Legal spouses, whether the two parties live apart or not.'¹¹⁶ According to custom or legal regulations in China, husband coerced his wife to make sexual intercourse can not be settled as rape. Leading to the situation in which marital rape cannot be handled. Due to the fact that there are blank spaces in the law and it is thus difficult to find proper evidence. As a result most of such victims, although severely injured, they still give up to sue their husbands, because they think that it is not useful to use the law to protect themselves. Even though, they sue their husband, the court will decide that their husbands are not guilty. At the same time, 'they are unwilling to charge against their husbands for fear of humiliation upon the whole family if the husband is sentenced to jail,¹¹⁷ they just hope the institution could help to take some measures to stop violent acts and discipline the perpetrator. That's the reason why they prefer to tolerate and use their way to solve this issue rather than go to court to sue their husband.¹¹⁸

4.4 Weak judicial protection

¹¹⁵ Xue NingLan, 2000, pp.490-491.

¹¹⁶ Li Dun, 1999.

¹¹⁷ Guo Huiming, 2005, p.38.

¹¹⁸ Xue NingLan, 2000, pp.491-492.

The state judicial agency has the responsibility to protect a female victim of violence. However, some female victims still have to return to their home and stay at the former residence after the judicial departments accept complaints. During the period of investigation and evidence collection, the victim always requires public security organs to protect their personal security. But public security organs often feel powerless. Because they claim that accordance to the Law, they cannot take compulsory measures to detain the abuser unless the violator violates the Criminal Law.¹¹⁹ But the fact is that nowadays most of incidences do not live up to the requirements for Criminal Cases. Thus, it is very difficult for the public security organs to take sufficient measures to protect women from further harm of domestic violence.¹²⁰ In by doing so, the victim is not under effective protection, therefore, their personal safety is still exposed to further threat of the violators after being abused. It might give rise to them being retaliated by the violator. Moreover, even if they keep silent and do not report the case to the police, their personal safety is always subject to the threat of violence. For example, according to a survey carried out by the Women's Federation of Maan shan City, the statistics indicate that there are 41 cases of domestic violence which were accepted in 1995, among which 24 occurred during marriage, 2 occurred during divorce lawsuits, 8 happened after divorce and 7 cases appeared among family members.¹²¹ This shows that many women suffer from violence, even if the victim already divorced her husband, she might still suffer domestic violence from her ex-husband.so, in order to avoid to face further threaten and make sure their personal safety and life, most of victims does not want to report the case to the police.¹²²

Because the police have a vague definition of domestic violence, domestic violence is considered to be a private issue. There will be no judicial organs that interfere in other

¹¹⁹ Meiqing Hua, 2005, p.267.

¹²⁰ *ibidem*.

¹²¹ Aimei Guo, 2000, p.110.

¹²² Guohuiming, 2005, p.44.

people's family life. Only if domestic violence causes heavy injuries and death, the judicial departments will be involved in the case. Most of the time, the wives are afraid of their husbands' despotic power, they may be tortured even more heavily and live in the unbearable lives if they sue their husband. Further, the violators will use different way to threat victim's life and family members. So, most of victims are unwilling to prosecute against their husbands out of fear of their retaliation as well as social humiliation. At this point, the judicial departments will not care about others business. After all, most of judicial authority thinks that domestic violence is a family affair. So, in most violence case, it will not be treated seriously that give rise to the violators will not be restrained and victims can not get effective legal protection. By doing so, there are a large number of victims said that they are helpless and at a loss of what to do when they suffer domestic violence in the family. So, due to weakness of the law in front of family violence that brings seriously negative impact on women, such as, the victim feel so desperate that nobody is willing to help them, so they would rather die than live and risk their lives to kill their "husbands". According to the Liaoning Women's Prison's statistic mention that there are more than 10% female prisoners who committed the crime of killing their husband.¹²³ At the same time, "The investigation conducted by Jiangxi Female Prison shows that of the 105 female murderers, 43 were put into prison for the homicide of their husbands, accounting for 40.95% of the total."¹²⁴ But even though most of them resorted to murder as a last resort because they suffered a long time of abuse they have different discretionary punishment. According to the 'Article 61 of the Criminal Law, when sentencing a criminal, a punishment shall be meted out on the basis of the facts, nature and circumstances of the crime, the degree of harm done to society and the relevant provisions of this law.'¹²⁵ At this point, different judges have different opinions on domestic violence that might make quite different adjudication.

¹²³ Wang Shaolan, 2000, pp.332-333.

¹²⁴ Zhu Yaoqin, 1994, p.22.

¹²⁵ Article 61, Criminal Law of PRC

Because some of them ignore the fact is the reason why the criminal act of the wife happened because of violence from husband both in body and in mind for a long period. They always think that no matter which kind of special situation the victim suffered, there is no one can deny that these women kill people, this is illegal behavior. This kind of behavior should be dispose as normal murder cases. From my own opinion, this is out of the justice of the law to the abused females.

However, the court always treated this kind of case as normal murder cases that are out of justice of the law to the abused females.¹²⁶

At the same time, for the community intervention, most victims if they suffer from domestic violence, firstly they will go to resident's committee and village cadres or seek help from the leadership of the unit. Even though some of these institutions are reluctant to take action, the usual method is mediation. They might criticize the violator's behavior and try to educate the abuser and ask him to write a pledge that the abuser promise no more violence in the family. Nevertheless, as usual, it is not very easy to restraint abusers from battering. Once the wife returns home, the violator might think that it is necessary to punish her, because they feel that they have lost face in the public sphere, they want to use violence to express their anger. No matter which kind of pledge he already wrote, he will quite often curse, beat and torture the wife physically and psychologically more severely. For example, Li, told her husband's leader that her husband always beat her. The leaders tried to use a mediate way to solve the issue, but her husband always denied ever beating her. At this point, the leaders think that this is a family issue, and it is very difficult for them to intervene in other's family issue. Furthermore, the husband did not admit abuse, so, they have to look into the facts. However, they did not take further action. In so doing, Li wanted to move out of her residential place and get away from her husband. She asked her own working unit for a small room where she could put in a bed. But the authority departments refused her

¹²⁶ Qi huaying, 2000,pp.179-180.

request. They claimed that “if we give a room to you, your husband would think that we support you in divorcing him.”¹²⁷ So, Li had to stay in her original place, and her husband was still able to break her door and go in to rape her. After a period of time, she can not bear her husband’s violent behavior, and she believed that she could escape the abuses. The reaction was to resort to violence. The only perceived option was to kill her husband.’¹²⁸In the end, she killed her husband. This case could totally explain that due to community and unit intervention’s inability and unwillingness to react and to prevent abusers from committing future violent acts, this kind of tragedy happened in the family.

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In addition, general speaking, most women victims are economically disadvantaged in the family. Some of them are laid-off workers or have not find a job. Thus, they might not have enough money to afford medico legal expertise’s expenses. Moreover, the public security organs can not help victims to pay this money. So, victims often hesitate to decide whether to use medicolegal expertise to help them during the course of investigation and evidence collection. For example, Pingganlu precinct station dealt with a case of wife Leng being beaten by her husband. At first, the police provided a letter of authorization and suggested victim to do medicolegal expertise, but Leng hesitated for a long time, because she did not have money to afford mediaco legal fee.¹³⁰Only when the chief of the precinct station tried to remit the charge did Leng have the minor injuries expertise done. It might do to remit the charges when there are comparatively less cases as such, whereas it is hard to do so when there are a lot more cases.’¹³¹

5. Measures against domestic violence in China

¹²⁷ Xue NingLan, 2005, p.16.

¹²⁸ *ibidem*.

¹²⁹ *Ibidem*

¹³⁰ Meiqing Hua, 2005, pp.267-268.

¹³¹ *ibidem*.

5.1 Improvements of the legal system against violence in families

In my opinion, laws and policies and their execution should be improved. In contemporary China, there is clearly a lack of domestic laws to regulate family violence, as I have tried to account for in the above. Most often in cases of domestic violence, the court will depend on the degree of injury to deal with case. Only in instances where violence gives rise to serious injury on victims that commit criminal offenses, the court will use civil law to punish the doer. However, presently nothing can be done to punish the widely-existing ordinary injuries in practice that led to victims can not protected by laws. In this case, the legislation organs should take some measures to protect the victim's legal right.

Let me make a small cross-cultural comparison. For instance the <Australian Domestic Anti-Violence Law>, is able to prevent domestic violence by penalty or civil methods.¹³² To draw up a rule of preventing and curbing domestic violence seems useful.

The first step is making a clear definition of domestic violence in China. Because since the founding of the People's Republic of China, so many laws point out that discrimination and maltreatment of women is prohibited and yet they are insufficient when put into practice. For instance, the Law of the people's Republic of China On Safe guarding the Rights and Interests of Women promulgated in 1992 restates that women have the same status as men in the society and has equal rights in all fields.¹³³ Even though, there are some laws about how to protect women's rights and interests and stipulate punishment measures for the violation of women's rights and interests, there is no concept of domestic violence appeared in the present law in China. In this case, China could follow the example laid out by "The United Nations "Declaration on the

¹³² Wang Geya, 2000, p.113 .

¹³³ Ibid.

Elimination of Violence against Women” which states that “violence against women” means any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹³⁴ Through analyzing this sentence to make a definition of domestic violence which is more specific and increasing operability that could be used in the diversified reality and development.¹³⁵ By doing so, the power institute could use this clear definition to make a domestic law which could provide sufficient and functional legal basis for dealing with domestic violence in accordance with the law.¹³⁶

The second issue regards punishment rules. It is important to point out that the doer has to accept relevant administrative, economic and criminal responsibility. ‘In the experts’ suggestion to the revision of ‘Marriage and Family law’ there is no concrete reference to the issue of family violence. The experts claim that it is vital to revise the ‘Marriage and Family Law’ and added some amendments to ‘Marriage and Family Law’, such as the system of compensation should be established to give damages to the victims of domestic violence. Such damages, given when the marriage relationship still exists, will compensate the injured party and are a good lesson to the violence conductors as well as a consolation to the victims. Such damages, given when the marriage relation breaks up, can make up for the losses of the victims owing to the renouncement of marriage relation’¹³⁷ and help them to get rid of their worries over the effects of divorce. It is still essential to establish the conclusion of agreement which is about ‘the spouses can agree that the property obtained before marriage by one party or both parties and a part of it belong to both spouses jointly or respectively. At the same

¹³⁴ UN General Assembly , Declaration on the Elimination of Violence against Women at <http://www.un.org/documents/ga/res/48/a48r104.htm>(Consulted on 20, December, 1993)

¹³⁵ Guo Bing, 2000,p.145.

¹³⁶ Yu Rong, 2000,p.429.

¹³⁷ Jin Yuner, Li Ting, 2000,p.126.

time, the spouses can agree that the property acquired during the existence of the marriage or a part of it belongs to them both jointly or respectively.¹³⁸ in so doing, the “conclusion of an agreement” could help couples to solve the division and property, prevent the husband from moving and concealing the property and protect the wife’s property from not to be violated illegally.¹³⁹

At the same time, the Marriage Law stipulates that domestic violence is not only about body injury, but also to the mind. Therefore, the legislation departments should consider investigation into the criminal responsibility for the violence to the mind of females, such as violator threat victim’s life, control victim’s freedom, insult victim’s reputation or the threat of victim’s family member, relatives and friends when causing serious consequence.¹⁴⁰ By doing so, it is necessary to establish local rules and regulations in all parts of China, and make full use of other country’s experience of fight against family violence to complete legal system. In so doing, the protections of victims can be done reliably on the basis of law.¹⁴¹

For the Civil Law part, ‘it is necessary to adopt compulsory suspension of the relation of joint property of the husband and wife in view of the difficulty to compensate for the damage during the existence of marriage through the application of the client in special circumstance. The court may decide to suspend the relation of joint property to adopt the measure of separation of property.’¹⁴²

Thirdly, at present the judicial department lack of power of supervision on law enforcement should be addressed. So, it is necessary to strengthen the execution of law especially the administration law. ‘Public security departments, procuratorates, courts and administrations concerned should fulfill their own duties and severely punish the

¹³⁸ Liu Wei, 2003, pp.368-369.

¹³⁹ *ibidem*.

¹⁴⁰ Qihuayin, 2003,p.207.

¹⁴¹ Jin Yuner, Li Ting, 2000,p.126.

¹⁴² Qi huaying, 2003, pp.207-208.

doers of the family violence according to laws.’¹⁴³ Meanwhile, the judicial organs could take foreign country’s example, such as the Australian one mentioned above or the British one, both instances of how to deal with domestic violence. By doing so, the power authority could make full use of these countries’ practical experience to strength law enforcement, legal aid and promote legal measures of legislation. For example , the <Bill of family > of Britain stipulates that ‘ the court has rights to issue a no molestation writ and mutual added power of detention, Police is in charge of execution of detention, A sufferer may send an application to court for issuing a detention writ, court of public security may implement power of detention. ’¹⁴⁴ In so doing, the judicial departments could increase strength of law enforcement and curb acts of domestic violence effectively. Let laws work into families to protect family member’s legal rights and stop domestic violence from family life.

Fourthly, from the first section of article 260 of Criminal Law stipulate that ‘A person who maltreats a member of his family shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance if the circumstance is flagrant. A person who commits a crime under the preceding paragraph, thus causing serious injury or death to the victim, shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years.’¹⁴⁵ But the point is only victims direct complaint to the People’s Court, the court will start to investigate the case. In practice, most of victims are afraid of suing their husband that led to violator can not be investigated into legal responsibility. By doing so, Beijing Association of female Public Prosecutors suggests that the People’s Prosecutors’ office could help victims to petition a public prosecution to investigate the violators on behalf of the country.¹⁴⁶

¹⁴³ Ibidem.

¹⁴⁴ Chen wei , 2000, pp.259-260.

¹⁴⁵ Article 260, Criminal Law of PRC

¹⁴⁶ Zeng Xiuping, Chen Houyuan, Wu Xun, 2003, p.227.

Fifth, nowadays the domestic violence is still a widespread phenomenon in Chinese society, and this kind of behavior could bring negative effects to the society. It seems clear that the existing laws and regulations still can not effectively deal with domestic violence problem. So, it is necessary to make unified anti-domestic violence legislation at the level of basic law to prevent and stop domestic violence. Moreover, compared to the international legislation, the Chinese legislation still has a long way to go. In so doing, it is essential to adopt of an anti-domestic violence law that could bring the Chinese law in conformity with the general legislative trend of the international community of strengthening the protection of the interest of vulnerable groups.¹⁴⁷ Nowadays in China, there is already a draft proposal which is about Law of the People's Republic of China on the Prevention and Punishment of Domestic Violence. In the draft proposal, some basic principles which are about how to prevent and punish the domestic violence are listed. These principles embody the basic values of the law in a highly generalized form, such as, 'this draft establishes the principle of prohibition of all forms of domestic violence. All forms of domestic violence must be combated and prohibited and there shall be zero tolerate towards domestic violence or the principle of putting the victim first. The principle takes the protection of the lawful rights and interests of the victims of domestic violence as the direct objective of the law and gives special protection to minor victims of domestic violence, etc.'¹⁴⁸ In addition, this draft proposal also makes a clear definition of the concept of domestic violence that could increase the protection of victims and establish anti-domestic violence committees to coordinate the multi-agency cooperation mechanism.¹⁴⁹ At the same time, 'establish a social intervention mechanism and construction of a pluralistic and punishment system and service .further, establishment of the system of the system of civil protection order and

¹⁴⁷ Xiayinglan, 2010, pp.43-45.

¹⁴⁸ ibidem, p.49.

¹⁴⁹ Xiayinglan, 2005,pp.48-49.

strengthening the before-the –fact prevention of domestic violence, etc’¹⁵⁰ Moreover, the content of the Draft Law of the PRC on the prevention and Punishment of Domestic violence still states that ‘it is necessary to improve of the rules of evidence and reasonable sharing of burden proof, meanwhile clarification of legal responsibilities and construction of a system of legal responsibility for domestic violence.’¹⁵¹ ‘This draft proposal is conducive to create a new social tendency to condemn the abuse of women and advocate for respect and protection to women this law could contribute to help women foster a sense of self –respect, self –reliance and improve their own qualities and the capability against violence. At the same time, it is a good way to foster a cultured and progressive outlook for women in the society.’¹⁵² Meanwhile, through establishing this kind of law is conducive to improving the strict enforcement of the laws. At this point, the power authority could better deal with the domestic case and change the loose law enforcement against domestic violence.¹⁵³ Even though a draft proposal stipulates different kinds of principles to protect victim, but this proposal still do not put into force. Therefore, it is essential for the judicial department to accept this draft proposal and put it into force in the society in such a way that could help victim to even more enjoy their rights and protect them from domestic violence.

5.2 Legal measures for assisting victims

‘The fact that victims of violence resort to violent responses to end violence often results from inadequate social intervention and comprehensive effects of other social factors, in addition to lack of legal knowledge. The establishment of new models of social intervention depends largely on the multi-dimensional supports from

¹⁵⁰ Xiayinglan, 2005,pp.50-51.

¹⁵¹ ibidem, pp.52-53.

¹⁵² Yuan Biyun, Rong Xiuqin, 2000, p. 273.

¹⁵³ Idem.

governments and necessary rules and law'.¹⁵⁴ So, I think the nation has a duty to help victims to set up some organizations to help women who suffer from domestic violence. It is vital to establish an aid system to protect victims such as, providing a temporary shelter to the victims. Besides, it is possible to establish a family court at various levels.¹⁵⁵ According to the different situation, the legislation organs use different laws to arbitrate different cases of marriage and family, especially for use means of civil punishment.

Strengthening the legal aid with public security agency and periodically supervise of law enforcement whether stipulated or not is important. The different levels of people's congresses have the responsibility to strength legislation work and intensify supervision over the enforcement of law. Even though nowadays there are lots of law mention punishment of domestic violence and prohibition these kinds of behavior, they are too abstract. Therefore, in order to improve this situation, the judicial authority should formulate local regulations to combat domestic violence within the legal framework, taking into consideration actual conditions. Meanwhile, 'the congresses should also intensify efforts in supervising the enforcement of Law. Supervision and examination of the implementation of local statutes and regulations relating to domestic violence by local government and judicial bodies should be strengthening. So this could guarantee the combating of domestic violence and the effectiveness of the enforcement of law.'¹⁵⁶

The public security department has the responsibility to deal with domestic violence seriously, for instance, if the public security department receives a call from the victim. They have to take measures to investigate the violence case immediately, after that, according to the different kinds of evidence, to decide whether to detain the suspect or not. So, 'the public security should fulfill their own duties and severely punish the doers

¹⁵⁴ Xue Ninglan, 2005, p.21.

¹⁵⁵ Chen Wei, 2000 , p.248 .

¹⁵⁶ Jiangxi Provincial Women's Federation, 2005, p.110.

of the family violence according to laws.¹⁵⁷

Courts should take compulsory measures to prevent husbands from interfering in the prosecution rights of their wives during the period of proceeding. At the same time, the court should not refuse to place cases on file if victims can not provide enough evidence. 'In case of divorce, the court should support the victim's claim for the tort to take the ordinary civil liability to be taken by the tort, when the injuries of the two parties of one party happened between relatives.'¹⁵⁸ Meanwhile, 'in the case of domestic violence, the protection order refers particularly to the decisions or adjudication made by the court to force users to prevent certain persons from suffering from domestic violence.'¹⁵⁹ If the violator refuses to execute the protection order, the court could take some compulsory measures to impose on them. At the same time the court could use look to the USA, which takes probation as the main way and psychological guidance as the auxiliary measure to the criminal. In cases where the violation does not constitute a crime, the court should order these kinds of people to receive a psychological guiding therapy.¹⁶⁰ In addition, due to the privacy and reiteration of domestic violence, the judicial department has the responsibility to establish a special family tribunal which focuses on the domestic violence case.¹⁶¹

Meanwhile, it is necessary to promote the training of judges of the family court and strengthen judicial personnel's consciousness of sex, human rights, law.¹⁶² It is necessary to help them to eliminate the misunderstanding of domestic violence in order to handle cases of domestic violence timely and fairly. At the same time, encourage them to use legal methods to actively intervene in the investigation of evidence. Due to the privacy and reiteration of domestic violence, all political and legal departments

¹⁵⁷ Guo Bing, 2000,p.145.

¹⁵⁸ Tao Yi, 2000,p. 472.

¹⁵⁹ Gao fengxian, 2007.

¹⁶⁰ Ibidem.

¹⁶¹ Qi Huaying, 2003,p.212.

¹⁶² Zeng Xluping, Chen Houyuan, Wu Xun, 2003,pp.227-228.

should take consideration of the methods to keep the evidence and how to collect useful evidence when they deal with domestic cases. By doing so, it will protect lawful rights and interests of family members effectively.¹⁶³

For the victim, it is very difficult to find witnesses to provide evidence which can help the victims when wanting to sue their husband. By doing so, 'it gives rise to a situation in which the abusers are usually leniently punished or exempt from criminal penalties and women victims, at most, only get civil compensation.'¹⁶⁴ sometimes due to withdraw to when they suffer domestic violence, the court should still place violence cases on file and use their functions and powers to help victims to investigate case and help them collect evidence. At the same time, 'the courts should adopt the principle of first dividing estates and then paying compensation which include the damages for the actual injuries and spiritual harm. If some cases appear, which are about how one party should compensate the other's injuries in the family, at first 'the court should declare to terminate the property relationship, after that, using the separate ownership system and divide the community property, finally make a decision to enforce the compensation.'¹⁶⁵ If the victim has real trouble in their lives after divorce, they should get proper economic support on a lump sum basis.'¹⁶⁶

In addition, it is necessary to establish identification institutions that can help victims to collect and preserve evidence. They have the responsibility to accept all the application. All kinds of domestic violence's medicolegal expertise should offer some evidence which could help victims to sue their husbands or violators. After all, if victims could provide medical laboratory technology report that could help power authority investigates their cases. For example, Zhang has been married with her husband Wang for 10 years, during the period of their marriage, her husband always

¹⁶³ Zeng Xluping, Chen Houyuan, Wu Xun, 2003,pp.227-228.

¹⁶⁴ Xue Ninglan, 2005, p. 19.

¹⁶⁵ Idem.

¹⁶⁶ Guo Bing, 2000, p.146.

beat Zhang. One day in early autumn in 1998, Wang started to beat his wife again, at that time, he lost his temper, and he flew into a fury and poured gasoline on Zhang's body and lighted it up. Finally, Zhang was seriously wounded. Then, Zhang's sister went to the local police station and wanted to sue Zhang's husband. She told the police that Wang burned his wife and caused her to be seriously wounded intentionally. This kind of behavior was committing the crime of intentional injury that the police should take some measures to arrest Wang. But the local police station refused to file the case with the reason that it was a family conflict and refused to investigate and dispose the case. At this time, in order to protect her lawful rights and prosecute her husband for criminal responsibility, Zhang went to the crime scene and hospital to get evidence. Through examining Zhang's body, the Beijing Institute of Scientific Technological Expertise found out that Zhang was seriously wounded. She had a disabled degree of 6, and loss of 50% of working ability. By doing so, Zhang's family went to the local police station again with the authentication, and demanded that the police should put the case on file and take compulsory measures against the abuser immediately. Under the supervision and urge of the Sub-Bureau of the Public Security of the District, the local police station filed and investigated the case at last, and took Zhang's husband into custody. Through analyzing the evidence for few days, the judicial departments adjudicated that Wang's conduct constituted the crime of intentional injury with serious circumstance. He was sentenced to a fixed-term imprisonment of 14 years and paid 80000 yuan to Zhang .¹⁶⁷ So, that's the reason why medical reports play an important role in the investigation criminal responsibility. It is not only that can help victims to protect their legal rights and interest, but they also contribute to the judicial departments use these evidences to make adjudicate.

Nowadays in current law, they still think that 'man and wife must assume the obligation which meet the other party's sexual needs, so the wife doesn't possess the

¹⁶⁷ Qihuaying, 2003, pp.173-175.

right to refuse having sex with their husband.’¹⁶⁸ So, inside legal marriage, a husband’s use of force to make sex with their wife is legal behavior, even by violent methods. So, it is essential to point out which kinds of circumstances make up as the crime of rape in marriage. For instance, ‘the party has prosecuted divorce or the court has adjudicated separation because of feeling discord between the couple or the procedure of forming marriage doesn’t accord with legal demands, and the marriage has been declared invalid by the people’s court or the department of marriage register. Or the husband has made sexual relation by violent methods against the wife’s will so that the wife has been injured badly.’¹⁶⁹ Among these kinds of condition, the man must bear criminal burden in the light of violation crime. Only in this way that could contribute to victims protect their rights and interests.

It is urgent to establish a mechanism for protection of personal safety of victims, so to provide victims with necessary assistance and service.¹⁷⁰

No one can deny that domestic violence should be considered a criminal case. Nowadays there is a large number female who commit homicide in China. As stated previously, the reason why they committed a criminal offence, is because of they were always suffer cruel physical and psychological abuses by their husband for many years. Due to this reason, they think that the only way to get rid of domestic violence is to kill their husband. But ‘the court always sentences heavy penalties to women victims who killed their husbands when they could not bear abuses any longer.’¹⁷¹ From my opinion, this is an unfair situation, camouflaged by the still pervasive gender hierarchies between women and men in China. According to the concept of battered women syndrome, these female’s conducts may be justified on the ground of self-defense. After all, they have suffered from domestic violence for a long time, the domestic violence not only gave

¹⁶⁸ Hong Xiang, 2003, pp.81-82.

¹⁶⁹ *ibidem*, p.82.

¹⁷⁰ Guo huiming, 2005, p.44.

¹⁷¹ Wei Liu, 2005,p.158.

rise to the body injury, but also brings psychological harm, so, they have to take this self-defense behavior to protect themselves. However, because of the judicial departments' lack of relevant theoretical basis and judicial practice, the abused women criminal have often been sentenced to capital punishment.¹⁷² So, in order to change this unfair judgment 'The judicial organs should considerate the characteristics of domestic violence cases and the grave psychological harm and condition resulted from chronic cycle of violence.'¹⁷³ The court should give lenient or reduced punishment for those who killed their husbands because of long years of abuses.

5.3 Media broadcast the awareness of gender equality

The Nairobi Strategy states that the government has the responsibility to improve the people's recognition on violence affecting women. So, in order to enhance the recognition of common people and eliminate the existing and flourishing soil of family violence is the important condition of realizing gender equality and the common responsibility of the whole society. So, the media has the duty to publicize legal knowledge, family virtues, promote to establish "equal, peaceful and harmonious families" etc.¹⁷⁴ However, as a broadcast medium, the Chinese mass media still does not pay enough attention to the domestic violence, for instance, from the five local newspapers in Beijing we could notice that the proportion of reports on violence are very low.¹⁷⁵

Amount of reports	Legal Evening news	Beijing Evening news	Beijing Times	Beijing News	Beijing Youth Daily	Total

¹⁷² Wei Liu, 2005,p.169.

¹⁷³ ibidem.

¹⁷⁴ Wang Shaolan, 2000, p.334.

¹⁷⁵ Lvping, Pang minghui , 2009, p. 44.

Reports on violence	441	378	564	544	523	2450
Total number of reports	61998	61476	76233	73991	65596	339294
proportion	0.71%	0.61%	0.74%	0.72%	0.8%	0.72%

As usual, the reports on violence are seldom published at the first page of headline. In addition, most of newspaper uses the style of information to report violence affairs. They do not want to spend time on in-depth reports to deeply reveal the violence reasons and analyze solutions. They just use few words to report the detail of case, punishment or the condition of the victim rather than including NGOs or the viewpoints of experts to make further analysis. So, due to lack of depth and continuity, most of the reports on violence is quite vague that not good for the reader to deeply understand violence.¹⁷⁶ For instance, the newspaper just uses information to report domestic violence. It does not mention anything about the reason why domestic violence occurs in the family, or the connection between violence and the power structure in the family or social status. Further, women's civil organizations are rarely reported. Even though in contemporary China there are so many women's civil organizations in the China, they are rarely seen as a source of information. Because for the mass media, the way of seeking source are conservative. Even if, the "authoritative" organizations do not understand the news topics, they still prefer to get information which from "authoritative" organizations or individuals rather than seek help for women's group or women's organizations. In this case, the quality of the news is not very high. Meanwhile, "due to the limited space given to women's civil organizations, it is hard for these organizations to get involved in some important violent cases against women or to be reported"¹⁷⁷ That's the reason readers can not get enough information from the

¹⁷⁶ Lvping, Pang minghui,2009,p,44.

¹⁷⁷ ibidem, P 81.

news enables them to form a comprehensive awareness of violence against women. Moreover, it is very hard to find the theory of anti-violence, feminist activities in the newspaper. Even though most of media widely acknowledge this issue, they still unwilling to report it. They prefer to cover it.

Yet, from the content of the report, they always use a negative way to describe the victim, for instance, the newspaper likes to emphasis on women's low social status or low level of education and so on. Moreover, they use high proportion to publish that because victims make some errors that causes them to them suffer from violence. ¹⁷⁸

So, in order to reduce the amount of domestic violence in the family, mass media has the responsibility to broadcast information on the topic, including the fact that the witness should take some measures to help victims when they suffer domestic violence. The main function of mass media is to supervise the surrounding environment by means of offering warning¹⁷⁹. Through feminist activity, mass media not only can change its existing attitude towards domestic violence and formulate public opinions, but also can promote the resolution of violence issues.

By doing so, mass media should use newspaper, radios, television and the internet to publicize the civilized and advanced women's values and improve the personality of family members, such as' it is essential to use media to correct our wrongful thoughts that "it is legal to beat wife" or "husband authority" and "it is hard to judge the internal affairs within a family.""¹⁸⁰

"After all, the media can not only directly disclose the violence but also promotes resolutions of the incident and causes the public to consider systemic factors and power

¹⁷⁸ Idem.

¹⁷⁹ Werner Severin, James Tankard jr, 2000, p.347.

¹⁸⁰ Jin Yuner, Li Ting, 2000,p. 127.

relationships associated with violence”¹⁸¹ Meanwhile ,it is necessary to strengthened the police and citizen's awareness about the domestic violence as an illegal offense, for the organ of power, they have duty to recognize their responsibility and help victim to punish perpetrators of domestic violence and to timely and effectively reconcile and adjudicate on case of domestic violence. For the people who from suffer domestic violence, they could seek help from officials institute to safeguard their legal rights and interests and maintain the stability of their marriages and families. ¹⁸² Questioning the traditional value that it is legal to beat a wife or that domestic violence is an internal affair, which people should not intervene in. At this point, media should broadcast correct public opinion and enhance the citizen’s legal consciousness. Let people be aware that beating a wife is an illegal behavior and request citizens initiate to observe disciplines and laws. Besides, it is necessary to broadcast the slogan that everyone is equal. There is no priority between wife and husband in the relationship of marriage. Both of them should respect and mutually love each other. If there are conflicts in the marriage, both husband and wife should use a sensible, equal and democratic manner to solve their family issues.

At the same time, to encourage women to use the law to protect their own rights. Especially for women who suffer from domestic violence, the victim should use the law to fight for their rights. Set up an equal and harmonious relationship of marriage and create a sound environment of observing law. Furthermore, the media should disseminate the view that domestic violence is not a privacy issue in the family. It is a question of human rights.

5.4 Social assistance

¹⁸¹Bu Wei,2005,pp.184-198.

¹⁸² Wang Geya, 2000, p.113 .

5.4.1 Social activity (Feminist activity)

The communities and mediation committees should be encouraged to take some measures to interfere in the domestic violence issues, such as establishing an offence – reporting network, if domestic violence once occur, through neighbor, family members or etc to report violence case, the domestic violence cases can be discovered, mediated and solved immediately. The government should allocate some funds to support anti-domestic violence activity, through using this sum of money to establish shelters for battered women or ‘ set up complaint and examination center for domestic violence, hire some layers to provide legal aid for poor women, with the aim to comfort their sufferings and help them have access to justice.’¹⁸³ The government should use funds to establish a long-term psychological counseling and treatment system for female victims, this system should take into considerate victims’ psychological issues and strengthen the research of psychological violence and sexual violence, This could be an effective measures to solve victim’s psychological problem which arise by the domestic violence. Meanwhile, they could still use their social force to provide assistance and protection.¹⁸⁴ ‘The work units should lay emphasis on education and administration of their workers when they relate to the domestic violence issues. Because nowadays there are still a number of departments who still think domestic violence are private affair and this causes them to remain indifferent to domestic violence acts committed by their staff members.’¹⁸⁵ It gives rise to the violator feeling no fear or guilt in relation to beating their wife. Because they think that kind of violent behavior is family issues and that nobody will interfere in their family dispute. So, in order to prevent and control domestic violence, the social force of work units has duty to strengthen education and training on legal knowledge and ethics cultivation, at the same time, ‘the leadership of

¹⁸³ Jiangxi Provincial Women’s Federation, 2005, p.121.

¹⁸⁴ *ibidem*.

¹⁸⁵ *Ibid*

various departments should lay emphasis on letters and visits relating to domestic violence and entrust function units to conduct investigation and deal with the matter timely. For the perpetrator who refuses to mend his way despite repeated admonition, disciplinary punishment should be imposed.’¹⁸⁶ For the difficult kinds of judicial departments, they must deal with domestic violence cases promptly and coordinate with each other. In this way, it could establish a powerful and effective social network of prevention and control domestic violence. Due to this social network that could contribute we to eliminate domestic violence and even more safeguard the family and society’s stability.¹⁸⁷

At the same time, it is necessary to establish agencies of legal aid or service for women at different provincial level that they can deal with affairs and conflicts conveniently, promptly and effectively¹⁸⁸. These kinds of agencies are not only could provide legal advice, mediation before lawsuits, help victims to write legal documents and offer legal aid , ect, but also they could settling marriage and family disputes at the grassroots level to the fullest possible extent. At the same time, they could help victims to raise fund, find jobs, and reorganize families. This agencies could shares the government’s worries and burdens and solve difficulties for women, it is a vey useful complement of function of local mediation performed by the government.¹⁸⁹

‘Feminism is a theoretical system analyzing women’s situation’.¹⁹⁰ Feminism thinks that the reason why women suffer from abuse and unequal treatment is not due to women’s lack of ability to compete with men but originates from patriarchy.¹⁹¹

In China there are some women’s federations at different levels from the state to the localities. The first woman’s refuge called “New Sun Marriage Service Center for

¹⁸⁶ Jiangxi Provincial Women’s Federation, 2005, p.123

¹⁸⁷ *ibidem*, pp.123-124.

¹⁸⁸ Wu meirong, 2005, p.147.

¹⁸⁹ *ibidem*

¹⁹⁰ Chen Xioayan, 2005, p.54.

¹⁹¹ *ibidem*.

Women” was established in Sept. 1995 in Wuhan.¹⁹² We should continue to establish family violence complaining stations and set up some women’s rights protection committees at the country level and above in China. At the same time, it is essential to establish women’s federations at different levels from the state to the localities that ‘could guarantee women’s federations and people’s mediation organizations at the grassroots level to cooperate with each other to form an effective organizational network of prevention and control of domestic violence.’¹⁹³ The victims can go directly to these departments or institutions to seek for help and to cease the violence in time. Meanwhile, in the organizations should guide and educate women to study, the awareness of human rights and abide by laws. They still have responsibility to encourage women to combat domestic violence bravely. At the same time, in order to solve domestic issue, the provincial women’s federation should effectively coordinate with the provincial judicial department to establish a framework of dissemination of general knowledge of law. ‘There are various forms employed include “going to a country fair of knowledge of law” dissemination of knowledge of law through program of entertainment”, etc.’¹⁹⁴ With the rapid broadcast of knowledge of law, it contributes to more and more women being aware of which kind of rights they are entitled to enjoy and various ways and means they could use when their rights and interests are infringed upon. At the same time, male family members also could learn that violence behavior it might violate law, they should not use violence to solve conjugal conflicts in the family. So far, ‘through this measure already achieve good results in relation to those with weak sense of law but deeply influenced by patriarchal ideology.’¹⁹⁵ For example, Li already suffered from domestic violence for 40 years. Before she joined the campaign of dissemination of law, she always thought that this was her destiny. She had no idea how

¹⁹² Wang Geya, 2000, p.113. .

¹⁹³ Wu meirong, 2005, p.146.

¹⁹⁴ *ibidem*, p.144.

¹⁹⁵ *ibidem*, p.145.

to avoid suffer violence in the family. But she gradually know the knowledge of law, she decided go to local women's federation to seek for a help. Due to the women's federation and judicial worker's help, Li's husband gradually became aware that his behavior violated the law. It is a kind of crime. He realized his misconducts, he promised to correct his violent acts and never to abuse Li again.¹⁹⁶

5.4.2 Establishing sanctuaries

Since there are large numbers of domestic violence cases in China, it is necessary to set up sanctuary for the victims. Due to lack of sanctuary or temporary shelter in China, for the victims, even though they suffer domestic violence in the family, they still have to stay at home. At this point, it might give rise to victims live in an abyss of misery and arouse criminal offenses. So, the power authority is obliged to offer help and assistance to help those women who are injured by domestic violence.¹⁹⁷

5.4.3 Improving women's economic status

No one can deny the fact that economic status of women could influence their social and family status. With social transformation, and the establishment of the mechanism of market competition the number of laid –off female workers has increased. While in the reform of the state that gives rise to the labor market there are more and more women suffer various sorts of direct and indirect discrimination. This is particularly problematic for female graduates who have followed the same educational route as male graduates but find that they are inferior in the labor market. Men and women are paid differently for the same work, showing direct discrimination against women.¹⁹⁸ Moreover, In China, Chinese women's retirement age is lower than that of

¹⁹⁶ Wu Meirong, 2005, p.145.

¹⁹⁷ Jin Yunner, Li Ting, 2000, p.127.

¹⁹⁸ Li Yuwen, 2009.

men. While female workers and civil servants retire at the age of 50 and 55 respectively, men's retirement age is 60. Early retirement damages women's economic interests. Pensions are calculated by the amount of years worked and since women join the workforce at the same time as men, but retire 5 years earlier, their pensions are generally lower than men's.¹⁹⁹ This is an unequal treatment of men and women in employment.

In addition, most workplaces prefer to recruit men, while women are the first to be laid off. After all, men are given priority for the important positions in society, while in the home the majority of the housework is left to women. Even women who have received a higher education find it hard to escape this predicament.²⁰⁰ In the Central China Television's Time for the East, in collaboration with Zhaopin.com- China's specialist recruitment website-conducted a large-scale survey of graduate recruitment in 2006. The survey revealed that 74% of those looking for work faced employment discrimination. Out of the 111 companies that took part in the survey, 51% admitted that they had at some time refused an applicant on account of his or her sex, age, appearance, 75% of companies that discriminated in the recruitment process did not tell the applicant the real reason for the rejection.²⁰¹ Due to this situation that gives rise to a situation in which females cannot enjoy the same rights as men in the workplace. Meanwhile, they have to face the situation of high rate of unemployment and cause them to lack any or a stable income. Thus they have to depend on men's economic basis and to continue their life that lead to them have very poor family status and may even cause an unbalance of the marriage. 'No matter whom, female workers who have become unemployed in the city, or female farmers in the country, even though they manage all kinds of household, they have obviously less income than their husband.'²⁰²

¹⁹⁹ Li Yuwen, 2009.

²⁰⁰ Ibidem.

²⁰¹ Li Yuwen, 2009.

²⁰² Idem .

The husband is seen as financial pillar in the family. They are the head of the family that control the family resource. At the same time, in the Chinese family, the husband is decision makers in the family, especially on major issues. Thus, some husband might think that ‘they willfully manipulate the fate of his wife, bully her and work her as if the wife was beast of burden.’²⁰³ Their wife should obey them because the wives eat without pay. Therefore, they will beat their wives if they do not feel satisfied. For the females, they have to tolerate it and make concession for the sake of bread and butter. After all, they do not have enough financial resources. If they divorce with their husband that led to them lose money and fall into difficulty. Further more, they would even not have place to live. By doing so, the female have to under the control of their husbands and suffer lives under fists and feet in their family life, even though they suffer domestic violence by their husband, they still prefer to bear it rather than sue their husband. According to a survey in Wuhan city, in total family violence victim, the percentage of laid-off women is 35.6%, 12.5% are unemployed women, the added figure will be 48.1%, which ranks the first in the victims’ occupation classification.’²⁰⁴

So, only if women become economical independent, women can change the power structure of family. Thus, in order to improve the women’s economic, social and family status, the government and departments should provide active conditions for women’s employment and encourage women to be self-confident and to use their own ability to protect themselves legally. At the same time, the various government departments should take some measures to avoid the woman-stay-at-home phenomenon. Because of women began to suffer from oppression when they move from the social work to the family one. At this point, the power authority could create favorable conditions for women to join the social work and launch some movements which could eliminate of women’s poverty. Meanwhile, the government has the responsibility to establish the

²⁰³ Jiangxi Provincial Women’s Federation, 2005, p.110.

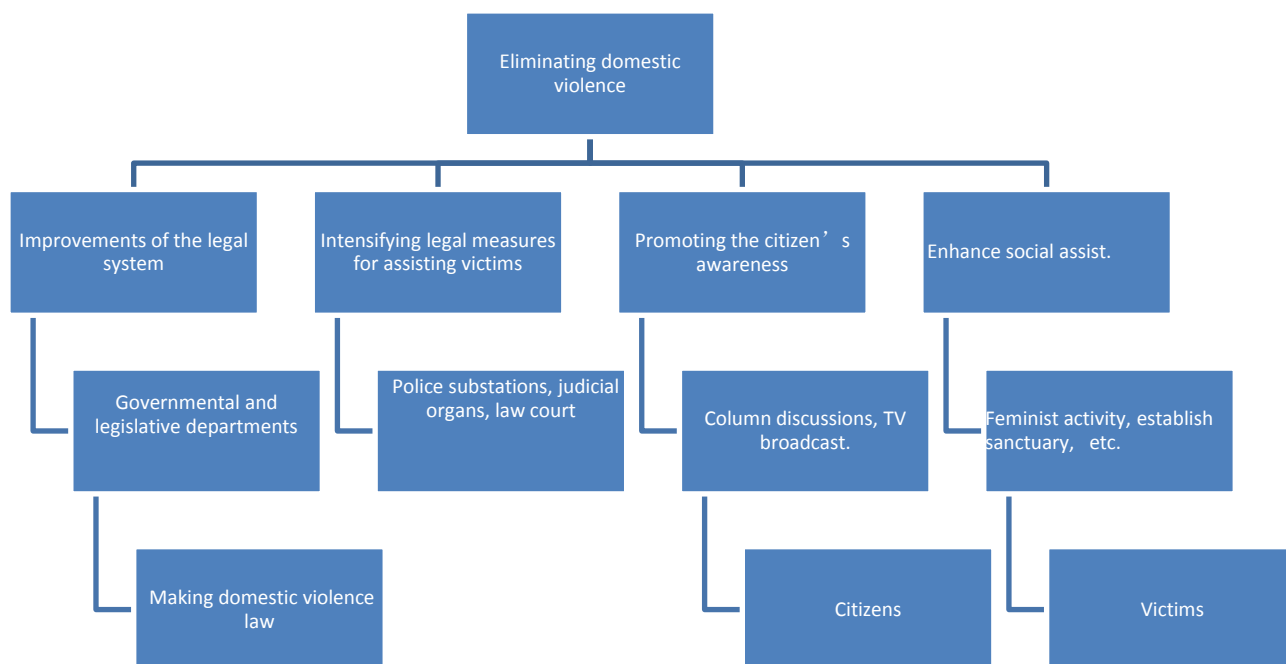
²⁰⁴ Wang shaolan, p. 327.

new social security system suitable for the market economy and make sure the urban and rural women can benefit from the social welfares, for instance, insurance of unemployment, subsidies for caring children, etc.²⁰⁵

Conclusions and suggestions for advocacy work

To summarize, the chapters in this thesis mainly use case studying and literature research in order to answer the overall puzzle: why do women refrain from suing their husbands? Through analyzing the actualities of domestic violence in China, we find that in China today lots of women suffer from domestic violence in their family to different extents. Even though nowadays the judicial departments have established some stipulations on prevention and sanctions of domestic violence, due to the effect of traditional culture values' impact, the influence of social transformation, and lack of legal framework, a weak judicial protection and the social pressure created by the lack of social security, most victims remain unwilling to sue their husbands. In some instances if they do, domestic violence in fact occurs even more extensive. So, it is vital to take some measures to prohibit domestic violence from happening in the family. This structure

²⁰⁵ *ibidem*



Argues that the first step to eliminate domestic violence is to ask governmental and legislative departments to improve domestic violence laws, after all, so far, China still does not have a domestic violence law which can make a clear definition of domestic violence or stipulate the punishment of domestic violence behavior. So, if China could establish a domestic law that could entail improvements of the legal system. For the second step, the police substations, judicial organs, law court is responsible for intensifying legal measures for assisting victims. In so doing, the victims could protect their rights and have a chance to sue violator. In theory, at least, or as a precondition. For the third step, through column discussions, TV broadcast to promote the citizen's awareness, such as bringing out the message that domestic violence is not to be considered an internal dispute in the family, but rather that the public should take some measures to put an end to the violence. Meanwhile, if someone suffers from domestic violence in their family, they have the rights to use the law to protect themselves. The final step: It is necessary to enhance social assistance, for instance, feminist activity or establishing a sanctuary or a momentary shelter for battered women while their case is

being tried in court, etc. In so doing, it could better prevent victims from suffering domestic violence again. All in all, the model suggest that only by completing these steps might contribute to the victim to protect themselves and willing to sue their husband if they suffer domestic violence in the family. What we may learn from the model, I think, is that violence against women is a complex phenomenon, which entails legal, social, psychological and cultural dimensions. I have tried to outline these in this thesis as a small step towards bettering the rights of women within the institution of marriage in a patriarchal society undergoing great and rapid societal changes, for better and for worse.

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Annex²⁰⁶

Region	Frequency	Effective percentage
Beijing(Maple Women's Psychological Counseling Center)	61	12.9
Xiaogan City of Hubei Province(Women's Federation)	64	13.5
Liaoning Province(Women's Federation)	80	16.9
Qingdao City of Shandong Province(Women's federation)	72	15.2
Luohe city of henan Province(Women's Federation)	70	14.8
Qinglong Country of	60	12.7

²⁰⁶ Anti-Domestic Violence Network of China Law Society, 2009survey report on the needs of female Victims of Domestic violence.

Hebei Province(Women's Federation)		
Xuzhou City of Jiangsu Province(Domestic Violence Shelter)	66	14.0