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Domestic violence in cases of abused women who kill their abusers: Impact and identification

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Summary: 1. Introduction. 2. Legal review of domestic violence. 3. Judicial practice for determination of domestic violence. 4. Discussion. 4.1. Reform remains concentrated in the field of substantive law. 4.2. Judges tend to acknowledge domestic violence in criminal cases. 4.3. Judges exercise discretion in recognizing the facts of domestic violence. 5. Recommendation. 5.1. Toward broader recognition of mitigating circumstances of “relatively minor circumstances of intentional homicide”.

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5.2. Recommend incorporating help-seeking behavior into the domestic violence evidence system. 6. Conclusion. 7. Reference.

Abstract: Domestic violence often impacts sentencing in cases where battered women kill their abusers, primarily through the assessment of the victim's fault and the classification of "relatively minor circumstances of intentional homicide" under Article 20 of the Opinion on Handling Criminal Cases Involving Domestic Violence in Accordance with the Law. Case analysis shows that when the victim's serious fault is recognized, sentences typically range from 6 to 10 years, while cases falling under "relatively minor circumstances of intentional homicide" under Article 20 often result in sentences under 5 years, including suspended sentences. NVivo analysis indicates that both sentencing outcomes largely depend on the recognition of long-term abuse, leading to disparities in similar cases. This article argues for clearer application of "relatively minor circumstances of intentional homicide" and the introduction of evidence showing help-seeking behavior to standardize sentencing and support commutation or acquittal.

Keywords: Domestic Violence, Intimate Partner Homicide, Battered Women, Sentencing, Mitigating Circumstances, Victim Fault, Help-Seeking Behavior.

1. Introduction

Domestic violence remains a pervasive global issue^{6,7,8}. With increasing media coverage⁹, growing public attention has been drawn to cases in which women, after enduring prolonged abuse, kill their abusive husbands^{10,11}. The focus in such cases often centers on two key issues: the severity of the abuse and the sentencing outcomes for the battered women. Public sympathy frequently leans toward leniency or even acquittal, driven by outrage over the violence these women endured. In response to such concerns, the Chinese government enacted the Domestic Violence Law of the People's Republic of China (2015), marking a significant step in formally recognizing and addressing domestic violence^{12,13,14,15}. Further reflecting this shift,

⁶ CAO, Jiepin, Xu LIU and Rosa M. GONZALEZ-GUARDA. Trapped in My Roles as a Woman With No Help: Experiences of Intimate Partner Violence Against Chinese Women. *VIOLENCE AGAINST WOMEN*. Thousand Oaks: SAGE Publications Inc, 2023, vol. 29, no. 5. DOI: 10.1177/10778012221104504

⁷ DIOSO-VILLA, Rachel and Caitlin NASH. Identifying Evidentiary Checkpoints and Strategies to Support Successful Acquittals for Women who Kill an Abusive Partner During a Violent Confrontation. *International Journal for Crime, Justice and Social Democracy*. 2024. DOI: 10.5204/ijcjsd.3538

⁸ MD SAID, Muhamad Helmi Bin and Grace EMMANUEL KAKA. Domestic Violence in Cross-Border Marriages: A Systematic Review. *Trauma, Violence, & Abuse*. 2023, vol. 24, no. 3. DOI: 10.1177/15248380221074321

⁹ ZHANG, D. Learning to see, learning to say, and learning to eradicate domestic violence in China. *Journal of Gender-Based Violence* [Scopus]. 2023, vol. 7, no. 2. DOI: 10.1332/239868021X16557434018638

¹⁰ BRAUN, Kerstin. "Till Death Us Do Part": Homicide Defenses for Women in Abusive Relationships—Similar Problems—Different Responses in Germany and Australia. *Violence Against Women*. 2017, vol. 23, no. 10. DOI: 10.1177/1077801216656832

¹¹ CHOI, Anna Wai Man, Lucia L. LIU and Pik Ying CHAN. Chinese women who use force against husbands in Hong Kong: their help seeking experience and implication on service development. *China Journal of Social Work*. 2021, vol. 14, no. 1. DOI: 10.1080/17525098.2020.1826081

¹² QI, Fei, Yuqi WU and Qi WANG. Anti-domestic violence law: The fight for women's legal rights in China. *Asian Journal of Women's Studies*. 2020, vol. 26, no. 3. DOI: 10.1080/12259276.2020.1798069

¹³ WU, Yuning et al. Organizational support and Chinese police officers' attitudes toward intervention into domestic violence. *POLICING-AN INTERNATIONAL JOURNAL OF POLICE*

Article 20 of the Opinion on Handling Criminal Cases of Domestic Violence in Accordance with Law (Opinion), jointly issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice, provides for lighter punishment for battered women.¹⁶ According to Article 20 of the Opinions on Handling Criminal Cases Involving Domestic Violence in Accordance with the Law (2015), women who meet specific criteria may be convicted of "intentional homicide under relatively minor circumstances," as stipulated in the Criminal Law of the People's Republic of China (2021, Art. 232), and may be sentenced to a fixed term of three to ten years. This provision highlights the government's increasing recognition of the complex realities faced by domestic violence victims and represents a move toward more compassionate, context-sensitive justice.

Although awareness of domestic violence and its role in cases where battered women kill their abusive husbands is growing, legal provisions remain inadequate. This is reflected in the vague standards for determining evidence of domestic violence¹⁷ and the lack of criteria for what constitutes mitigating circumstances.

This paper examines the role of domestic violence in sentencing from both theoretical and practical perspectives and offers suggestions to address existing issues in its judicial determination. The article is structured in four parts: (1) a legal review of how domestic violence impacts sentencing; (2) an analysis of how judges identify domestic violence in practice and the factors influencing their decisions; and (3) recommendations for improving the recognition of domestic violence circumstances.

2. Legal review of domestic violence

In legal provisions, domestic violence is addressed through the concept of the victim's fault¹⁸ and Article 20 of the Opinion, which classifies certain cases as "relatively minor circumstances of intentional homicide", thereby serving as a basis for reduced sentencing.

Before the issuance of the Opinion, domestic violence was primarily considered under the category of the victim's fault. A husband's abusive behavior could be treated as the victim's fault, allowing for sentence mitigation^{19,20}. Some provinces

STRATEGIES & MANAGEMENT. Bingley: Emerald Group Publishing Ltd, 2020, vol. 43, no. 5. DOI: 10.1108/PIJPSM-04-2020-0048

¹⁴ XU, Yingxing, Jun LI and Jufen WANG. Empirical study on handling of domestic violence cases by police. *China Journal of Social Work*. 2021, vol. 14, no. 1. DOI: 10.1080/17525098.2020.1844930

¹⁵ ZHAO, Ruohui and Hongwei ZHANG. Family Violence and the Legal and Social Responses in China. In: BUZAWA, Eve S. and Carl G. BUZAWA, eds. *Global Responses to Domestic Violence*. Cham: Springer International Publishing, 2017. DOI: 10.1007/978-3-319-56721-1_10

¹⁶ Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, and Ministry of Justice, Opinions on Handling Criminal Cases Involving Domestic Violence in Accordance with the Law (2015), translated by China Law Translate, <https://www.chinalawtranslate.com/en/dvopinion/> (accessed on 12 November 2025)

¹⁷ ZHOU, Shizun. More Accessible Protection for Domestic Violence Victims: New Developments in Personal Safety Protection Order. *TSINGHUA CHINA LAW REVIEW*. Beijing: Tsinghua Univ Sch Law, 2022, vol. 15, no. 1.

¹⁸ Refers to situations where the victim's provocation initiates or intensifies the offender's violence.

¹⁹ DING, Yao and Qianwei ZHAO. Judicial examination and determination of victim wrongs in criminal trials in Mainland China: an explorative study. *Crime, Law and Social Change*. 2021, vol. 76, no. 1. DOI: 10.1007/s10611-021-09956-z

²⁰ HAN, Xiao, Yao ZHUANG and Yixuan MU. The Judicial Interpretation of Intimate Partner Homicide in China: An Empirical Analysis of Sentencing Practice Between 2016 and 2021. *Violence Against Women*. 2024. DOI: 10.1177/10778012241283494

further refined this approach based on the Sentencing Guidelines of the People's Court (Trial)²¹. For example, the 2021 Fujian Provincial Sentencing Guidelines (Trial Implementation) classify victim fault into "obvious fault" (major fault) and "ordinary fault," with sentence reductions of 20%–30% depending on the degree of fault and its role in escalating the conflict²². The 2015 Opinion clarified the role of domestic violence in cases where a battered woman kills her abuser. Article 20 provides that if the victim is clearly at fault and directly responsible for the incident, the court may impose a lighter sentence²³. It also outlines two scenarios in which such cases may qualify as "intentional homicide with relatively minor circumstances²⁴," punishable by 3–10 years' imprisonment: (1) when the woman suffers severe domestic violence causing significant physical and mental harm; or (2) when she endures long-term abuse and the killing is not particularly heinous or cruel. These provisions establish a clear legal basis for reduced sentencing in cases involving serious or prolonged domestic violence. They distinguish between severity and duration: in cases of severe violence, leniency is permitted regardless of the circumstances or means of female homicide; in cases of long-term abuse, the killing must not be especially brutal²⁵. The rule applies only when there is clear evidence of long-term or serious domestic violence.

Provisions on the admissibility of evidence in domestic violence cases are outlined in the Domestic Violence Law of the People's Republic of China (2015). Article 20 specifies the types of evidence that courts may rely on to establish the occurrence of domestic violence, including police records, written warnings, and injury appraisal reports issued by public security authorities (Domestic Violence Law, 2015). These forms of evidence are directly recognized under current law and carry significant probative value in judicial proceedings.

²¹ The Sentencing Guidelines of the People's Courts (Trial) issued on October 1, 2010 make specific provisions on the sentencing standards for the fault of the victim in cases of assault and assault. It states that "the base sentence may be reduced by up to 20% if the victim's fault led to the crime, or if the victim is responsible for the intensification of the conflict that led to the crime." <https://www.chinacourt.org/article/detail/2013/04/id/948052.shtml> (accessed on 8 October 2025).

²² Article 20 of the Implementation Rules (Trial) of the Sentencing Guidelines for Common Crimes (Trial) issued by Fujian Province provides that where the victim is at fault or bears responsibility for the escalation of the conflict, a more lenient sentence may be applied, taking into account the nature of the crime, the cause of the incident, and the degree of the victim's fault or responsibility. (1) If the victim is clearly at fault or bears direct responsibility for the escalation of the conflict, the baseline sentence may be reduced by up to 30%. (2) If the victim is generally at fault or bears partial responsibility for the escalation of the conflict, the baseline sentence may be reduced by up to 20%. <http://www.drxfed.com/xf/xx2.asp?bh=1328> (accessed on 15 October 2025).

²³ Article 20 of the Opinions on Handling Criminal Cases Involving Domestic Violence in Accordance with the Law states: "Full consideration should be given to factors of self-defense and fault in the case... Where the abuser bears clear fault or direct responsibility for the cause of the incident, a more lenient punishment may be applied at the court's discretion." https://www.spp.gov.cn/flfg/201503/t20150305_92175.shtml (accessed on 3 November 2025).

²⁴ Article 20 provides: "...Where a person intentionally kills their abuser due to having suffered severe domestic violence resulting in significant physical or psychological harm, or because they could no longer endure long-term domestic violence, and the circumstances of the crime are not particularly heinous nor the methods particularly cruel, the act may be regarded as 'intentional homicide with relatively minor circumstances' as stipulated in Article 232 of the Criminal Law." https://www.spp.gov.cn/flfg/201503/t20150305_92175.shtml (accessed on 3 November 2025).

²⁵ JINGYU, Liu et al. Legitimate Defense in Abused Women who Killed the Abuser: A Case Study Post-Guiding Opinion in China. 2024.

3. Judicial practice for determination of domestic violence

The previous section examined the mitigating effect of domestic violence on sentencing from a theoretical perspective, focusing primarily on the legal provisions concerning victim fault and the classification of “relatively minor circumstances of intentional homicide”. This section turns to judicial practice, analyzing how the recognition of domestic violence influences sentencing outcomes in cases where abused women kill their abusers, and what factors affect the court’s determination of domestic violence.

To achieve this, the study adopts a case study approach and uses NVivo 14 as the analysis tool. Cases were collected from China Judgments Online using the keywords “domestic violence” and “criminal case” to align with the research focus. After manual screening, duplicate cases were removed, and judgments were excluded if they met any of the following criteria: cases in which the husband injured or killed the wife, the parties were not in a marital relationship, the offense did not involve injury or homicide, the husband did not die, or the woman was not convicted of intentional homicide. This screening process resulted in 162 relevant cases. NVivo 14 was used to conduct coding and thematic analysis for two main reasons. First, the large volume of cases made manual analysis impractical and prone to confusion. Second, NVivo’s thematic analysis tools allow for a systematic examination of whether domestic violence was recognized as a mitigating factor in the judgments. Third, it also enables the identification and synthesis of the criteria used by judges in their reasoning, resulting in clearer and more intuitive findings. The analysis focuses primarily on the reasoning sections of the judgments—specifically, the judges’ evaluation of domestic violence raised by the defense or defendant, and the evidentiary basis for their conclusions.

Among the 162 eligible cases, judicial responses to whether domestic violence constitutes a mitigating circumstance can be categorized into three main types:

First, the facts of domestic violence are acknowledged. This refers to the judge’s recognition of both the existence of domestic violence and its role in the homicide. In 116 out of 162 cases—accounting for 71.6%—judges explicitly acknowledged domestic violence in their reasoning. In these cases, the domestic violence claims raised by the defendant or defense counsel were not ignored, but instead recognized and addressed in the judgment. This is typically reflected in the judge’s discussion of the victim’s abusive behavior and its causal connection to the defendant’s act of homicide. When the claims of domestic violence are accepted by the court, two outcomes are possible. First, the judge may find—based on the prolonged and severe abuse—that the killing qualifies as “intentional homicide with relatively minor circumstances,” punishable by three to ten years’ imprisonment. In one case, the court found that the victim had repeatedly subjected the defendant to physical and verbal abuse. Unable to endure the persistent violence, the defendant formed the intent to kill. Given the victim’s significant fault in provoking the incident, the court held that the case fell within the scope of Article 20 of the Guiding Opinions, thus constituting intentional homicide with relatively minor circumstances and warranting a lesser charge. Second, the judge may consider the history of domestic violence as evidence of the victim’s serious fault, thereby treating it as a mitigating factor during sentencing. As illustrated in relevant cases, “the victim had long subjected the defendant to domestic violence and was at fault in triggering the incident”.

Second, domestic violence is not recognized as a mitigating circumstance. In these cases, the judge does not acknowledge the causal link between domestic violence and the homicide. Among the 162 cases analyzed, 20 judgments—accounting for 12.3%—rejected the defendant’s or defense counsel’s claims of domestic violence as grounds for sentence mitigation or acquittal. In one such case, despite claims of prolonged and severe abuse, the court held that “there was insufficient evidence to prove that the victim’s verbal and physical abuse while

intoxicated constituted prolonged and severe domestic violence. Therefore, the defendant's conduct did not fall under the 'relatively minor circumstances' provision of Article 232 of the Criminal Law". The reasons for rejection include a lack of supporting evidence or evidence deemed insufficient to establish a sustained pattern of abuse. In some cases, judges take a neutral stance, attributing the escalation of conflict to both parties and asserting that neither the victim nor the defendant appropriately managed the situation. In other cases, judges downplay the impact of domestic violence by attributing partial blame to the defendant—for example, citing alleged misconduct or extramarital affairs—which serves to diminish the perceived severity of the abuse. In the judgment of the People's Court of Jingyue High-Tech Zone, Changchun, the judgment stated that "in addition to the claimed domestic violence, the killing was also linked to the defendant's improper conduct and disputes during the division of property. These factors disqualify the case from falling under the 'relatively minor circumstances' provision in Article 20 of the Guiding Opinions, and thus, the defense's argument was not accepted". On this basis, judges may conclude that domestic violence was not solely the victim's fault and therefore reject its use as a mitigating factor. This reasoning reflects a tendency to view domestic violence not as a unilateral act of harm but as part of a mutual conflict, thereby denying the defendant claim of reduced sentencing on those grounds.

Third, ignoring the defense's claims of domestic violence. In these cases, the judge neither response nor provides reasoning on the domestic violence defense in the judgment or sentencing. A total of 26 cases fall into this category. In some cases, while the court acknowledges the existence of long-term domestic violence in the factual findings, it does not discuss its legal relevance or weigh it in sentencing. Another common pattern of neglect involves referencing domestic violence solely as the background or motive for the homicide, without recognizing its role as a mitigating factor. In such cases, domestic violence is mentioned only as part of the narrative leading to the crime, not as a justification for reducing the sentence. A typical phrasing in these judgments is: "The court finds that the defendant intentionally killed her husband because she could no longer endure long-term domestic violence. Her conduct constitutes the crime of intentional homicide". This approach reflects a failure to engage with domestic violence as a substantive defense, thereby excluding it from consideration in the sentencing process.

In cases where the court recognized domestic violence (see Table 1), the circumstances were successfully established in 13 cases, resulting in suspended sentences. In the majority—65 cases—defendants received sentences of 3 to 10 years, accounting for 40% of the total, possibly influenced by the introduction of Article 20 of the Opinions. In 29 cases, the sentence exceeded 10 years, while in 8 cases, the defendant was sentenced to life imprisonment. By contrast, in 20 cases where domestic violence was not recognized, 60% (12 cases) resulted in life sentences. In cases where the court omitted any discussion of domestic violence—ignoring the arguments raised by the defense—the sentences were mostly concentrated in the 3 to 10 years range.

Table 1. Matrix analysis of the impact of domestic violence on sentencing outcomes.

Sentencing Outcome		Domestic Violence Recognized	Domestic Violence Not Recognized	Domestic Violence Not Discussed
Suspended Sentence		13	0	0
Fixed-term Imprisonment	0–2 years	0	0	1
	3–10 years	66	2	8
	Over 10 years	29	6	13
Life Imprisonment		8	12	4
Total		116	20	26

These findings suggest that the successful recognition of domestic violence in judicial proceedings plays a significant role in reducing sentences for battered women.

Court recognition of domestic violence can positively impact sentencing, often resulting in lighter penalties for battered women compared to cases where abuse is unrecognized or ignored. However, sentences still range widely—from suspended sentences to life imprisonment. As discussed above, mitigating factors include the victim's fault, major fault, and "relatively minor circumstances of intentional homicide". This section examines how these factors influence sentencing in cases where domestic violence was acknowledged. To control for other mitigating influences, 52 cases were selected from 116 where domestic violence was recognized, excluding those involving voluntary surrender, forgiveness from close relatives, mental incapacity, or child-rearing responsibilities.

Table 2. Impact of judge-recognized domestic violence as a mitigating circumstance on sentencing.

Sentencing Outcome		Victim fault	Victim major fault	"relatively minor circumstances of intentional homicide"	Not Mentioned
Suspended Sentence		1	0	7	0
Fixed-term Imprisonment	0–2 years	0	0	0	0
	3–5 years	0	1	9	0
	6–10 years	5	9	8	1
	Over 10 years	7	2	0	2
Life Imprisonment		0	0	0	1
Total		12	12	24	4

Noted: 1. To explore the impact of domestic violence determinations on sentencing, some cases involve both victim's ordinary or major fault and "relatively minor circumstances of intentional homicide". However, since "relatively minor circumstances of intentional homicide" can result in the statutory minimum sentence, such cases are counted only under the category of "relatively minor circumstances of intentional homicide". 2. To more clearly illustrate the impact of domestic violence-related mitigating circumstances on sentencing outcomes for battered women, the 3–10 years sentencing range is further divided into two subcategories: 3–5 years and 6–10 years.

Before analyzing the results, it is important to clarify how judicial practice defines the victim's fault. In this article, "victim's fault" refers to ordinary fault, as opposed to major fault. Judicial expressions such as "the victim is responsible for the incident" or "there is fault in the cause of the case" are classified as ordinary fault. In judgment documents, unspecified references to the victim's fault are also treated as ordinary fault, while phrases like "obvious fault," "serious fault," or "major fault" are categorized as major fault.

As shown in Table 2, judicial practice reveals distinct sentencing patterns based on how domestic violence is classified. In cases where the victim is found to have general fault, sentences are typically concentrated at 10 years or more (notably, in 3 out of 5 cases where the sentence was between 6 and 10 years, the battered women were sentenced to exactly 10 years). In contrast, when the victim is recognized as seriously at fault in the court's reasoning, sentences tend to fall within the 6–10 years range. For cases classified as "relatively minor circumstances of intentional homicide" sentences are primarily less than 5 years, including suspended sentences. Additionally, four cases acknowledged the existence of domestic violence but did not specify how it factored into sentencing—whether as ordinary fault, major fault, or as grounds for "relatively minor circumstances of intentional homicide". Overall, the data reveal a clear trend: as the mitigating effect of domestic violence increases, sentences for battered women are reduced, with more cases resulting in suspended sentences.

This pattern indicates that within the scope of domestic violence-related mitigating circumstances, findings of the victim's serious fault or the recognition of "relatively minor circumstances of intentional homicide" significantly contribute to lighter sentencing for battered women. These outcomes align with the theoretical expectations of how domestic violence should be treated in sentencing.

Since the recognition of the victim's serious fault and the classification of a case as "relatively minor circumstances of intentional homicide" both contribute to lighter sentences for battered women, the following section explores the factors influencing these two types of determinations. Using NVivo 14, the study conducted coding and thematic analysis of the relevant cases. The results are summarized in Table 3 and Table 4, which illustrate the patterns in how judges identify these mitigating circumstances.

Table 3. Judicial recognition of victim's major fault (24 Cases).

Main Category	Subcategory	Conceptual Meaning	Number of Cases
Recognition of Victim's Major Fault	Long-term Abuse and Domestic Violence	Refers to the victim repeatedly committed domestic violence over time, including drunken aggression, unprovoked assaults, and verbal abuse.	20
	Severe Violence or Threats Prior to the Incident	Refers to the defendant was severely assaulted or threatened with death by the victim shortly before the homicide.	11

Noted: In some cases, the determination of the victim's major fault includes both long-term domestic violence and acts of violence or threats by the victim prior to the crime. As a result, the total number of factors exceeds the total number of cases (24).

Table 4. Judicial recognition of "relatively minor circumstances of intentional homicide" (24 Cases).

Main Category	Subcategory	Conceptual Meaning	Number of Cases
"relatively minor circumstances of intentional homicide"	Long-term Abuse and Domestic Violence	Refers to the woman endured long-term abuse	24
	Severe Domestic Violence	Refers to the woman suffered severe abuse causing serious physical and psychological harm.	3

Noted: The total number exceeds 24 because some cases involving "relatively minor circumstances of intentional homicide" by battered women include both long-term and severe domestic violence.

In 24 cases where the victim's major fault was recognized, courts identified long-term abuse and pre-homicide violence or threats as key factors, indicating the victim's actions directly triggered the homicide. Of these, 20 involved sustained domestic violence, often including unprovoked physical and verbal abuse, and 11 cited recent acts of violence or threats by the victim.

The Opinion allows reduced sentencing (3–10 years) for "relatively minor circumstances of intentional homicide" committed by battered women subjected to long-term or severe abuse. In 24 such cases, courts primarily applied the second condition of "relatively minor circumstances of intentional homicide": the defendant

experienced prolonged domestic violence, and the killing was neither particularly heinous nor cruel. The first condition, involving significant physical and mental harm, was cited in only 3 cases.

4. Discussion

4.1. Reform remains concentrated in the field of substantive law

The above theoretical analysis of the role of domestic violence on sentencing reveals that the severity of domestic violence largely determines the extent of sentence reduction available to battered women. Serious domestic violence may be classified as the victim's major fault and may even satisfy the criteria for "relatively minor circumstances of intentional homicide", thus resulting in a lighter sentence. While substantive law has continued to evolve—refining sentencing provisions related to domestic violence and expanding the scope for leniency—reform in the evidentiary field has lagged behind. Article 20 of the Domestic Violence Law outlines types of evidence admissible to prove domestic violence, such as records from public security organs and forensic institutions. However, these are largely consistent with existing evidence types under procedural law and do not offer substantive innovation. Moreover, the law provides no clarification on what constitutes "long-term" exposure to domestic violence—an issue that has drawn concern in academic discussions²⁶. As a result, this provision remains largely indicative rather than operational. In contrast to the progressive developments in substantive law, the evidentiary framework still requires significant reform.

4.2. Judges tend to acknowledge domestic violence in criminal cases

In contrast to findings in civil proceedings—such as divorce or protection order cases—where judges are often reluctant to recognize or may even overlook domestic violence²⁷, this study finds that criminal judges are more likely to acknowledge both the existence of domestic violence and its role in the killing of an abusive husband by a battered woman. Among the 162 cases analyzed, judges in 116 cases, representing a clear majority, recognized domestic violence as a contributing factor. By contrast, only 20 cases explicitly denied its existence, and 26 judgments ignored the issue altogether. This disparity may result from procedural differences between civil and criminal proceedings. In criminal cases, police are mainly responsible for evidence collection²⁸, meaning judges rely heavily on evidence already gathered by law enforcement and prosecutors. As a result, they are less involved in fact-finding and more inclined to accept domestic violence claims supported by existing records, contributing to a greater judicial willingness to recognize domestic violence. Moreover, despite theoretical concerns about the vagueness of the term "long-term" in the context of domestic violence, judges in practice appear more willing to recognize mitigating circumstances based on its presence. This may be because long-term abuse is often easier to establish than the serious physical or psychological harm required to prove severe domestic violence, which can be difficult to document, may occur too early to leave evidence, or may lack a clear causal link to the homicide²⁹. By contrast, the legal ambiguity surrounding "long-term" abuse gives judges greater discretion in making such determinations. The higher recognition rate in criminal

²⁶ WANG, Xin. On the Conviction of the Cases in Which a Battered Woman Kills Her Abusive Partner. *Law Science Magazine*. 2015, no. 07.

²⁷ HE, Xin. Why Does Justice Downplay Domestic Violence. *China Law Review*. 2019, no. 04. https://www.sohu.com/a/357099779_120032 (accessed on 27 October 2025).

²⁸ XU, Yingxing, Jun LI and Jufen WANG. *Empirical study on handling of domestic violence cases by police*. <https://doi.org/10.1080/17525098.2020.1844930>

²⁹ ZHOU, Shizun. *More Accessible Protection for Domestic Violence Victims*. 2022, 15, p. 161.

proceedings may stem from structural rather than attitudinal factors. Criminal cases involve police-collected evidence that judges are institutionally inclined to accept, whereas civil proceedings require judges to actively investigate facts amid cultural pressures to preserve family unity. When confronted with fatal outcomes, the imperative to acknowledge precipitating abuse becomes professionally unavoidable regardless of individual judicial attitudes toward domestic violence.

4.3. Judges exercise discretion in recognizing the facts of domestic violence

As discussed above, unlike in civil proceedings, judges in criminal cases are generally more willing to acknowledge the existence of domestic violence. However, there remains a lack of uniform standards regarding the severity of domestic violence and the corresponding sentencing circumstances it may constitute. An analysis of the mitigating circumstances related to domestic violence (see Table 2) reveals that even when judges acknowledge the existence of domestic violence, sentencing outcomes vary significantly ranging from suspended sentences to terms exceeding ten years. This variation persists even when other factors, such as voluntary surrender, forgiveness from the victim's family, full criminal responsibility, and the absence of minor children, are controlled. Further examination of sentencing decisions indicates that judges typically base the recognition of the victim's major fault on two key elements: long-term abuse and domestic violence, and serious violence or threats shortly before the homicide (see Table 3). Similarly, the determination of "relatively minor circumstances of intentional homicide" also focuses on long-term (see Table 4). References to long-term abuse and domestic violence appear consistently in cases where the victim's major fault is recognized or where the defendant is deemed to have committed intentional homicide under "relatively minor circumstances." This analysis reveals two significant findings.

The judicial criteria for recognizing the victim's serious fault and for categorizing a case as "relatively minor circumstances of intentional homicide" appear to be largely overlapping. Both rely heavily on the acknowledgment of long-term or severe domestic violence, which serves as an essential factual basis in the judge's reasoning. Moreover, in both categories, judges frequently invoke long-term domestic violence as the key element justifying mitigation, whether framed as victim fault or classified as "relatively minor circumstances of intentional homicide." Despite this shared evidentiary foundation, sentencing outcomes differ substantially. Where the victim's serious fault is established, sentences typically range from six to ten years. In contrast, when the case is classified as "relatively minor circumstances of intentional homicide" under Article 20 of the Opinion, the punishment often falls below five years, with some cases resulting in suspended sentences. This divergence indicates that different legal frameworks applied to the same underlying circumstances can lead to markedly different sentencing results. These findings highlight a broader issue: the absence of clear, uniform legal standards for defining and evaluating long-term domestic violence. Attribution bias may explain why judges recognize abuse yet impose varying sentences. Studies of judicial reasoning suggest evaluators attribute women's violence to dispositional aggression rather than situational desperation, unconsciously diminishing the mitigating weight of documented abuse. Cultural expectations that women should endure suffering further complicate assessments—judges may question why defendants did not exhaust alternatives despite evidence of failed help-seeking. The "ideal victim" framework penalizes women displaying agency or anger, even when such responses represent rational survival strategies under sustained coercion. The vague and under-specified nature of this concept in current legislation leaves substantial room for judicial discretion, resulting in inconsistent applications of mitigating circumstances and, ultimately, unequal sentencing outcomes for similarly situated defendants.

Comparative analysis illuminates both strengths and limitations of Chinese practice. Western jurisdictions increasingly recognize battered woman syndrome and coercive control as mitigating factors following landmark cases such as *R v. Lavallee* in Canada, emphasizing psychological trauma over temporal duration. Chinese law achieves similar mitigation through "victim's fault" framing, avoiding pathologization but potentially excluding psychological coercion and economic control that lack visible physical evidence. Research demonstrates that non-physical abuse equally destroys victim agency and precipitates violent responses. Integrating psychological dimensions of prolonged abuse into evidentiary standards would strengthen Chinese practice beyond purely temporal and physical indicators.

The analysis suggests a three-stage framework for understanding sentencing outcomes. Evidence recognition involves documentation of abuse through police records, injury reports, and help-seeking attempts. Judicial interpretation then categorizes recognized abuse as ordinary fault, major fault, or "relatively minor circumstances of intentional homicide," with this classification influenced by temporal duration, violence severity, and judicial discretion. Sentencing outcomes follow predictably: major fault produces 6-10 year terms, while "relatively minor circumstances" classification yields 3-5 years including suspended sentences. Understanding this progression clarifies where inconsistencies emerge and where reform efforts should concentrate.

5. Recommendation

5.1. Toward broader recognition of mitigating circumstances of "relatively minor circumstances of intentional homicide"

As noted above, judges often find that long-term domestic violence either constitutes the victim's serious fault or meets the "relatively minor circumstances" of intentional homicide as outlined in the Opinion. The issue, however, lies in the ambiguity and overlap in how long-term domestic violence is classified as a mitigating factor. In practice, some courts treat it as evidence of the victim's serious fault, while others recognize it as grounds for identifying "relatively minor circumstances of intentional homicide". These differing interpretations result in inconsistent sentencing outcomes, which may explain the variation observed in similar cases.

It is worth noting that, in theory, long-term domestic violence is regarded as a circumstance of victim fault, although this is not explicitly stated in the Opinion and has instead been implicitly accepted in practice. When a husband's prolonged abuse triggers a homicide by the abused woman, the violence is viewed as a contributing factor, making the victim partially responsible and supporting sentence mitigation. The Opinion does explicitly state that if a woman kills in response to long-term domestic violence, and the act is neither particularly heinous nor cruel, the case may be classified as "relatively minor circumstances of intentional homicide". As this study has shown, such a classification in practice often results in sentences of less than five years. Therefore, both in theory and practice—and given that legal reform may not be immediate—courts should, where possible, adopt this classification to ensure more appropriate and lenient sentencing for battered women. Implementation requires judicial training on coercive control dynamics, learned helplessness, and neurobiological impacts of sustained threat environments. Risk assessment frameworks from other jurisdictions could provide structured evaluation tools supplementing intuitive judgments. Addressing implicit bias regarding how "real victims" behave would reduce sentencing disparities arising from stereotypes rather than legal principle.

5.2. Recommend incorporating help-seeking behavior into the domestic violence evidence system

Although the Opinion stipulates that when a battered woman meets one of two conditions—either suffering serious domestic violence causing significant physical and mental harm, or enduring long-term abuse and the female homicide is not particularly heinous or cruel—her act may be classified as “relatively minor circumstances of intentional homicide”, carrying a sentence of 3 to 10 years. The application of this provision still relies on establishing the victim’s serious fault to demonstrate long-term or severe domestic violence. This indicates that, in practice, the reform introduced by Article 20 regarding “relatively minor circumstances of intentional homicide” has not extended beyond the existing framework of major victim fault, as it continues to depend on the recognition of sustained or severe abuse.

A key reason why battered women may resort to killing their abusers is their inability to stop the ongoing domestic violence. If they could escape the abusive relationship through legal channels—such as police reports or legal aid—such extreme outcomes might be avoided. Therefore, the law could consider recognizing help-seeking behavior as a mitigating factor in sentencing, potentially allowing for further commutation or even acquittal. Given the potential for acquittal, this factor must be strictly limited to prevent misuse. In this context, help-seeking behavior has two key dimensions. The woman must have actively sought assistance, demonstrating that she did not passively endure the violence but made efforts to escape^{30,31}. In addition, despite these efforts, she remained trapped in the abusive relationship—sometimes facing even more severe violence as a consequence of reporting the abuse^{32,33}. In such circumstances, where there is no realistic way to escape the violence or its threat^{34,35}, a battered woman’s act of homicide becomes more understandable and deserving of greater leniency. This also provides a clear response to the often-asked question: Why didn’t she just leave?^{36,37,38,39,40}

³⁰ HOU, Fengsu et al. Rural Chinese Women’s Recognition of Intimate Partner Violence and their Potential Coping Strategies: A Qualitative Study. *JOURNAL OF FAMILY VIOLENCE*. New York: Springer/Plenum Publishers, 2022, vol. 37, no. 4. DOI: 10.1007/s10896-021-00302-4

³¹ NIKOLOVA, Kristina et al. Women’s Help-Seeking in China and Papua New Guinea: Factors That Impact Survivors of Intimate Partner Violence. *Sage Open*. 2023, vol. 13, no. 4. DOI: 10.1177/21582440231221329

³² MEYER, Silke. Seeking Help for Intimate Partner Violence: Victims’ Experiences When Approaching the Criminal Justice System for IPV-Related Support and Protection in an Australian Jurisdiction. *Feminist Criminology*. 2011, vol. 6, no. 4. DOI: 10.1177/1557085111414860

³³ RAJAH, Valli and Max OSBORN. Understanding Women’s Resistance to Intimate Partner Violence: A Scoping Review. *Trauma, Violence, & Abuse*. SAGE Publications, 2022, vol. 23, no. 5. DOI: 10.1177/1524838019897345

³⁴ BRAUN, Kerstin. Women who kill their abusive intimate partners in non-confrontational circumstances—the need for German criminal law reform. *International Journal for Crime, Justice and Social Democracy*. Queensland University of Technology Brisbane, QLD, 2024, vol. 13, no. 4, p. 112-121.

³⁵ FERREIRA, Mafalda, Jorge QUINTAS and Sofia NEVES. “I killed him”. Marital homicide committed by Portuguese women: a qualitative criminological analysis. *Sociologia, Problemas e Práticas*. Editora Mundos Sociais, 2022, no. 99, p. 69-87.

³⁶ HANNA, Cheryl. The paradox of progress: translating Evan Stark’s Coercive Control into legal doctrine for abused women. *Violence Against Women*. 2009, vol. 15, no. 12. DOI: 10.1177/1077801209347091

³⁷ KOSHAN, Jennifer. Challenging myths and stereotypes in domestic violence cases. *Can. J. Fam. L.* HeinOnline, 2023, vol. 35, p. 33.

³⁸ MCPHERSON, Rachel. Battered Woman Syndrome, Diminished Responsibility and Women Who Kill: Insights from Scottish Case Law. *The Journal of Criminal Law*. 2019, vol. 83, no. 5. DOI: 10.1177/0022018319858506

³⁹ PUGH, Brandie, Luye LI and Ivan Y. SUN. Perceptions of Why Women Stay in Physically

Evidence of systematic help-seeking addresses the persistent question of why victims remained in abusive relationships. Documented attempts to access institutional protection demonstrate that homicide resulted from systemic failure rather than vengeful intent, warranting enhanced mitigation. In judicial practice, some battered women have actively sought help from institutions such as village committees, neighborhood committees, women's federations, and police stations—agencies legally tasked with preventing domestic violence and protecting victims⁴¹. Their records or statements can serve as evidence that the woman took active but unsuccessful steps to escape the abuse, helping to explain her eventual resort to homicide. Case reviews show that some judgments include written or verbal evidence from these institutions. However, the concept of help-seeking remains underdeveloped and requires further refinement in practice.

6. Conclusion

The above analysis shows that China has recognized the issue of domestic violence and the sympathetic experiences of battered women⁴². Legal measures addressing domestic violence have played an active role in practice⁴³, and sentencing for women who kill their abusers has shown a trend toward leniency. However, the absence of clear standards for identifying domestic violence has led to inconsistent judgments in similar cases, highlighting the need for further reform. In practice, when the victim has major fault and the woman's actions meet the criteria for "relatively minor circumstances of intentional homicide", courts should, where possible, acknowledge this classification, as it allows for significantly lighter punishment. Future reforms should also focus on recognizing help-seeking behavior by battered women as key evidence. This would demonstrate that such women did not passively endure abuse or act out of revenge but resorted to homicide in desperation after exhausting all available options. The law should reflect this reality with greater leniency.

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⁴¹ SUN, Ivan Y. et al. Officer and Organizational Correlates With Police Interventions in Domestic Violence in China. *JOURNAL OF INTERPERSONAL VIOLENCE*. Thousand Oaks: SAGE Publications Inc, 2022, vol. 37, no. 11–12. DOI: 10.1177/0886260520975694; ZHAO, Ruohui et al. Exploring Perceived Legal and Organizational Support and Attitudes on the Decision to Mediate or Arrest in Domestic Violence Cases: A Study Among Community and Criminal Justice Professionals in China. *VIOLENCE AGAINST WOMEN*. Thousand Oaks: SAGE Publications Inc, 2024, vol. 30, no. 14. DOI: 10.1177/10778012231182411

⁴² CHU, Tsz Hang et al. Online Social Support for Intimate Partner Violence Victims in China: Quantitative and Automatic Content Analysis. *VIOLENCE AGAINST WOMEN*. Thousand Oaks: SAGE Publications Inc, 2021, vol. 27, no. 3–4. DOI: 10.1177/1077801220911452

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