

Were Women “Free” to Divorce in China: The Impact of the Civil Code of the Republic of China Family on Divorce Disputes, 1929-1949

Hao Mingkang

Abstract—The 1930 law The Civil Code of The Republic of China Family, one of the important part of the Civil Code, gave husbands and wives the equal ability to invoke divorce proceedings in the Republic of China. But reality did not reflect the equitability of the law. This paper questions how free women were to invoke divorce proceedings. Many scholars have considered how the Civil Code was an improvement upon previous laws and provided women with many more rights than in the previous century. This paper challenges this narrative by examining publicized divorce proceedings in newspapers and archives in various places in China. It argues from 1928 to 1949 that despite the legal ability to do so, in practice many factors prevented women from making much use of this law. Women struggled with the high economic and time cost to get divorced. Importantly though it offered equitability to invoke divorce proceedings, The Civil Code did not erode the power of custom, the tradition of living within the husband’s family and the limited access of women to work and education, which restricted women’s ability to take advantages of the law. Only women with economic independence and social position were able to use this law to their benefit.

Index Terms—Divorce, equality, the civil code of the Republic of China family, the Republic of China, women.

I. INTRODUCTION

Since the 1980s, there have been multidimensional discussions about women’s divorce issues in China’s history field. With methodologies of and analytical perspectives from history, sociology, and law, together with historical materials including archives, newspapers, and local chronicles, some innovative ideas have been put forward. Many scholars have discussed *the Civil Code*, but most focus on the improvements of the *Family* law itself, or on the legalized freedom given to women. They argue that compared with women in pre-modern China, women in the early twentieth century seemed to acquire more freedom and rights. However, according to the divorce cases reviewed in this paper, the effects of the *Family* did not equate to the freedoms granted in the law.

This paper considers divorce cases from this time period to ask whether women at that time could easily get divorced. Women were less likely to get divorces easily or quickly if they were unhappy-- what does this have to do with the traditions, unequal economic situations, abuse and illegal marriages. The article explores the intersections of *the Civil Code* and customs including feudal ethical code, the tradition of living in the husband’s family, the unequal

economic position in the family and in society, high time cost and the limitations of the divorce and the illegal marriage from 1928 to 1949. It argues that though *the Civil Code* granted women new legal rights to invoke divorce proceedings, there were not enough social and economic changes to allow women to take advantage of these laws. Many of these inhibiting factors were deeply entrenched customs connected to women’s place in the family.

II. INEQUALITY AND PROGRESS: ANCIENT TRADITIONS AND EARLIER LAWS

The traditions and laws in ancient Chinese history before the year of 1840 were mainly the embodiments of the Confucian moral ethnics. There were many shortcomings of social traditions and ancient laws. Through my discussion of the laws written between 1840 and 1930, I argue that although progress was made after 1840, the divorce laws still had shortcomings that limited the influence on women. In ancient China, several customs and traditions about marriage and divorce existed, which embodied Confucian ethics. However, these “customs” were actually restrictions for most of the women to get rid of their unhappy marriages, for the conditions of divorce were most easy for the husbands and the husbands’ families to meet. These conditions included the wife showing absolute loyalty to their husbands, bearing a child (especially a boy), being tolerant when husbands went for prostitutes or concubines and so on. It is known as “Fuweiqigang” (the husbands are the instructions and leaders to the wives), according to a Confucian thinker named Dong Zhongshu in Han Dynasty. His book *Chun Qiu Fan Lu* summarized the “three principles and five virtues” as the right standards of people, including the absolute loyalty and tolerance of the wife. If any of these rules were broken or rejected by the women, the husband could find reasons to abandon their wives, or force them to sustain the marriage as an order. So it was getting harder for women in ancient Chinese society to get divorced freely when the marriage is unhappy, since the “customs and traditions” and rules were getting more strict from Han to Tsing Dynasty. In traditional Chinese society, both morality² and law^{[1]3} are used to restrict the female from getting divorce easily and freely.

It was not until the late Tsing Dynasty (1644-1911) that

² The restriction of “*qichu*” (seven types of grounds for a husband to cast off his wife and send her back to her parents) and “*san bu qu*” (three conditions that the husband cannot abandon his wife) were something made women more difficult to get divorced.

³ As *Tang Code -Family and Marriage* stands, “divorce is against ethics, so those who abandon their wives arbitrarily shall be guilty”

women were legally afforded the right to invoke divorce

proceedings. The Draft Civil Code of the Tsing Dynasty, promulgated by the Tsing government in 1911, was the first Chinese civil code that used Western divorce system and norms of the civil law for reference. Since there weren't any specific laws and norms in ancient Chinese history to describe the whole process of divorce, including the divorce proceeding, the division of the marital property, the custody and etc, nearly the whole part of the first Chinese Civil Code and the laws about divorce was transparent from the Western law system.

Although the Draft Code gave women the right to obtain a divorce on her own petition for the first time in Chinese history, there was still considerable discrimination in favor of the husband [2]. First, in consensual divorces, if the husband is under thirty or the wife is under twenty-five, the consent of his or her parents must be obtained. It indicates that the marriage of those spouses who are engaged and married between fifteen and twenty years old would be also agreed by families from both sides. For young spouses, such rule has actually increased the difficulty of dissolving a marriage relationship and choosing a new life. Second, as the Draft Civil Code of the Tsing Dynasty⁴ stood, one might not apply for a juridical decree of divorce if he or she has previously consented to the first three cases specified in divorce litigations [3]. Superficially, it seemed that such an article may transform more lawsuits into family mediation, yet it actually reduced the scope of hearing divorce cases. Meanwhile, the definition of "bigamy⁵" is ambiguous in terms of the illegal forms of marriage included. For example, the Draft Civil Code of the Tsing Dynasty does not explain whether taking a concubine or having a child bride is counted as bigamy. Finally, the rights of the husband and the wife are unequal in terms of the conditions in which one could file a lawsuit of divorce, for the Draft Code is harsher with women concerning sex morality, thus men could find more "reasonable" reasons, from having loving affairs to being unwilling to stay at home and rearing the children, to force the women to divorce or sustain the marriage relationship. The Draft Code provides that the husband may apply for a juridical decree of divorce once the wife is taken in adultery, yet the wife may apply for divorce only when the husband commits adultery and is sentenced, for instance, the husband committing robbery and was taken into prison for many years [3]. Despite the progress the Draft Civil Code of the Tsing

Dynasty made, which legally gave women the right to invoke proceedings for the first time, it did not matter because of the collapse of the Tsing Dynasty prior to enforcement. The true impact of the Draft Civil Code remains uncertain. In 1912 (the first year after the establishment of the Republic of China⁶, the Beiyang government did not enforce the Draft [4]⁷. In terms of

family law and marriage law, the Tsing Code and the divorce system it set up adopted the long-standing feudal traditions [5]. In 1918, when the Beiyang government⁸ revised the Draft Civil Code, the divorce system in the Draft Civil Code of the Tsing Dynasty was carried on except for the deletion of age limitation in consensual divorce [6]. However, the new laws by the Tsing Government and the Beiyang Government did not have enough time to be put into practice until the governments collapsed. When the Nanking Koumintang came into power in 1927, the government finally enacted the first formal marriage law, the Family. The law lasted for twenty one years, and finally on paper created change. But this change had little material weight.

III. DIVORCES UNDER THE CIVIL CODE FAMILY

In this part, I will introduce the Family briefly, followed by the statistics dug up from the database about the announcements on newspapers or archives from that time. Then I will analyze and discussed the pattern showed in the statistics and cases. According to the statistics, more than one third of the women have suffered from the fierce mental even physical conflicts when they were going to divorce with their husbands. It took a group of women longer time, higher economic cost and more energy for them to get rid of the unhappy marriage and the patriarchal control than men, although the Family has given them equal freedom to take the initiative to divorce. There was huge gap between the legalized "rights" and the real divorce situations for women from 1928 to 1949.

In 1930, Nanking Koumintang government promulgated Family. As the first marriage and divorce law enacted in Chinese legal history, there was an embodiment of the equality between men and women. Family, in its content, challenged the power of traditional patriarchal family, reconsidered the legal positions and rights of the stepmother and concubines in a nuclear family. It regulated the process of making an engagement as well as getting a marriage. In addition, it set rules to restrict the early marriages, child brides and concubines. Family also tried to balance the power between husband and wife, changing the unfair marital property system. It also regulates two forms of divorce: consensual divorce and divorce litigation [7].

Family extended women's rights and freedom of divorce on a legislative level, and it relaxed the exacting terms and additional clauses of divorce. The effect was remarkable: in the twenty years after the promulgation of Family, the number of those who were willing to divorce increased [8]. According to the information from the Bureau of Shanghai, the number of divorce cases in Shanghai in 1928 was 370, while the number nearly tripled in 1930, which was only the number of couple divorced from August to December in 1930. Specialized divorce lawyers emerged [9], [10]. A number of lawyers were seen in those cases, but a lawyer named Wang Yufeng was more frequently engaged, as was seen in Xijing Daily and Northwestern Culture Daily. The

reality, and are hard to implement"

⁸ The Beiyang government, also sometimes spelled Peiyang government, refers to the government of the Republic of China.

⁴ Tsing, also as Qing Dynasty, with its capital in Beijing, was the last feudal ruling of ancient China from 1644 to 1912. The Draft Civil Code of the Tsing Dynasty was a draft law in its legal reform from 1905 to 1911.

⁵ Bigamy was the wife commits adultery, or the husband commits adultery and is punished.

⁶ The Republic of China (1912-1949) was formed when the Tsing Dynasty fell in 1912. The republic had ended a very long reign of imperial rule.

⁷ "Regulations concerning family and succession are divorced from

number of divorce notices in the newspapers and magazines, divorce cases in installments, and related literature rose dramatically [11]; literary and artistic works about free marriage, marital relationship, and divorce become popular[12].

It was a fact that Family promoted the idea of marriage and divorce freedom by officially putting these points into the content of the law and announced the law in 1930, yet the implementation and practice of the law was never an easy task, since there existed other kind of restrictions from the customs to the economic dependence, especially for women, to get divorced. Among a large number of divorce cases, a considerable proportion of them were “troubled divorces” that took a long time, high costs and fierce conflicts for a couple to get divorced, rather than easily and peacefully divorce with each other. Such troubled divorces were seen everywhere in modern China. Reasons behind these divorce cases were various, including 1)intensified conflicts between the husband and the wife, 2)the unreasonable interference from families of both sides, 3)the tight constraint of traditional ethics and habits, and 4)the reality that males often dominated the family both economically and psychologically. These factors impeded peaceable agreements in divorce cases. Even worse, they hindered women’s divorce rights as stipulated in Family.

Considering the divorce cases were numerous, I chose 105 divorce cases from each year of the 21-year time period between 1928 and 1949, which can be seen in the newspapers mainly from and grouped in Beijing, Henan, Shaanxi (Xi’an), Guangxi (Guilin, Liuzhou), Shandong (Tsingdao), and Xinjiang.

Among all the cases, there are 69 peaceful divorce notices, and 36 troubled divorce notices, taking up one-third of the whole. Only 2 of the 36 troubled divorce cases have the wife as the party at fault: in one case, the wife was having an extramarital affair; in the other case, the wife could not bear the poverty in her marital life during wartime [13]. In the rest of the 34 troubled divorce cases, the husband was at fault. 23 of them were due to the husband’s little involvement in the family, and the wife found marriage hard to maintain, placing notices to dissolve the marriage; in 5 cases, the widow’s freedom to remarry and find a job was limited by the families; another 4 women chose to divorce because of the husband’s physical and emotional abuse, opium addiction, converting the wife’s personal property or the couple’s joint property [9]; in the rest 2 cases, the husband tried to maintain the marriage by force after the wife had already placed the divorce notice, and threatened the wife with divesting her custody, cutting off financial aids, and paying back the betrothal gifts.

TABLE I: THE PROPORTION OF PEOPLE AS THE PARTY AT FAULT

	Number of Cases	Proportion
The husband as the party at fault	34	94.4%
The wife as the party at fault	2	5.6%
Total	36	100%

All of these troubled divorce cases can be divided into

various groups. As is shown in Table 1 and Table 2, though peaceful divorces account for about two-thirds of all cases, yet conflicts and disputes between the husband and the wife still existed and appeared frequently, which meant that getting divorce without difficulties was still hard for a group of women. To some extent, it is fair to say that women have the right to “petitioning for a divorce” instead of the real freedom of divorce. In other words, in cases where the wife served as the only source of income of the family (including her parents-in-law and other relatives), she might choose to continue bearing the unhappiness rather than divorce if there had not been war, diseases, and debts that made the burden intolerable.

TABLE II: REASONS FOR DIVORCE CASES AND THE PROPORTION

	Number of Cases	Proportion
Peaceful divorce	69	65.7%
Long-term desertion by the husband	23	21.9%
The widow lacks freedom	5	4.8%
Abuse by the husband	4	3.8%
The husband maintains the marriage by force	2	1.9%
The wife as the party at fault	2	1.9%
Troubled divorce (Total: line 2 to 5)	36	34.3%
Total	105	100%

IV. DIFFICULTIES AND LIMITATIONS IN DIVORCE FREEDOM IN FAMILY

Why did fewer women get divorced? As the above data demonstrates, women did not take part in invoking divorce equally despite the legal right to. I have identified three main reasons accounted that prevented women from divorcing: the power of the customs, the lack of economic independence, and the restrictions from illegal marriages.

A. Restrictions from Traditional Customs

The unequal relationship between male and female, as well as the traditional marriage and divorce “customs”, the regulations and orders to maintain the normal functioning of the ancient Chinese society, was a crucial part of the Confucian ethnics which has been deeply embedded into the minds and culture of the public. They were so powerful and stubborn that it prevented the legalized divorce freedom of the Family from being universally adopted.

Among the 36 troubled divorce cases, the conflicts between traditional customs and Family has mainly been reflected in two types of cases: cases where the widow’s freedom was limited including getting divorce freely, getting her own property back and returning her mother’s home (5 cases), and cases where the husband tried to maintain the marriage by force (2 cases).

In these two types of cases, traditional customs refer to the constraint of feudal ethics, placing restrictions on the widow’s freedom of working and remarriage, and raising the cost of divorce by using “old habits” (jiuxi) and “latent

rules” (an guise). These habits and rules were not only restricted these women mentally in moral ways, for instance, blaming the widows who decided to remarriage as immoral as the “slaughters”, but also restricted them physically by putting them under house arrest, persuading them to “tolerant for the sake of the children”, and even forcing them to abandon their property (or return the brothel gifts).

The constraint of traditional ethics, the unequal marriage and divorce rules and positions as embodiments of Confucian ethnics, could be seen in “Chen Lanxiu Notice ‘Morning Post’”. The mutual affection between Chen Lanxiu and her husband Wu Taomin have broken in 1921, so they divorced by mutual consent and lived apart. However, Chen and Wu maintained the marital relationship superficially for eight years, until Chen published a notice on the newspaper, claiming that she had divorced for years. The reason why they continued to appear as husband and wife after the consensual divorce was to conceal the truth of divorce, as divorce deviated from the conservative view of social norms [14]. For Chen, the “eight-year fake marriage” was a huge burden, because she could not start a new life, though Wu had a new relationship after divorce. Besides loneliness during the eight years, she was often humiliated or laughed at, for her husband has found other women, while she had to pretend to be his wife [14]. Finally, she placed a notice in public because of intolerable wild guesses and rumors.

The truth of the restrictions placed on the widow’s freedom can be reflected in the case of Lian Yuying and Zheng Lianpu in Meng County, Henan Province. Lian became the wife of Han Dechang in 1944, but Han passed away two years later. Lian wished to leave Han’s family and start a new life, yet her mother-in-law forced her to marry Han’s younger brother, limiting her personal freedom, threatening her with cutting off financial support. Lian persisted in “deciding my own marriage” [15], and returned to the household of her mother’s brother, engaging Zhang Pozhi as the lawyer to help her dissolve the marriage officially. The custom of taking the brothers’ wife as one’s own wife has existed for such a long time in history, since the impoverished families were not able to afford the cost to make another engagement or welcome another new “bride” to their home. It was actually regulations that made women “property” of the husbands and their family. This kind of “custom” led to serious conflicts between the legalized divorce freedom of the women and her ex-husband’s family. When the women expressed that they wanted to get divorced and left the husband’s home, their views would be strongly rejected or even ignored.

The case of Zheng Lianpu was another form of oppression from the husband’s family, which was an evidence of the restrictions from tradition. She decided to marry Shen Jinsheng after her husband died of disease. However, the daughter of Zheng and Xu should have been raised by both of them, yet Xu’s elder brother forced her to leave Xu’s home with her daughter and bringing up the daughter on her own. What was worse, Xu’s elder brother, without Zheng’s agreement, placed a notice on the newspaper, saying “Zheng’s remarriage might be a rumor, and the Xu family would not admit any responsibility for her remarriage” [16]. Although Zheng expressed her own

views aloud, the husband’s family showed no respects to her willingness and herself. They wanted to use the announcement to deny the remarriage, forcing Zheng to go back to Xu’s home and be a loyal widow.

In the cases mentioned above, the implementation of Family was in face of the impediment of strong social forces such as traditional customs and feudal ethics. In troubled divorce cases, the process of deciding on divorce and cast off the unhappy marriage was prolonged and complicated, due to the impact of traditionally and unequally moral ideas and the limitation of the husband’s family. Also, the women’s cost of divorce rose during the long and complicated term.

B. Restrictions from the Economic Dependence

In the long history of ancient China, Confucian ethics were more restrictive as someone moved up the class scale. One of the most important signs of good economic position was that women stayed at home, dealing with housework and rearing the kids. It was “shameful” for men to make his wife or daughter “go out and earn a living”, and women would be “beyond control” if they lived on their own means.

According to many emergency announcements posted by women on the newspaper, they spoke of “couldn’t support the family by themselves anymore because of the destructive war, heavy debts or the serious diseases which they were suffering, so after a long-time tolerance, they decided to divorce with their irresponsible husband.” As can be seen in the troubled divorce cases, the number of women who had decent and well-paid jobs was small. Most of the women had “temporary jobs including laundering, tailoring or cleaning. They also had irresponsible husbands that vanished, fled away or abandoned them (some even left with heavy debts), so the women had to take the heavy burden including raising the kids and taking care of the husband’s parents. Because of the low income, they had to live with their parents-in-law to get enough financial support, or go into greater debt. Their needs of their in-laws economic help made divorce a difficult choice, although they had a right to request one.

In most of the troubled divorce cases, the wife found the husband’s abuse or his little involvement in the family intolerable and chose to dissolve the marriage. As Family stands, one may petition the court for a juridical decree of divorce if “he or she abuses the other party as to render common living intolerable” [7] or if “it has been uncertain for over three years whether he or she is alive or dead”. However, in practice, there were many cases in which the wife was abused by the husband and could not petition a divorce until escaping to her parents’ home. Usually, the wife would maintain an empty marital relationship with the husband for over five years, and in some occasions, even ten years. Besides the influence of traditional ethics, the husband’s family was to blame for such long-term maintenance of marriage: the husband’s family inhibited the economic independence of the wife by preventing her from getting a stable job and taking her personal property by force.

The economic independence for the women at that time mainly showed as gaining enough incomes from a certain job, being able to choose to get married or not and control

their own property. But women had to struggle to support their families alone because lacking income made them dependent on the supports from parents-in-law. For example, according to a woman who decided to get divorced, she had to wash the clothes for years to raise her kids and to support the needy family. The wife might choose to continue waiting for the husband and maintain the women-led families if there had not been wars, diseases, and debts that broke such economic pattern.

Zhang Xiyun from Henan, married Cui Shushen in 1930, but since Cui left home in 1942, “no news has been received from him” [17]. Zhang went back to her parents’ home but was later stranded in Xi’an. She announced that her marriage with Cui was dissolved when she was in a state of desperation [17]. According to her announcement, she couldn’t stand the poverty, the heavy burden of the housework, and the rise in prices caused by the war. She hoped to marry with a reliable and stable man. E Xiuzhen from Xinjiang was abandoned by her husband Wang Hongen for ten years without any reasons after they got married, and she could only “spend the day by washing clothes” [18]. She was busy looking after her mother-in-law who was seriously ill, so she lost her job as a temporary laundress and was under the pressure of heavy debt. Finally, she obtained a divorce from her husband Wang. She waited her husband for ten years because she couldn’t live on her own by just washing clothes temporarily, so she had to rely on the financial supports from her husband’s family. Song Yiqing, also from Xinjiang, had a husband who took away all the joint property and had escaped from the family for years after being embarrassed by debts. When Song was seriously ill, “the creditor came to ask for payment of debt”. Finally she chose to divorce and finally found it unbearable after a long-term tolerance.

Even after the promulgation of Family, there were still numerous occasions in which there were abuses, property fraud and bigamy. A prostitute named Li Chuqing (original name Jin Jianqiu) was deceived into marrying Zhang Bochu, who claimed that he “did not have a legal wife”. When the fact that Zhang had already married was discovered by Li, Zhang and his wife “took away her credentials, clothes, and jewels” [9], beat her cruelly day after day, and sold Li’s property to buy opium. Knowing that Li was to leave his household, Zhang and his wife did not allow it and forced her to surrender until she committed suicide [9]. After Li finally escaped from Zhang’s family after years, she engaged a lawyer named Wang Yufeng to sue Zhang Bochu over bigamy, saying that she would “defy death to divorce”.

In families where the wife was dependent for money on the husband and parents-in-law, women were afraid to divorce and start a new life, despite the unhappy marriage, the “absent husband”, and the physical or emotional abuse. As a result, it became normal for women to bear poverty, the humble position, and long-term suffering. The final “petition for divorce” might be the last choice after the situation became totally intolerable. Men, compared with women, were more likely to benefit from the freedom of divorce entrusted by Family, under the condition that women’s family position and economic capability had not been raised. If a husband wanted to end an unhappy marriage, he could easily find professional lawyers with his

money, using some economic, physical and mental ways to force his wife to accept the divorce. However, for the women who didn’t have enough income, she would find it hard to live on her own after she get divorced, since she probably couldn’t find place to live, enough money to rear the kids (when the alimony payment⁹ was cut by her ex-husband), and the lawyers or tools to protect her legal rights. As for women whose personal property was converted and sought compensation, obtaining a divorce was still not their first choice.

C. Restrictions from Illegal Marriages

Family has been considered as a great improvement, for legalizing the right of women to divorce. It also banned the concubines, child brides and other illegal marriages without official certificates. However, these improvements and restrictions neglected one important thing: how to save protect the group of women who have been trapped in the illegal marriages and relationships. Although the government declared that the illegal marriages are unpermitted, they actually did not come up with a whole set of practical solutions to deal with these women who were in the illegal marriages.

One case among troubled divorce cases is special, as it reveals defects and problems in the formulation and implementation of Family and the supporting administrative actions. As Family stands, “marriage shall be effected in writing” [19]. Later, the official interpretation of law ruled that “child bride, concubine, and child of concubine” [20] were all illegal. However, a large number of “illegal marriages” had already existed in modern China before Family came into force in 1930. Women trapped in “illegal marriages” had been suffering and bearing unequal treatment, “for they were in fact outside the protection of the law [21]”. Women who had already been involved in illegal marriages would not be protected by law, or safeguard their legal rights, or obtain a divorce, due to the rigid regulation of “bigamy”, “illegal marriage”, “monogamy”, and “marriage effected in writing”.

A widow in Henan remarried Ma Yushan, but Ma joined the army in Shijiazhuang and took away all her dowries including a wicker suitcase, clothes, and a golden ring [21] without informing her. As there was no word from Ma, and he never sent his income such as the soldier’s pay back home, his wife sued Ma, wishing to divorce and take back her dowries. The court ended up refusing to accept and hear the case, adjudicating their relationship as “illegal cohabitation” because they did not have a written marriage contract, for it was a local custom that “there shall be no marriage contract in a second marriage”, which made the widow’s dowry, her personal prenuptial property, beyond the protection of the marriage law.

In 1932, the published “Responscence on the Problem of Concubine, Child Bride, and Child of Concubine” by the Department of Civil Affairs explained four clauses about marriage in detail. This article wrote that concubine, child bride, and child of concubine were all “illegal forms of marriage” [20], but the article did not mention or introduce a

⁹ The alimony payment is the financial supports given to the divorced person who took the main responsibility to rear the children by the other person.

wide-ranging reform officially or a total abolishment on a social scale concerning those “illegal forms of marriage”.

The divorce procedure in Family benefited monogamous heterosexual spouses only. Courts would not hear divorce suits filed by women in “illegal marriages”. 29 troubled divorce cases in rural areas and small towns in Henan province in 1949 showed that there was still bigamy, child brides and concubines who have been suffering the domestic violence and forced to have sexual intercourse underage. And when one of the child brides called Wu Qinxu decided to get divorced with her husband, the husband said confidently in front of the government officials: “I won’t give her the chance to divorce, or to leave my home. We had good relationship with each other and I have never beaten her. She was lying because she didn’t want to cook for my family and I, and she was unwilling to get pregnant and raise children. [22], [23]” The total number of divorce cases was 38, and the number of troubled divorce cases was 29, which accounted for more than two thirds of the total cases dealt by the local court. And these horrible words showed the limited effects of the legalized divorce freedom and rights. It was only the monogamous group that enjoyed “equality and freedom” during the implementation of Family. Child brides, concubines, and widows, who needed liberation most [24], were neglected by law intentionally or unintentionally. Family only guaranteed a few women’s rights, but ran against the rights of the majority women, especially the “silence” women in places where there was no access to newspapers, courts or any methods for them to take to divorce freely.

V. CONCLUSION

In 105 divorce cases from 1928 to 1949, troubled divorce cases accounted for one-third of them. The two parties, and sometimes even two families in divorce disputes, saw the newspaper as the “battleground” where the conflict could be seen by the public. Though it was the wife that sought a divorce in the 36 troubled divorce cases, it did not mean that women have the real “divorce freedom”. More specifically, to some extent, Family has guaranteed women’s rights of divorce under the circumstances where the social reform of abolishing feudal customs had not been carried out, where the central government lacked controlling power and efficient execution, and where the international situation was ominous¹⁰. However, various factors would impede the implementation of Family: there was tight constraint of traditional customs and feudal ethics in China’s society; both women and men were considered as lawful citizens, but were economically dependent and were in an inferior position; Family itself had limitations, as the underprivileged groups, such as child brides and concubines, were out of its protection. Family has given men and women equal rights of divorce for the first time in Chinese history, but it was impeded by various factors during the implementation. Equal rights of divorce were still an extravagant hope for most women. Men still played the

dominant role within a nuclear family, and women were often submissive and dependent on men. They would not apply for a divorce unless they found the situation intolerable.

In addition, though the newspaper was a relatively influential form of mass media in modern China, it was only popularized in cities and suburbs. For rural women who were burdened by both agricultural and domestic labor [25], it was even more difficult for them to speak up for themselves, thus making it more difficult to explore the exact number of the women in oppressive marriages [26]-[27]. All of these cases showed the weakness and limitations of the Family when it was put into practice, especially when it was faced with the traditional customs, economic exploitation and dependence, and the women who were left out of the protective range.

CONFLICT OF INTEREST

The authors declare no conflict of interest.

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¹⁰ During 1937 to 1945, the Second World War broke out and Chinese people and army fought against the Japanese throughout the country. After the Japanese surrendered, the battle between Koumintang and CPC began, which lasted until 1949.

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Hao Mingfang was Born in Henan, China in 1999, Hao is now an undergraduate student in Zhengzhou University. Her main interest lies in oral history and gender history in China. Two of her papers have been selected to two national conferences, and she has also published four essays in some journals. She will get her bachelor's degree in the fall of 2021, and will continue to working on the master and PhD programs