At the very least, the church provided medieval wives with some recourse from abusive spouses. A victim of domestic violence might apply to the courts for a divorce *a mensa et thoro*, literally a separation from bed and board, awarded on the grounds of cruelty or adultery.\(^1\) Perhaps not surprisingly, medieval canon lawyers remained divided on how the divorce *a mensa et thoro* should be applied in practice. Most medieval canonists recognised fornication as the only acceptable premise for a separation from table and bed, and it was not until the sixteenth century that canonists generally agreed upon the necessity of separation in abusive marriages. Some medieval canonists did argue in favour of considering physical abuse an acceptable premise for spousal non-cohabitation. For example, Raymond of Peniafort made it clear that in cases where a husband was suing for a restoration of conjugal rights, a wife had the right to refuse cohabitation if the violence was acute enough to warrant it. He declared, “a man seeking restoration should not be restored [if] his cruelty is so great that adequate security cannot be provided to the fearful woman.”\(^2\) Pope Innocent III declared, “if a husband were so cruel to his wife that no security would permit her to live with him without fear, the wife would be justified in living separately from her spouse. The pope added, however, that if the husband could furnish adequate security to allay his wife’s apprehensions of ill-treatment, she was bound to return to his bed and board.”\(^3\) The approaches of these two canonists may have influenced and encouraged the practice of awarding separations on the grounds of cruelty,

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1. It was also possible to obtain a judicial separation on the grounds of heresy, but in England this was sufficiently rare that it is almost not worthy of mention.
although it is important to note that the courts, not the canonists, introduced the practice of granting separations and thus court practices often differed substantially from canonical guidelines. As Brundage observes, “[t]he courts granted divorces with the right of remarriage when the law said they could not do so, they granted separations on grounds that the canons did not recognize, and conversely some of the grounds for separation that are most elaborately discussed in the commentaries appear very infrequently in practice.”  

Brundage even cites an exceptional example of the courts awarding a separation on the grounds of habitual drunkenness, for which no precedent exists in the canonical writings. By the mid-thirteenth century, the church courts of medieval Europe generally were willing to grant a separation for cruelty, providing the tales of abuse presented by the litigants were sufficient to be categorised as near fatal and the husband’s behaviour was incorrigible. A separation from table and bed was decidedly not the same as an annulment. The couple was still deemed married; the application was compulsory merely to sanction separate living accommodations. The existence of such a complex suit forces us to ask an obvious question: if assertions of precontract were such an easy ‘out,’ and self-divorce was so common, why do those few applications for separation exist at all? Would it not have been more logical to sue for precontract with a lover rather than stay married for an eternity to an abusive spouse?

One possible explanation for this quandary is that plaintiffs were seeking a guaranteed escape. Self-divorce required mutual agreement; sometimes consensus was simply not feasible, especially when alimony was concerned. If one-half of the couple was not participating enthusiastically in the deception, a trumped up charge of precontract might be apparent to the court; but who can quibble with domestic bloodshed recounted by troubled friends and family? Armed with a solid case and copious evidence, a victim of abuse might have preferred to stick to the less deceptive path. Cases sued as divorce a mensa et thoro, then, represent situations of abuse egregious enough to comply with public (if not always ecclesiastical) definitions of cruelty.

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5 Brundage, _Law, Sex, and Christian Society_, 511.