

CONNECTICUT LAW REVIEW

VOLUME 40

JULY 2008

NUMBER 5

Article

Don't Change Your Husband: Divorce in Early Chinese Movies

ALISON W. CONNER

This Article analyzes the depiction of divorce in pre-1949 Chinese movies. During the 1930s and 1940s, a golden age for early Chinese cinema, divorce often figured in movie plots, just as it does in China today. These movies reflect the changing roles of men and women, along with the new freedoms the Civil Code granted women to marry freely and (for the first time) to divorce. Thus, in most of the movies, including the famous Long Live the Missus, it is the wife who initially seeks the divorce or starts divorce proceedings. But the films also reflect ambivalence towards women's new rights, and only the most selfish of wives actually leave their husbands. The issues these movies raise have much to say to us today, when women's equality and the true meaning of personal freedom, still imperfectly achieved, remain difficult issues in China.

ARTICLE CONTENTS

I. INTRODUCTION	1247
II. DIVORCE IN THE 1920s AND 1930s	1248
III. DIVORCE IN THE 1940s	1252
IV. CONCLUSION.....	1257



Don't Change Your Husband: Divorce in Early Chinese Movies

ALISON W. CONNER*

I. INTRODUCTION

Divorce is a familiar theme in Chinese film and television today, just as it has become increasingly common in contemporary Chinese life, reflecting the transitional nature of legal and family values now.¹ But these are not the earliest cinematic treatments we have. Divorce figures in pre-1949 movies too, when Chinese family law underwent far more radical change, at least on the books. Traditional Chinese marriages were arranged and concubines had legal status as secondary wives; while it was extremely difficult for the wife to obtain a divorce, it was very easy for the husband.² But Republican legal reform aimed to establish a modern family law and, in so doing, to raise the status of women. Thus the new Civil Code provided for monogamy, freedom of marriage, and freedom of divorce; the law no longer recognized many older customs. For the first time, the law also granted women the same rights as men to divorce, whether for cause or by mutual consent.³

Legal issues appear in so many American movies that the study of law and film has generated an academic field of its own. Few characters appear

* Professor of Law, the William S. Richardson School of Law, University of Hawai'i at Mānoa. Research for this essay was conducted with the assistance of a grant from the William S. Richardson School of Law. I would also like to thank Avi Soifer for his comments on an earlier version of this Article.

¹ For example, *Chinese Style Divorce (Lihun Zhongguo Shi)*, a popular television series, became available on DVD in 2005. For a summary of recent changes in family law, see Michael Palmer, *Transforming Family Law in Post-Deng China: Marriage, Divorce and Reproduction*, 191 CHINA Q. 675 (2007).

² Men had the right to bring a divorce action based on seven traditional grounds, but women had no legal right to divorce a husband on any grounds. A woman could request a right to remarry only if her husband deserted her and if after three years she petitioned the magistrate to be allowed to marry again. G. Jamieson says that this was required so that the parties could be restored to the "*status quo ante*," that is, that the wife's parents were willing to take her back. The magistrate would probably approve the remarriage only if the woman was destitute. Da Qing Lüli § 116 [The Qing Code], translated in G. JAMIESON, CHINESE FAMILY AND COMMERCIAL LAW 41-42, 53-55 (1921).

³ The Civil Code of the Republic of China (Zhonghua Minguo Minfa), adopted 1930-1931 [The Civil Code]. For this Article I have cited to the 1931 translation by Ching-Lin Hsia et al. Foo Ping Sheung, *Introduction to THE CIVIL CODE OF THE REPUBLIC OF CHINA*, at v-x (Ching-Lin Hsia et al. trans., 1931). According to the Supreme Court in a 1933 decision, divorce must result from the parties' mutual consent and not from pressure by relatives. MARC VAN DER VALK, AN OUTLINE OF MODERN CHINESE FAMILY LAW 111-12 (1939). If the matter could be "amicably" settled by consent, then either party could break the tie with or without a just cause. WILLIAM S. H. HUNG, OUTLINES OF MODERN CHINESE LAW 185 (1934).

in as many of our movies as lawyers, and the courtroom scene is a staple of both serious and popular American film. By contrast, traditional China was not a legally-oriented society, and modern legal reform did not begin in earnest until the beginning of the twentieth century.⁴ The appearance of legal issues in early Chinese films is therefore intriguing, especially if they involve civil law areas such as divorce, which were to a great extent governed by custom during the imperial era.

This article analyzes the treatment of divorce in Chinese films from the *Minguo* or Republican period (1912 to 1949 on the Chinese mainland). Many of these movies, which could once be viewed only at film festivals or—with permission—in archives, have now become available on DVD or VCD. They include the work of some of China's best-known directors and actors as well as movies that remain fairly obscure.⁵ How often did divorce appear in these films and how was it depicted? Can viewing these movies teach us anything about the law, whether in action or on the books? Given Hollywood's inaccurate treatment of divorce⁶ and its frequent use as a romantic plot device, perhaps we should not expect too much from Chinese movies, whatever their vintage. Yet I believe that the Chinese films discussed in this article do more than reflect popular attitudes of their time; they also have much to tell us about legal and social changes taking place in the Republican era.

II. DIVORCE IN THE 1920S AND 1930S

During the Republican period, China's film industry was concentrated in Shanghai, the "capital of Chinese modernity and the culture industry before the war."⁷ Shanghai, with its westernized lifestyle and radical intellectual culture, quickly became the Chinese center for film exhibition and distribution.⁸ Most commentators view the period from the early 1930s until the outbreak of full-scale war in 1937 as the first golden age of Shanghai movies.⁹ In the 1920s, Chinese movies drew primarily from

⁴ See generally M.J. MEIJER, *THE INTRODUCTION OF MODERN CRIMINAL LAW IN CHINA* (1950); Chuzo Ichiko, *Political and Institutional Reform, 1901–11*, in 11 *THE CAMBRIDGE HISTORY OF CHINA* 375, 408 (John K. Fairbank & Kwang-Ching Liu eds., 1980).

⁵ This Article is based on my viewing of some sixty films from the pre-1949 period. They have appeared in at least three or four series, available in China and Hong Kong, in China-format, some with Chinese subtitles. Few offer more than limited notes on the plot, stars and director, and they often fail to identify dates or movie companies. Film encyclopedias provide more information, but unless otherwise indicated the translations, plot summaries and interpretations of these movies are mine.

⁶ Michael Asimow, *Divorce in the Movies: From the Hays Code to Kramer vs. Kramer*, 24 *LEGAL STUD. F.* 221, 222 (2000); see also Ira Lurvey & Selise E. Eiseman, *Divorce Goes to the Movies*, 30 *U.S.F. L. REV.* 1209, 1210–18 (1996) (discussing various depictions of divorce in American movies).

⁷ POSHEK FU, *BETWEEN SHANGHAI AND HONG KONG: THE POLITICS OF CHINESE CINEMAS* 69 (2003).

⁸ *Id.*; ZHEN ZHANG, *AN AMOROUS HISTORY OF THE SILVER SCREEN: SHANGHAI CINEMA, 1896–1937*, at 87 (2005).

⁹ YINGJIN ZHANG, *CHINESE NATIONAL CINEMA* 58–60 (2004).

Peking opera, fairy tales, myths, and folklore for their stories. They tended to feature martial arts, costume dramas and traditional stories, all typically Chinese. Family melodramas, often drawn from novels or the new drama, were also popular. But in 1931 the Nationalist government banned martial arts and "magic spirit" films as part of an anti-superstition campaign.¹⁰ After the 1931 Japanese invasion of Manchuria and the bombing of Shanghai early the following year, many directors recognized the changing mood among Shanghai audiences, and more progressive and patriotic themes came to dominate the cinema.¹¹ Many of these early movies are characterized by simplistic or highly politicized plots. Few had sound, and their pace seems slow to us now, but their treatment of social issues is still of great interest.

Divorce makes its appearance in Chinese films as early as the 1920s. *Divorce (Lihun)*, for example, a silent movie produced by Mingxing Film and directed by Zhang Shiquan,¹² was based on a satirical novel of the same name by the famous writer Lao She.¹³ The film tells the story of Lao Li, a minor government official who brings his uneducated wife from the countryside to Beijing in hopes of making a modern woman out of her. In the course of the novel, most of the characters contemplate divorce, whether they fear it (mostly women) or find themselves attracted to the idea (mostly men). Lao Li, for example, imagines divorce from his country wife and remarriage to a beautiful neighbor whose husband may have left her. When the husband reappears, Lao Li's hopes are dashed and he returns to his rural hometown, taking his family with him. Divorce runs like a thread through the movie, unifying the stories of the different characters; perhaps they all have good reason to leave their arranged marriages, but in the end no one has actually done so.

Some early movies more directly depict the traditional plight of women: in practice, men have the freedom to divorce and women do not. The consequences of divorce for women are also much harsher. In *Two Stars in the Milky Way (Yinhan Shuangxing)*, a 1931 silent movie directed by Shi Dongshan, a young woman is discovered on location by a movie company, becomes a star and falls for a movie actor, who is also attracted

¹⁰ ZHANG, *supra* note 8, at 235.

¹¹ See JUBIN HU, *PROJECTING A NATION: CHINESE NATIONAL CINEMA BEFORE 1949* (2003); JAY LEYDA, *DIANYING: AN ACCOUNT OF FILMS AND THE FILM AUDIENCE IN CHINA* 71–73, 77 (1972) (noting an increase in the popularity of patriotic Chinese films following the Japanese invasions of Manchuria in 1931 and Shanghai in 1932); Leo Ou-fan Lee, *The Urban Milieu of Shanghai Cinema, 1930–1940: Some Explorations of Film Audience, Film Culture, and Narrative Conventions*, in *CINEMA AND URBAN CULTURE IN SHANGHAI, 1922–1943*, 74–76 (Yingjin Zhang ed., 1999).

¹² The film was not available, so my discussion is based on the information and summary given in *ZHONGGUO DIANYINGPIAN DADIAN [ENCYCLOPEDIA OF CHINESE FILMS]* 174 (1996) and the novel on which it is based. The Encyclopedia gives the movie's date as 1928, although the novel was not published until 1933.

¹³ LAO SHE [SHU QINGQUN], *LIHUN [DIVORCE]* (1933). For an authorized translation, see HELEN KUO, *THE QUEST FOR LOVE OF LAO LEE* (1948); see also 3 *BIOGRAPHICAL DICTIONARY OF REPUBLICAN CHINA* 132–33 (Howard L. Boorman ed., 1970).

to her. The actor courts her and they seem like an ideal couple—but the actor is already married. His cousin reminds him of his marriage and admonishes him: "Your country-bred wife will never survive in the event of a divorce." As the actor leafs through his wedding album, he recalls his mother telling him never to part with the wife his parents had chosen for him. He stages an embrace with another woman for the actress's benefit; she runs away in tears and returns home with her father. The actor has done his duty and ended the romance; there will be no divorce.

In other movies, however, it is the wife who seeks—and gets—the divorce. In the 1932 silent film *Spring in the South* (*Nanguo zhi Chun*), a Lianhua Film directed by Cai Chusheng, Hongyu, a university student in a small southern city, falls in love with Xiao Hong, the pretty girl living next door. But his dying father makes him promise that he will marry his wealthy cousin Feng Fei to rescue the family's finances, a promise he reluctantly honors after his father's death. In this arranged marriage, Hongyu and his wife are poorly matched: while he is serious and patriotic, she is something of a rich party girl. She soon tires of him and becomes involved with other men. After he goes abroad to study in France, his family writes to say that Feng Fei wants a divorce. Hongyu is now free and he returns to China, but it is too late for him to marry Xiao Hong, his true love. He rushes back to her but she is dying, sickened in part by his marriage to another. At her urging, Hongyu decides to join the army to fight for China, and the movie ends on a patriotic note.

National Customs (*Guo Feng*), a 1935 Lianhua Film directed by Luo Mingyou and Zhu Shulin, tells the story of two sisters who have very different characters. Zhang Lan (played by the famous actress Ruan Lingyu) is serious and dutiful, while her younger sister Zhang Tao (played by a charming Li Lili) is selfish and pleasure-seeking. Both love the same man, Chen Zuo. After Tao tells her sister she must have him, Lan rejects his proposal so that Tao can marry him ("I love you but I love another more"). Upon graduation from their country high school, Lan and Tao leave home to attend university together in Shanghai, but they make a very different experience of it. Lan is mocked by the other students for her devotion to study and her old-fashioned views, and, as a result, she falls seriously ill. But Tao is flirtatious and socially daring (she even wears make-up); she becomes very popular and greatly enjoys her new college life.

In Shanghai, Tao is soon attracted to a flashy fellow student and loses all interest in the country husband she left behind. When she returns home with the new boyfriend in tow, she confronts her husband to ask for a divorce. Zuo is shocked and tells her not many people do that. "Then let me be the first to do so," she replies defiantly, her hand on her hip—and apparently she gets her divorce. This movie is clearly a vehicle for the New Life Movement, which was launched by Chiang Kai-shek to promote

Confucian over Western individualistic values,¹⁴ and by mid-movie its moral message completely overwhelms the plot. Thus Tao ultimately sees the error of her ways and becomes as sober as her sister, now equally willing to devote her life to Chinese values and old-fashioned teaching. Meanwhile Lan once again turns down her former beau: once more she tells Zuo that she has feelings for him but loves another more. This time it is the nation rather than her sister that she chooses over him; she has decided that she will devote herself to her country.¹⁵

In 1929's *Don't Change Your Husband* (*Qing Hai Chong Wen*),¹⁶ a silent movie directed by Xie Yunqing and starring Tang Tianxiu and Yang Dandan, divorce is central to the story. Xie Lijun, a young married woman, is bored by her husband Wang Qiping and attracted to Chen Mengtian, a superficially more appealing and apparently richer man. Chen tells her not to worry if her husband discovers their involvement: he will simply have a lawyer friend start divorce proceedings. Xie asks for the divorce and her husband reluctantly agrees (though both of their mothers seem very much in favor).

The parties meet at the offices of Lawyer Tsai, Wang with his mother, and Xie accompanied by both her mother and Chen. The lawyer has prepared the divorce agreement and summons the husband to his desk to sign it. Wang picks up the brush, but he cannot bring himself to sign and returns to his seat. His mother immediately rushes up to sign in his stead. Xie too finds herself unable to sign the agreement, despite pressure from the lawyer. Bursting into tears, she too rushes back to her seat. Chen Mengtian is only too happy to sign in her place, and the divorce goes through. That evening, Wang sits alone, smoking and reflecting on the end of his marriage. He tearfully recalls his courtship of Xie and relives the scene in Lawyer Tsai's office. "This is a lawyer's office and not a recreation club!" he imagines Tsai declaring. As he gazes at Xie's bridal photo, he crumples his cigarette and begins to cry in earnest. Xie too finds she regrets the divorce and cannot enjoy her new freedom with Meng. Then her father rebukes her sharply when he discovers that she has divorced Wang, her regret turns to despair and she considers suicide. Fortunately, Wang intervenes and the two are happily reunited.

This movie depicts divorce proceedings and features a close-up of a lawyer in action, but the portrait it paints is far from admiring. Lawyer Tsai presides over a formal, semi-westernized suite of offices, and he himself wears a western suit. His hair is slicked back and he sports a thin little mustache, which he all but twirls in the manner of old-movie villains.

¹⁴ JOHNATHAN D. SPENCE, *THE SEARCH FOR MODERN CHINA* 295–300 (1999).

¹⁵ For a discussion of the political aspects of this film, see HU, *supra* note 11, at 108.

¹⁶ This early silent film has English as well as Chinese subtitles. The original English movie title makes clear that the movie is based on the earlier Cecil B. DeMille film of the same name, with a similar plot. *DON'T CHANGE YOUR HUSBAND* (Image Entertainment 1919).

He cares nothing for the feelings of the divorcing parties, though they (and not his friend Chen) are actually his clients. Tsai urges both to sign despite their obvious reluctance, and when they refuse, he allows someone else to sign in their stead, advancing Chen's interests over theirs. The reason for the lawyer's actions is clear: once the agreement is signed, Chen hands him a thick wad of bills, which Tsai is counting with relish in our final view of him.

III. DIVORCE IN THE 1940S

At the end of the Pacific War, movie production resumed in Shanghai, and the post-war 1940s marked a second golden age of Chinese film, perhaps achieving greater heights than pre-war Shanghai.¹⁷ Movies from this period offer more complex treatments of many issues as well as better production values, and their stories hold greater appeal. For example, *Unending Love* (*Buliao Qing*) echoes concerns that *Two Stars in the Milky Way* raised in 1931 but handles them in a far more sophisticated way. This 1947 Wenhua film was directed by Sang Hu, and the screenplay was written by the novelist Eileen Chang (Zhang Ailing). Chang, the author of *Love in a Fallen City* (*Qingcheng zhi Lian*) and other novellas, was one of the most popular writers of the day; her stories about Shanghai and Hong Kong in the late thirties and forties are especially well-known.¹⁸

In *Unending Love*, Yu Jiayin, a young Shanghai woman, finds a job tutoring the daughter of Xia Zongyu, a wealthy middle-aged businessman. She soon becomes fond of the girl, who is lonely because her mother lives in the country and her father often travels on business. When Jiayin later meets the child's father, she recognizes him as the attractive stranger she met by chance at the theater one evening. They find themselves increasingly drawn to each other and fall in love. Xia decides that he should divorce his wife and marry Jiayin, though he admits that he cannot blame his wife for her poor health or lack of education (theirs was probably an arranged marriage). But the wife, who has been warned by a loyal servant of the threat to her position, arrives in Shanghai unexpectedly. In a meeting with Jiayin, Mrs. Xia expresses the hope that her husband will not divorce her—perhaps Jiayin can become his concubine instead? *Unending Love* is told primarily from Jiayin's point of view, but the film also shows great sympathy for Mrs. Xia. Ill-educated and country-bred, what choice has she but to accept her husband's concubine or mistress? She fears the consequences of divorce, and rightly so.

¹⁷ Lee, *supra* note 11, at 86.

¹⁸ For example, see the translator's introduction in EILEEN CHANG, *LOVE IN A FALLEN CITY* ix–xi (Karen Kingsbury & Eileen Chang trans., 2007); see also C.T. HSIA, *A HISTORY OF MODERN CHINESE FICTION* 389 (3d ed. 1999) (discussing Eileen Chang's stories and her prominent place among Chinese and serious modern writers around the world).

In the meantime, Jiayin's worthless father has resurfaced, and she recalls the suffering his philandering caused her mother, making her own position all the more difficult. Although Jiayin truly loves Xia and wishes to marry him, she cannot bring herself to play the part of old-fashioned concubine or modern home-wrecker. Her father's mistreatment of her mother and also the pity she feels for the wife mean she can see no place for herself in a relationship with Xia. Without telling him or any of their friends of her plans, she slips away from Shanghai to take a teaching position in Xiamen and start life anew. Xia arrives at her apartment only to find it empty, and he is heartbroken when he realizes she has left without a word of farewell. The movie's ending is truly poignant: Jiayin has preserved her virtue and self-respect, and a dependent wife has not been cast aside, but two people who love each other and belong together must forever be separated.

Two other films of the late 1940s treat divorce issues with considerable humor, and their endings are consequently happier. *Modern Girl (Modeng Nüxing)*,¹⁹ a 1945 film directed by Tu Guangqi and starring Ouyang Shafei and Yang Liu, tells the story of two young women, Yunzhen and Leiyang, and their romances with fellow university students Zhihua and Hanmin. Zhihua is attracted to Yunzhen, though his friend Hanmin warns him against marrying a modern woman who believes in male-female equality. Once married, she will spend all her time shopping, eating out, and sleeping late. Yunzhen, in fact, has no desire to do housework, though it seems she does wish to marry. In several comic scenes, she passes off the family cook's meal as her own work and Leiyang's knitting as her own creation. Zhihua is suitably impressed and reassured, and in another light scene he proposes to Yunzhen.

Once married, however, Yunzhen spends most of her time away from home, socializing or giving lectures to women's groups. The cooking and housework, and later the care of their child, are all left to servants. Zhihua becomes increasingly discontented with their married life, and his dissatisfaction boils over when Yunzhen misses Leiyang's birthday dinner and then shows little concern for their sick child's welfare. When he tries to complain to Yunzhen, she continues to get ready for a night on the town, and he finds himself talking to the bathroom door. In the ensuing argument, the two become increasingly angry, and Yunzhen tells him they should get a divorce so he can marry some country miss who will be happy to keep house for him. "Fine," he replies, "let's see the lawyer tomorrow!" "Why wait until tomorrow?" she shouts back. "Let's see the lawyer tonight."

When next we see Yunzhen, they have divorced, and she is now alone,

¹⁹ *Xin nüsheng* ("new woman") or *modeng nüxing* ("modern woman") as used in the 1920s and 1930s could have a negative as well as positive connotation. For a discussion of its use in literature, see JIN FENG, *THE NEW WOMAN IN EARLY TWENTIETH-CENTURY CHINESE FICTION* (2004).

free to pursue her own activities. In the meantime, Leiying has married Hanmin, and when Yunzhen is invited to their house for a holiday dinner, she is struck by the warm and loving atmosphere of their home. She is overcome with regret for the loss of her own family, and when the other dinner guests turn out to be her former husband and their child, she sees all too clearly what she has thrown away. Fortunately, it has not been lost forever; Zhihua still loves her and the family is reunited.

Is this simply an anti-feminist film, or is it a more complex depiction of the changing roles of men and women? Leiying, who greets her husband at the door with his slippers and prepares his favorite dishes for her own birthday dinner, because "if they are your favorite dishes then they are also mine," seems the traditional model of wifely behavior. Leiying is more than competent to run the household, though she no doubt has servants too. But the genuine affection she and her husband feel for each other and the warm companionship they share are what really distinguishes their marriage from that of Yunzhen and Zhihua. It is the stark contrast to his own marriage that truly upsets Zhihua and leads to his confrontation with his wife. Zhihua may be dissatisfied with the meals Yunzhen serves him, but his deeper complaint is the lack of companionship. Perhaps this is a natural desire in a modern love marriage, and not simply a patriarchal demand.

Modern Girl does deliver a traditional message: the wife should stay home, and she will regret a divorce even if the law grants her the freedom to seek one. But it also illustrates the contradiction between more traditional marriage expectations and the desire of women to play a role outside the home. These four young people are all modern and westernized, and Yunzhen is right to remind her husband that she too is a university graduate. In part because of the ready availability of servants in middle-class Shanghai households, Yunzhen and Zhihua can probably work things out. A chastened Yunzhen may become less self-absorbed and accept that even in a post-traditional world she still has duties to her family (though I do not think she will learn to cook).

Divorce plays a more prominent role in *Long Live the Missus* (*Taitai Wansui*), produced by Wenhua Film in 1947, with Sang Hu and Eileen Chang once again collaborating on the direction and screenplay. This highly entertaining comedy-drama is also set in middle-class Shanghai, and stars Jiang Tianliu as the "missus" and Zhang Fa, one of the best-known Chinese actors of that era, as her husband. The film centers on Chen Sizhen, a pretty and very charming wife who is also somewhat manipulative in her management of her husband's and her own family, though mostly for their own good. Her stratagems can backfire, especially when they are discovered, but on the whole she seems successful. She pays the maid extra without her mother-in-law's knowledge to smooth their relationship, supports a romance between her younger brother and her

sister-in-law (though her husband may disapprove), and convinces her father to invest in a new company that her husband, Tang Zhiyuan, is starting. Tang serves as general manager of the company, which does well at the outset. In the first flush of success, he succumbs to temptation and has an affair with a greedy mistress, who wrangles gifts out of him that he intended for his family.

Then disaster strikes. The company's assistant manager absconds with its funds and the husband's business is threatened with lawsuits. Chen also discovers Tang's affair just as he is beginning to regret his behavior. Although she is hurt by his betrayal, she agrees to help her husband rid himself of his increasingly troublesome mistress if he will promise to give her whatever she asks when she succeeds. Tang agrees, and Chen manages, through her usual clever methods, to extricate him from the relationship. When she returns home from her meeting with the mistress, her husband is dismayed to find that her only request is for a divorce. She packs her bags and insists they leave immediately for the lawyer's office to sign the divorce papers.

Like *Don't Change Your Husband*, *Long Live the Missus* features a visit to the lawyer's office to arrange a divorce, but the contrast with the similar scene (and the lawyer) in the earlier film could not be greater. Lawyer Yang is a friend of the family, and we first meet him when he and Mrs. Yang arrive at the Tang home to play mahjong. Indeed, his comfortable suite of offices bears a striking resemblance to their home, and he is completely approachable and accessible behind his large modern desk. Later on, when Tang stops by his office, the lawyer introduces him to the businessman who gives Tang the idea of starting a company—and of taking a mistress. But Lawyer Yang is not the villain of the piece; the husband is weak, and his lawyer did not cause the ensuing problems. Indeed, Yang's actions are generally portrayed as positive in this film, especially when he acts as mediator and counselor.

When Lawyer Yang has prepared the divorce agreement for Chen and Tang to sign, for example, he asks if they both really want this divorce. Tang demurs, but then reluctantly agrees to it after Chen reminds him of his promise. The lawyer warns her that divorce is hard on women and suggests that she should reconsider. Chen insists on going forward, but twice she cannot bring herself to sign the document, so Yang rips it up and tells them he is no longer willing to act for them in this matter. He asks them to reconsider their situation carefully and then invites them both to lunch; as a lawyer, he says, he rarely sees such a happy result and wishes to celebrate. Tang declares that he should be the host because he is really the one at fault, and, when his wife quickly agrees, they all repair to the fancy restaurant the lawyer has proposed. In the movie's final scene, the camera shows us that the mistress too is dining there, with her latest conquest.

The characters in this film are complex. Just as the lawyer's clients are neither rich nor poor, but middle class, they are also neither entirely good nor entirely bad (nor is the ending in this film unambiguously happy). Yang is an excellent lawyer; he understands the true wishes of his clients, even if they remain unexpressed, and he helps them to achieve their goals. More broadly, his services are important and necessary to his clients, and he meets his professional obligations by representing them. Without Yang's advice, they could not take full advantage of the freedom the law grants them to order their lives. When he advises them, he plays a morally worthy social role, both as friend and counselor. Yang thus represents a cinematic version of the ideal lawyer; he is the equal of, and helpful friend to, his clients.²⁰

Long Live the Missus has been described as an apolitical movie,²¹ and it is true that issues of rich versus poor do not surface in its story. But Eileen Chang's work could also have a darker edge, containing tales of seduction and betrayal (she divorced her first husband for infidelity),²² and the film is not without its "political" points relating to women. Nevertheless, the ending in *Long Live the Missus* can be seen as a happy one, even if Chen is stuck in a patriarchal system in which husbands may stray and must be controlled indirectly.

This complexity of characters and their fates appears in other films Chang wrote (e.g., *Unending Love*) and in the stories and novellas for which she is justly famous in the Chinese world.²³ Her work depicts the conflict between traditional family strictures and the modern world that is replacing them, at least in urban China, and divorce figures prominently in her stories as well as her early screenplays. Her most famous novella, *Love in a Fallen City*, is set in Shanghai and Hong Kong in 1941. In that story (and the 1984 film based on it),²⁴ Bai Liusu has divorced her husband and returned to her large traditional family.²⁵ Although she left her husband because of his mistreatment and returned with her own money (now spent by her older brother), her family still disapproves and frequently criticizes her.²⁶

As a divorced woman without a modern education, Liusu has no place in either the traditional or the modern world. When her former husband

²⁰ See Charles Fried, *The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation*, 85 YALE L.J. 1060, 1067 (1976) (arguing that the special care one gives the interests of clients is comparable to the special concern one has for friends and family).

²¹ FU, *supra* note 7, at 139–40.

²² CHANG, *supra* note 18, at xii.

²³ *Id.*; HSIA, *supra* note 18, at 389.

²⁴ Directed by Ann Hui On-Wah and starring Chow Yun-fat and Cora Miao, this film is a faithful rendition of the book (and a touching movie that also resonated with a pre-1997 Hong Kong audience). See YINGJIN ZHANG, CHINESE NATIONAL CINEMA 253–54 (2004).

²⁵ Eileen Chang, *Love in a Fallen City*, in LOVE IN A FALLEN CITY 109, 111–13 (Karen S. Kingsbury & Eileen Chang trans., 2007).

²⁶ *Id.* at 112–14.

dies, her relatives demand that she attend the funeral and go into public mourning as if she had remained married to him.²⁷ She takes a more modern view of the law, but to her family, it is the "law of family relations," not the law of the state that matters and can never change.²⁸ Defying her family's wishes, Liusu instead accompanies Shanghai friends to Hong Kong and becomes involved with Fan Liuyuan, a rich playboy educated in England.²⁹ Fan is drawn to her traditional manners and her shyness, but despite their strong attraction to each other, it seems they are not fated to be together. After Hong Kong falls to the Japanese in 1941, however, Fan's true character emerges, they acknowledge their love, and in the end they make a commitment and marry.³⁰

One must remember that these films and stories reflect the individual writer as well as prevalent social attitudes of the day, and Eileen Chang's treatment of divorce and its effect on women is particularly sophisticated and multilayered. *Unending Love* shows the loss of position if the woman is cast aside and her fear it may happen, and *Love in a Fallen City* shows the limited and circumscribed life of a divorced woman with no modern education or career. Perhaps Chang was just being realistic, but in any event her screenplays are no mere morality plays. There is a cost to staying married as well as to getting divorced—and she knows it is women who generally pay it.

IV. CONCLUSION

As a Chinese colleague once reminded me, these are "only movies," not historical documents, though they may still have light to shed on legal as well as popular issues of their day. It is noteworthy, first of all, that divorce should feature so prominently in these early films. Many of them invoke China's first modern divorce law and the legal freedom it granted women to leave a husband as well as to choose him. Indeed, on film it is usually wives, not husbands, who demand a divorce or initiate the proceedings. Thus in *Don't Change Your Husband*, *Spring in the South*, *National Customs*, *Modern Girl*, and *Long Live the Missus*, it is the wife, some version of a modern woman, who seeks the divorce. Her freedom to divorce is clearly linked to new ideas on the status of women and to changes in relations between men and women.

Perhaps surprisingly, the way these movies portray the law is not necessarily wrong. The Civil Code did in fact give individuals, including women, a great deal of liberty to arrange their affairs. For the first time, women were granted the right to divorce, and the historical evidence shows

²⁷ *Id.* at 112–13.

²⁸ *Id.* at 113.

²⁹ *Id.* at 122, 132.

³⁰ *Id.* at 155–56.

that many urban women exercised it.³¹ The Civil Code also permitted divorce by mutual consent if it was effected in writing and carried the signatures of at least two witnesses.³² Individuals were free to marry in any service they chose, so long as they declared themselves married in the presence of two witnesses.³³ To meet this requirement, the parties often signed an agreement at the lawyer's office, which also served as evidence of the marriage. Indeed, in *Long Live the Missus*, Lawyer Yang acts as a witness to the wedding of Chen's brother and sister-in-law, and he is just congratulating them on the happy occasion when Chen and Tang arrive, seeking a divorce. Though a lawyer's services were not required in either case, legal assistance allowed them to arrange their own affairs and document their agreements.³⁴

These films thus introduce us to modern Chinese lawyers as well as to modern Chinese divorce, and they do so only twenty or thirty years after the profession was officially recognized in 1912.³⁵ In Shanghai, to be sure, the legal profession was less of a novelty than elsewhere: Shanghai was a center for lawyers as well as for movies. As China's commercial and industrial center, Shanghai offered its lawyers potential clients along with functioning courts. Shanghai's bar association also represented one of the largest concentrations of lawyers in the country, with more than 1,000 members in 1935, nearly ten percent of the nation's total.³⁶

In all these movies, we see lawyers as the first resort for divorce, and in two of them we even accompany the parties to the lawyer's office. In the earliest depiction (1929), the lawyer is greedy and lacking in ethics: *Don't Change Your Husband* portrays him as a sleazy, silent-movie caricature. But by the late 1940s, the lawyer is depicted as a modern professional and friend of the family. The characters in *Long Live the Missus* are at ease with lawyers and familiar with their roles. Chen's younger brother asks for a business card when he sees Yang at his sister's home, and both Tang and Chen seem to consult him frequently on civil

³¹ Kathryn Bernhardt, *Women and the Law: Divorce in the Republican Period*, in CIVIL LAW IN QING AND REPUBLICAN CHINA 195 (Kathryn Bernhardt & Philip C.C. Huang eds., 1994) [hereinafter CIVIL LAW IN QING AND REPUBLICAN CHINA] (showing that in 1942, seventy-seven percent of divorce suits in Beijing were initiated by women, and in 1940 to 1941 seventy-four percent of divorce suits in Shanghai were initiated by women).

³² This law, very progressive for its time, also allowed ex parte divorce based on fault; ten are listed in article 1052. The Civil Code, *supra* note 3. Therefore no Chinese movie depicted the kind of subterfuge relied on when adultery is the only ground and no-fault divorce is not allowed, as in 1934's *The Gay Divorcee*, in which the wife who seeks a divorce must create grounds and pretends to commit adultery. Her aunt hires a professional correspondent, so the husband will ask for a divorce and free her. *The Awful Truth* (Sony Pictures 1937) is set in New York, so the divorce suit the wife brings must allege adultery.

³³ The Civil Code, *supra* note 3, Articles 1049–1050, 982.

³⁴ Bernhardt, *supra* note 31, at 191 (providing evidence that in fact they did use lawyers in Shanghai).

³⁵ Alison W. Conner, *Lawyers and the Legal Profession in the Republican Period*, in CIVIL LAW IN QING AND REPUBLICAN CHINA 215, 216 (Kathryn Bernhardt & Philip C.C. Huang eds., 1994).

³⁶ *Id.* at 229.

matters. At least on film, members of the Shanghai middle class were no strangers to the legal profession; they had ready access to lawyers, and therefore to justice.³⁷ Indeed, anyone who saw these films would also know that women could divorce and how they could do it—and their Shanghai movie audience was not small. *Long Live the Missus*, for example, with its portrait of a sympathetic and helpful lawyer, sold 150,000 tickets in first-run theaters alone (and other movies sold many times more).³⁸

Of course, whatever the law, popular attitudes do not change overnight, and these films reflect ambivalence if not downright hostility towards women's newly recognized freedom. Thus modern women may initiate the divorce, but in most cases they fail to go through with it (*Long Live the Missus*) or they regret it and are reunited with their husbands (*Don't Change Your Husband* and *Modern Girl*), perhaps to live happily ever after. Only the most selfish of women persist in discarding their husbands: the shallow and pleasure-seeking younger sister in *National Customs*, for example, or the rich and unloving wife in *Spring in the South*. In *Love in a Fallen City*, Bai Liusu's family still blame her for the divorce even though it occurred years earlier and she was the injured party. Both *Twin Stars in the Milky Way* and *Unending Love* emphasize the harm that divorce can inflict on women; in *Unending Love* the wife greatly fears divorce, and we understand why.

But even the law might not have changed so completely. These movies also portray, if only indirectly, a parallel world in which concubines received the law's recognition, though now as ordinary members of the family, not as secondary wives. The Civil Code's rules on monogamy and divorce were an option for urban and assertive Chinese, while the Supreme Court's jurisprudence gave a modified legal status to these traditional relationships.³⁹ Perhaps that is why we find movie references to concubines (*yi taitai*, a colloquial term) even in the late 1940s, as if their status involved real choices long after the code had seemingly ended their legal existence. In *Unending Love*, for example, Mrs. Xia really seems to believe that Jiayin might accept being Xia's concubine or secondary "wife," though she is too modern to do so. In *Long Live the Missus*, Tang's mistress is also referred to as *yi taitai*, even though in fact she is already married to someone else. Chen cleverly plays

³⁷ In strong contrast to the lawyer depicted in the 1937 film *Street Angels* (*Malu Tianshi*), a foreignized mercenary who brushes off two would-be clients who have sought his advice but obviously cannot pay his fees. Alison W. Conner, *Chinese Lawyers on the Silver Screen*, in *CINEMA, LAW, AND THE STATE IN ASIA* 196, 201–03 (Corey K. Creekmur & Mark Sidel eds., 2007). For a more general discussion of access to justice as depicted in *Street Angel*, see CHRIS BERRY & MARY FARQUHAR, *CHINA ON SCREEN* 86–88 (2006).

³⁸ ZHANG, *supra* note 9, at 96.

³⁹ Jérôme Bourgon, *Rights, Freedoms, and Customs in the Making of Chinese Civil Law, 1900–1936*, in *REALMS OF FREEDOM IN MODERN CHINA* 84, 107–11 (William C. Kirby ed., 2004).

on that status and the duties it entails (e.g., produce an heir and serve the wife) to free her husband from the clutches of this “concubine.”

Finally, though all these films are very much the product of their time and place, they seem strikingly relevant to Chinese life today. Now that Chinese economic reforms have once again produced an urban middle class, they can enjoy these comedies and dramas just as their predecessors once did. And now that entertainment—along with much of Chinese life—has become less politicized, the audience can identify with these cinematic middle-class characters, not scorn them as bourgeois.⁴⁰ Divorce has lost much of its stigma, and even the presence of servants can hardly shock the conscience of urban China, where the “ayi” is a common figure in middle-class households. Perhaps nostalgia for the culture of the *Minguo* era, including its literature and music as well as its film, lends these movies an extra glow.⁴¹ But their complex treatment of divorce has much to say to Chinese today, when women’s equality and the true meaning of personal freedom, still imperfectly achieved, remain difficult issues.⁴²

⁴⁰ Xu Wei, *Sang Hu*, SHANGHAI DAILY, Feb. 27, 2007 (writing favorably about these “middle class” dramas). My thanks to Amy Sommers for calling this article to my attention.

⁴¹ In 1992, for example, EMI (Hong Kong) Ltd. began bringing out CDs of “The Legendary Chinese Hits,” songs in Mandarin recorded from the late 1930s to the early 1970s. The recordings were very popular in Hong Kong when I lived there during the 1990s and began collecting them, and I still hear them played on return trips to China. Duolun Road in Shanghai, sometimes referred to as “Minguo Jie” (Republican-era Street), features statues of the main literary figures of the 1930s, as well as a cinema café, which I last visited in 2007.

⁴² See William P. Alford & Yuanyuan Shen, *Have You Eaten? Have You Divorced? Debating the Meaning of Freedom in Marriage in China*, in REALMS OF FREEDOM IN MODERN CHINA 234, 237–241 (William C. Kirby ed., 2004) (discussing the benefits and hardships Chinese women have faced since debate began over the nation’s revised Marriage Law).