

Research on Protection of Women's Rights and Interests in Divorce Disputes

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Abstract: In marriage and family, different subjects have actual differences, resulting in the unequal relationship between the strong and the weak. The principle of equality is the most indispensable part of the value concept of civil law, and is an important basic principle to maintain the harmony of the social family and the equality and stability of the relationship between husband and wife in the legislation of marriage and family. In this paper, women in traditional families in Chinese society as a typical vulnerable female group as the entry point, the marriage and family compilation of the Civil Code, found that the protection of women's rights and interests in divorce disputes in the absence of relevant legal system and follow-up protection mechanism is not perfect issues have not been paid attention to. From this, we can see that the legislation without a perspective, for the protection of the rights and interests of vulnerable groups, there are some problems such as unreasonable division of common property between husband and wife, imperfect divorce relief system and difficulty in payment of alimony, which are caused by vague legislation and insufficient attention to supervision and protection work. In line with the intention of paying attention to and protecting female groups, this paper analyzes the existing defects of legislation and judicatory from the plight of most women in divorce disputes, and tries to improve the protection of divorce rights and interests of marriage by taking extraterritorial laws as the window, so as to practice the principle of equality in the substantive sense.

Keywords: Divorced Women; Protection of Rights and Interests; Divorce Disputes; Equality Principle

1. Introduction

In recent years, China's divorce rate has surged dramatically, leading to a growing number of

divorced individuals in society. However, many women still struggle to protect their rights effectively, as they remain constrained by traditional gender roles rooted in historical family structures. Historical analysis reveals that during the transition from matrilineal to patrilineal societies, women primarily engaged in domestic and private spheres, while men bore the responsibility of supporting economic activities in public domains. With the rise of women's rights awareness, independent-minded women have increasingly participated in public life, enhancing their economic independence and social standing while sharing household burdens with men. This has resulted in a dual division of women: those achieving financial independence and those remaining trapped in traditional mindsets. The Civil Code's amendments and updates emphasize marital equality, prioritizing women's rights. Yet legal frameworks, limited by their inherent constraints, still fall short in addressing the practical challenges faced by vulnerable divorced women. Therefore, exploring effective rights protection mechanisms for divorced women has become a crucial initiative to address their current predicaments.

This paper primarily explores the concept of protecting women's rights in divorce proceedings and discusses its significance. Through case analysis, it identifies the practical challenges in safeguarding women's rights during divorce disputes, highlighting the inadequacies of the Marriage and Family Chapter in the Civil Code. The analysis examines the underlying factors contributing to these shortcomings, including outdated social perceptions and difficulties in legislative and judicial implementation. Finally, by comparing international legal frameworks, the paper proposes concrete recommendations for institutional improvements, aiming to provide actionable insights for better rights protection.

2. Overview of the Protection of Women's Rights and Interests in Divorce Disputes

2.1 Concept of Protection of Rights and Interests in Divorce Disputes of Women

The division of labor and status of women in the family has a long history. Aristotle once said, "The relationship between men and women is naturally one of superior and subordinate, ruler and ruled." [1] This shows that traditional female thinking has gradually been established and consolidated through history, and remains deeply rooted in the mindset of some women today, reflecting profound historical factors.

During marriage, traditional women have traditionally devoted more energy to family responsibilities, shouldering the burdens of raising children, caring for both sets of parents, and managing household affairs. However, this is not a legally mandated obligation for women. Influenced by historical factors and missing the wave of the women's liberation movement, traditional women failed to correct their outdated gender equality perspectives in time, instead defaulting to viewing contributions as their inherent duty. This default assumption of obligations not only reflects their obsolete social concepts but also represents a significant failure in promoting legal awareness.

The concept of protecting women's divorce rights encompasses both legally recognized and unacknowledged entitlements throughout a marriage, from its inception to dissolution. These rights primarily include personal protection, property rights, and custody of minor children. This article examines three key aspects: First, whether legal procedures should allow for divorce without interference to restore personal freedom and happiness; second, whether property laws effectively safeguard asset rights and provide fair compensation in cases of infidelity; and third, whether legal frameworks adequately protect women's rights in child custody while ensuring reasonable support for minors.

Therefore, safeguarding the rights of vulnerable women during divorce proceedings is of paramount importance. This constitutes an indispensable element in implementing social equality and promoting equity awareness. While gender differences are innate, they don't necessarily translate into disparities. Women should inherently be free and complete individuals, serving as the primary agents and subjects of society. Protecting women's rights in divorce cases directly supports the legislative

principle of equality – a goal that remains unfulfilled to this day.

2.2 Legislative Evolution of China's Divorce System for Protecting Women's Divorce Rights

China's legal system is essentially an imported framework, developed by absorbing and adapting existing legal systems from other countries. It lacks historical sedimentation, and the rapid development has inevitably led to a weak foundation—a fact that cannot be disputed. While China upholds the Constitution as the supreme law and advocates legislative values of equality, ideas remain ideas, ultimately existing in the realm of thought.

The floating policy has yet to be implemented. Undeniably, this situation undermines the protection of vulnerable women's rights during divorce proceedings, leaving only vague principles as the sole safeguard.

China's first Marriage Law was enacted in 1950, establishing the principle of divorce freedom and introducing the option of consensual marriage. It also introduced the principle of prioritizing women and children's interests in property distribution, laying the foundation for subsequent amendments. However, due to the incomplete legal framework at the time, the law still contained numerous flaws.

In China during the 1980s, due to the influence of the social situation, the legislative aspects of the Marriage Law could be said to show no difference except for minor changes in wording. The only noteworthy provision was the establishment of a compulsory enforcement procedure after refusing to pay child support. However, this was merely at the stage of formal legislation, with no relevant enforcement details issued.

The 1980 Marriage Law could no longer meet the evolving demands of 21st-century marriage, leading to the 2001 amendment. Notably, legislative efforts achieved unprecedented progress. The revised law introduced women's inheritance rights in land management contracts and established fundamental provisions for divorce relief mechanisms, demonstrating strengthened commitment to protecting vulnerable women's divorce rights. Regrettably, the amendment continued the legislative shortcomings of previous drafts, remaining confined to theoretical frameworks rather than practical implementation.

The enactment of China's Civil Code has profoundly reshaped the legal landscape. Its comprehensive revisions particularly impacted the Marriage and Family Chapter, which the author identifies through three key dimensions. First, the principle of gender equality has been reinforced through reaffirmed rights such as divorce freedom and marital fidelity. Second, in response to evolving social needs, new provisions like family agency rights and joint parental authority have been introduced to strengthen women's legal protections. However, the multifaceted challenges faced by vulnerable women during divorce proceedings have exposed gaps in legal safeguards. When legal frameworks fail to align with societal realities, inevitable friction and conflicts emerge, ultimately leading to discrepancies in both the design and implementation of legal powers.

2.3 The Significance of Protecting Women's Rights and Interests in Divorce Disputes

2.3.1 Strengthening the rule of law awareness of the principle of equality

Since the emergence of gender equality consciousness, modern society has transcended the feudal era dominated by male political control. Anthropological research reveals: "Patriarchal systems lack biological foundations and are merely unfounded conceptual constructs." [2] Supported by theoretical frameworks and evolving social perceptions, gender-based discrimination has been systematically restructured within legal frameworks, diminishing the traditional hierarchical relationship between women and men. Women have successfully transformed their marginalized social status through these societal transformations.

The essence of current legislation lies in fairness and justice, with equality serving as the ideal pursuit in legislative endeavors. The principle of equality transcends mere formal uniformity. Instead, it acknowledges inherent differences among individuals through the principle of diversity, aiming to achieve relatively equitable and rational distribution through legal systems, rather than remaining at the level of superficial formalism in general guidelines.

Gender equality. However, as the gears of historical progress show, the current society has not yet fully achieved equality. In the private sphere of family life, there are still cases of women's rights being violated.

Globally, the United Nations established the Convention on the Elimination of All Forms of Discrimination against Women as a special legislative framework to address gender inequality and protect women's rights. China joined this convention in 1980, respecting its objectives and principles while implementing its requirements through domestic legislation to eliminate discrimination against women. The inclusion of the principle of equality in the Constitution of the People's Republic of China has been crucial for establishing this principle. Subsequently, the Civil Code established an equal marriage system in China, safeguarding women's legal rights during and after marriage. China actively aligns with global legal consciousness, rigorously implements core legal principles, and adheres to ethical standards, striving to build an ideal egalitarian society. However, persistently high divorce rates and casual attitudes toward divorce among married couples have posed challenges to social harmony and stability. The root cause lies in the absence of a comprehensive divorce system and limited regulatory frameworks. Therefore, emphasizing the principle of equality becomes a crucial safeguard for protecting vulnerable women's rights during divorce proceedings.

2.3.2 Promoting the improvement of safeguard mechanisms

From the social division of labor, traditional women are more easily categorized into the family and clan domains to dedicate themselves. Due to physiological characteristics, they consume more disposable time and cannot have more energy to participate in the public sphere and make their mark. In China's traditional family structure, most still maintain the lifestyle of "men working outside, women managing inside." During the marriage, the man, as the economic leader, bears the responsibility of financial care, while the woman assumes the duty of household care. However, after the marriage ends, the man is freed from the heavy burden of family expenses, and his income level significantly increases. The situation of the other party often exists among traditional disadvantaged women, who lose their social work capabilities, lack social work experience, and experience a cliff-like decline in living standards.

The emergence of numerous issues stems not only from the lingering feudal remnants in their consciousness that weaken their self-protection

awareness, but more critically from China's overly simplistic legislative framework. This leaves traditionally disadvantaged women without adequate legal recourse when rights violations occur. A glaring example is the inadequate child support provisions. Post-divorce, women often face economic disadvantages. While the law guarantees custody rights, the insufficient child support funds fail to cover the substantial costs of children's living and education. Furthermore, the current legal system lacks specialized relief organizations for divorced individuals. Although women's rights protection organizations provide some assistance, their ambiguous operational scope and non-legal nature of aid make it difficult to deliver fundamental solutions to post-divorce challenges. Therefore, the protection of vulnerable women's rights after divorce should be prioritized to prevent the situation from worsening. Focusing on the research of protecting the rights of vulnerable women after divorce will help improve China's relevant legislation and initiate follow-up social security measures.

3. The Practical Difficulties in Protecting Women's Rights and Interests in Divorce Disputes

3.1 Unreasonable Division of Common Intangible Property

The rapid development of the Internet has driven diverse transformations in property forms. Marital joint property, in brief, is categorized into two major types: tangible assets and intangible assets. Both forms coexist within legal frameworks and are widely applied in practice. This article focuses on analyzing legislative challenges and judicial complexities encountered in the legal management of intangible assets within joint property.

Intangible property, by definition, lacks physical form yet possesses independent economic value. Its recognition as marital community property stems from unique characteristics: Through combining tangible investments with intangible contributions, such assets generate economic returns in market operations, thereby increasing partners' income. The primary manifestation is intellectual property rights. The Civil Code's inclusion of intellectual property as marital community property not only acknowledges intangible assets but also seeks to comprehensively protect spouses' rights to

mutual expectations and economic benefits.

Intellectual property itself is a combination of property right and personal right. When it is divided as common property, it inevitably involves the internal problem of two attributes.

Firstly, while intellectual property rights can be converted into economic benefits, the time gap between conversion and realization creates challenges in property division during divorce proceedings. The Civil Code explicitly stipulates that intellectual property acquired before marriage or during the marriage, with income generated during the marital period, shall be recognized as joint marital property. However, the author observes that intellectual property may exist not only as potential income but also as anticipated benefits. This occurs when intellectual property is obtained during the marriage but generates no actual income until after the marriage ends, with subsequent benefits being realized. Such scenarios have sparked controversies in both academic and practical circles. Dividing the economic benefits of intellectual property based on the marriage's termination date appears somewhat unreasonable, as the intellectual property acquired during the marriage may involve the other party's sacrifices and risks. Furthermore, there may exist cases where the intellectual property holder deliberately delays the scheduled period for economic benefit realization to increase their post-marriage asset holdings.

Secondly, intellectual property rights, as personal rights with exclusive attributes, can only be attributed to a single individual and cannot be divided between spouses. These rights serve dual purposes: protecting both the property rights of spouses and safeguarding the creators' intellectual property. As a fundamental source of wealth, intellectual property rights risk losing their economic value if we overemphasize their personal exclusivity, which could ultimately undermine their significance in the social market economy.

When dissolving the marriage relationship, the personal attribute and property benefit of intellectual property itself should be fully considered, the material and non-material contributions of one spouse to the acquisition of intellectual property should be valued, and the rights and interests of the parties should be reasonably protected.

In addition to intellectual property rights that are heavily protected by law, the importance of

virtual property has become increasingly prominent with the progress of the Internet. However, at present, the legislative field of virtual property division in China's legal system is relatively blank, and the actual

The judicial system also lacks detailed regulations to support the implementation of related work. First, regarding virtual assets such as online live streaming accounts and gaming accounts, parties involved invest substantial funds, with most payments relying on marital joint property. However, there exists a significant discrepancy between the initial investment in virtual accounts and their actual monetary value in real life. In reality, most people bid arbitrarily, leading to inconsistent pricing practices. Moreover, China currently lacks any civilian or governmental organizations to regulate virtual account equity, further complicating valuation efforts. This results in difficulties for courts to determine the legal status and division criteria of virtual accounts.

3.2 The Divorce Relief System Fails to Achieve Its Legislative Purpose

3.2.1 The divorce compensation system has a large scope of limitations

Although China's Civil Code indirectly recognizes the property value of domestic work, it still has the shortcoming of lacking other forms of human capital. The limited scope of application of the compensation system cannot completely eliminate the constraints unfavorable to the vulnerable party.

From the perspective of the existing legal system, human capital, which has the same great economic potential as intellectual property, has not been transformed into common assets for recognition.

Before marriage, both men and women maintain independent careers as individuals. However, after wedding, they form a "family unit". While both partners may still pursue public careers, traditional women often find their time consumed by household responsibilities. Even when continuing professional work, they remain more susceptible to societal constraints when faced with equal career opportunities. Constrained by traditional values, some wives become confined to domestic duties, clearing the way for their husbands' advancement. The husband's acquisition of professional certifications or academic credentials during marriage relies heavily on his wife's selfless

contributions. Without her management of household affairs, the husband would spend more time handling trivial matters together, making it impossible to obtain these intangible assets.

However, when the husband transformed these intellectual assets into tangible benefits and social status, he could not resist external temptations. He blamed his wife for lacking wisdom and citing differing spiritual needs as excuses to justify divorce. Some vulnerable women need to exercise their right to claim material compensation for contributions made during marriage. Wen and Qin were married. During Qin's graduate and doctoral studies, Wen primarily covered household expenses. The court ruled that Qin's 36,000yuan tuition fees during her education constituted family expenses and were recognized as marital property. Following the principle of protecting women's rights, the court ordered Qin to compensate Wen 19,000 yuan. Yet the potential value of education is boundless. During Qin's academic years, Wen consistently shouldered family responsibilities and household chores. Qin's educational achievements are closely tied to Wen's selfless dedication. The author argues that merely dividing marital property equally infringes on Wen's rights, and the law should provide reasonable compensation.

However, the law does not provide specific compensation standards and payment methods, so it is necessary to rely on the law in actual adjudication.

Judges exercise discretion in compensation decisions based on case specifics. The absence of detailed implementation guidelines for intangible property compensation has resulted in inconsistent rulings and judicial bias. This situation not only disappoints affected women but also undermines public trust in legal authority. To address these issues, legislation must transcend current limitations by establishing clear compensation standards and payment mechanisms. Such measures would ensure fairer outcomes for all parties involved and fully realize the legislative objectives.

3.2.2 The divorce financial assistance system has been ineffective

The law, guided by humanitarian principles, allows divorced spouses to voluntarily provide financial assistance to each other in need. This economic support mechanism not only upholds fairness between parties but also specifically

safeguards vulnerable parties, aiming to address post-divorce hardships. It embodies the humanistic spirit that integrates legal frameworks with moral obligations.

However, this regulation lacks practical effectiveness in actual implementation, making it difficult to achieve the original legislative purpose and genuinely assist disadvantaged groups. The reason lies in the judicial interpretation, which defines living hardship as being unable to maintain the basic living standard of the locality or having no residence after marriage. This results in the legislative purpose being completely inconsistent with the current national and social conditions. As far as the author knows, China's economic takeoff in recent years has rarely seen the phenomenon of "living hardship." The average wage in general regions is around 3,000 yuan, while the minimum living standard in economically developed regions is only about 1,000 yuan, and in economically poor regions, it is merely 300-400 yuan. First, there is a certain degree of ambiguity in the criteria for identifying living hardship across different regions, and significant differences exist between regions. The law does not specify clear standards for the amount of economic assistance during divorce, leading to inconsistent judicial rulings. Additionally, there are no specific standards for the duration of living hardship.

From a theoretical perspective of the divorce economic compensation system, China's regulations on economic assistance mechanisms exhibit certain ambiguities. The system stipulates that when one spouse faces financial hardship during divorce proceedings, the other party is legally obligated to provide financial support. However, the dissolution of marital obligations inherently terminates the mutual support responsibilities between spouses, which creates practical implementation challenges for this economic assistance framework.

3.2.3 Implementation of the divorce damages compensation system

First, the criteria for divorce eligibility are inadequately defined. China currently applies the "irretrievable breakdown of marital affection" principle, which has generated persistent issues over decades of implementation. The term "affection" inherently carries emotional and abstract connotations. When adjudicating cases, judges must consider not only the four specific circumstances outlined in Article 1079① of the

Civil Code①, but also the fifth provision...

The catch-all clause forces judges to exercise discretion in their rulings. The adage "Harmony in the family ensures prosperity" and the saying "Even a fair judge finds it hard to resolve domestic disputes" reflect the basic court's tendency to avoid divorce rulings to maintain social harmony. Although divorce can be achieved through litigation or mutual agreement, when relationships reach their end, only a handful of couples can continue amicable negotiations, with most ending in messy divorces. While women primarily rely on litigation to obtain divorces, courts often dismiss such requests to preserve social and familial stability. The root cause lies in the inappropriate divorce criteria, as courts lack objective standards to determine when a marriage should be dissolved.

Second, the statutory fault provisions lack comprehensiveness. While the Marriage Law specifies four specific fault scenarios and includes a catch-all clause, the limitations of judges' professional expertise and practical experience often fail to adequately protect women's rights during divorce proceedings. Compounded by societal complexities and the prevailing notion that "even upright judges find it hard to resolve domestic disputes," this creates arbitrary and biased adjudications. In reality, women frequently face more complex situations when seeking compensation, yet their claims often end up with unfavorable outcomes.

Third, the limitations of fault liability. The majority of divorce cases involve situations where the husband cohabits with others or commits bigamy. When a third party intentionally interferes with an existing marriage, it causes significant physical, emotional, and financial harm to the original spouse. However, the law tends to tolerate such third-party involvement, and society only condemns them morally. Clearly, as the infringer against the faultless party, the third party should bear joint liability for their misconduct.

Fourth, the burden of proof imposes stringent requirements. When a husband engages in cohabitation with others or bigamy, the divorcing woman must prove the husband's fault under the litigation principle of "he who asserts must prove." However, there are no clear regulations specifying the types of evidence required or the evidentiary standards. Judicial interpretations also fail to address these gaps.

Confronted with legal ambiguities and practical uncertainties, women often lack information about their husband's extramarital partners, timelines, or locations. Courts not only fail to relax evidentiary standards for such special circumstances but frequently dismiss claims due to insufficient evidence. For instance, in the "Li Dailin vs. Zhu Xuanzhen Divorce Case", the wife discovered her husband's infidelity and his prolonged absence from home while cohabiting with a third party. She submitted relevant evidence to the court, but the Ningbo Intermediate Court ruled it did not meet the criteria for non-fault compensation claims and rejected the plaintiff's request. Moreover, women typically resort to the most primitive methods when facing such situations—like stalking or covert filming. While the validity of collected photos and videos remains questionable, these methods inherently involve significant risks. Stalking typically violates personal privacy, which is morally unacceptable. Furthermore, the secrecy required for such "secret affairs" presents considerable challenges.

3.3 Difficulty in Making Alimony Payments

Under Article 1084 of the Civil Code, young minors are typically raised by divorced mothers. In domestic arrangements, fathers typically fulfill child support obligations through financial payments. Judicial interpretations establish payment standards, specifying that child support should constitute 20% to 30% of an individual's salary. While multiple income categories are listed, courts primarily accept salary-based evidence during adjudication. Although salary-based calculations simplify total support computation, many payers conceal income to preserve disposable assets. For instance, when a woman discovers discrepancies between her husband's actual assets and required support amounts through various channels, she often struggles to provide evidence, resulting in failure to receive due compensation. This leaves divorced women and their children in financial hardship. Furthermore, the child support system lacks coordination between legal provisions and practical implementation, failing to adequately account for children's previous living standards. Current regulations remain largely theoretical, lacking concrete judicial guidelines for practical application.

Furthermore, the enforcement of child support payments lacks effective follow-up supervision.

Given that divorced spouses often develop mutual resentment, this hostility frequently extends to their minor children. Malicious delays in payments and insufficient support amounts severely compromise children's basic living standards and educational opportunities, significantly impacting their future social development. Numerous unforeseen factors threaten the stability of child support payments. However, China has not established dedicated oversight bodies to ensure proper follow-up mechanisms for these payments.

4. Reference to the Divorce System under Foreign Marriage Laws

The feminist liberation movement originated in Europe, subsequently sparking an unstoppable wave of feminist movements across nations. Given the unique historical traditions and social development contexts of each country, the integration of women's experiences into legislation varies significantly. This analysis will examine the current status of marriage law legislation in representative countries that have conducted in-depth research on vulnerable female groups. China should also conduct comparative studies to identify valuable lessons for improving its Marriage and Family Code.

4.1 Maintenance Provisions in the U.S. Divorce System

The birth of feminist jurisprudence in the United States has made it the most profound and thorough exploration of rights protection for vulnerable women. In its early stages, "the resistance of marginalized women against male-dominated society and law constituted a subversion of existing social and legal structures".[3] The pursuit of gender equality provided a focal point, paving the way for women's freedom and development.

The unique legal system of the United States prioritizes the enforcement of legal obligations. In child support regulations, provisions are established to prevent neglect or evasion of payments by custodial parents. As a developed nation with a high concentration of professionals in high-end industries and elevated average wages, the U.S. maintains substantial costs for labor-intensive activities, including child-rearing expenses within marital households. In this context, even highly educated women in marriage may be compelled to abandon lucrative careers to manage household responsibilities due

to exorbitant childcare costs. When divorced and awarded custody of minor children, these women often face reduced living standards due to employment barriers. To protect their rights, the law establishes two key safeguards: First, divorced women receive higher support payments than their male counterparts. Second, when a custodial parent refuses to pay, authorities may impose financial restrictions through income deductions, asset freezes, or legal penalties. [4-7]

In terms of subsequent supervision and implementation, it is of great reference significance for China. Self-consciousness is a good moral character of human beings, but not everyone has it. In order to protect the rights and interests of vulnerable women in divorce, it is necessary to demand and limit the self-consciousness of the relatively strong party.

4.2 Provisions on the System of Divorce Compensation in the German Divorce System

Most of China's laws are based on Germany. Through the analysis and study of German marriage law, it is in line with the strictness of China's legislative level.

I would like to request that Germany's rigor is more reflected in the legislative stage, so as to prevent the loopholes of legal norms caused by imperfect legislation from failing to achieve the essence and purpose of law in the subsequent judicial stage.

This differs from the priorities of U.S. legislation. While the U.S. emphasizes judicial efficiency, Germany focuses on legislative refinement. By considering practical implementation during the legislative phase, comprehensive measures are established to address the challenges faced by divorced women, ensuring vulnerable women aren't left economically disadvantaged when divorcing. Articles 1570-1573 and 1575-1578 of the German Civil Code provide detailed regulations on child support payments. [8-12]

Germany's most distinctive feature is its innovative and comprehensive allowance compensation system, unmatched by other countries. To prevent traditional homemakers from losing their pension entitlements after divorce, the country introduced a balance allowance mechanism as an additional safeguard for divorced women. When wives lose their jobs to support their husbands' career advancement, they may lose their pension benefits. Recognizing women's sacrifices and

contributions, the law allows divorced wives to claim partial or full pension allowances directly from social welfare institutions, ensuring they don't lose out on financial security.

There is no compensation system for the division of intangible property such as vocational qualifications or diplomas in China's economic compensation system, which undoubtedly provides a new way of thinking for China.

4.3 Divorce Remedies in the French Divorce System

The French Civil Code has many highlights, and some legislative systems provide a good reference for solving the social problems that are difficult to solve in China's laws.

France stands as the only country that has recognized women's challenges in housing tenure rights and established protective measures. In China, housing tenure rights are classified under property rights, primarily determined by the owner's unilateral decision to grant residency rights. When issuing divorce rulings, property ownership is typically awarded to one spouse while the other receives financial compensation. This approach fails to address the protection of disadvantaged parties' rights post-divorce, instead burying the issue under the equal division of joint property. The French Civil Code, however, treats marital breakdown as a special case for housing tenure rights, explicitly stipulating that the economically dominant party must provide residency rights to the financially disadvantaged spouse.

In divorce compensation cases, the 'decline in standard of living' criterion is adopted, making it easier for disadvantaged women to prove their actual circumstances and reducing the burden of litigation evidence. In contrast, our country adopts the stringent 'inability to maintain local living conditions' standard, and the procedural law does not provide any written evidence catalog.

In terms of spousal support, the law mandates comprehensive support obligations, even in cases where one spouse dies or becomes incapacitated

The obligation remains with the heirs at the time of payment. The system of compulsory enforcement prevents the relief system from becoming a principle clause without practical effect. [13-16]

5. Improving the Protection of Women's

Rights and Interests in Divorce Disputes

The marriage legislation of the three most representative countries shows that the core idea of the principle of equality is gradually integrated into the legislative system to give women enough legal protection.

China's current legislative framework remains constrained by a narrow perspective, failing to address persistent issues such as difficulties in re-employment for homemakers and their prevalence in low-paying jobs. The most critical flaw in the Marriage Law lies in its formal emphasis on equality while neglecting substantive realities. With traditional women still confined to domestic roles, their struggles to participate in legislative decision-making processes continue to hinder progress toward women's liberation. [17-20]

5.1 Promoting Rationalization of the Division of Intangible Property

Intellectual property possesses dual attributes: personal exclusivity and property rights. The personal exclusivity principle dictates that intellectual property rights exclusively belong to the creators who contribute ideas and innovative concepts. This prevents marital division of rights, thereby better protecting creators' creative enthusiasm. It encourages sustained innovation in social development, facilitates the commercialization of new societal initiatives, and ultimately drives the steady advancement of market economy.

However, the property nature of intellectual property inherently determines that its economic benefits, as the source of property creation, constitute joint marital assets requiring proper division. The time gap between intellectual property transformation and realization of actual value creates economic disparities. On one hand, it is crucial to prevent creators from obtaining intellectual property rights during marriage while maliciously delaying the conversion of economic benefits, thereby infringing on the other party's rights and denying them due compensation. On the other hand, it is necessary to prevent non-creator spouses from seeking improper benefits. The author believes that establishing an intellectual property valuation mechanism and a reasonable compensation system would better protect both parties' rights from infringement. [21-24]

For intangible assets like intellectual property, the first step is to conduct a value assessment to

enhance practical applicability in dividing marital property. Given judges' limited expertise, their valuation of intellectual property often carries subjective biases. Coupled with market volatility, judicial discretion alone cannot adequately protect both spouses' property rights. Establishing authoritative valuation institutions allows for better consideration of current market conditions. These institutions can comprehensively evaluate intellectual property's content and characteristics to provide accurate appraisals. Finally, judges should consider both parties' contributions to intellectual property when making discretionary judgments, ensuring fair post-divorce property distribution. Additionally, compensation remains crucial in divorce settlements. Since intellectual property is inherently intangible, courts must account for potential future monetization. This may involve retroactive compensation claims or extended litigation periods considering the unique nature of marital property disputes.

In addition, virtual wealth of virtual accounts should also be included in the scope of common intangible property.

5.2 Establishing a Sound Divorce Relief System

5.2.1 Expanding the scope of the divorce compensation system

Intangible assets like diplomas and professional certifications, due to their personal exclusivity and non-transferable nature, are generally classified as one party's personal property. Acquiring such knowledge can significantly broaden career prospects and pave the way for brighter futures. This demonstrates that intangible assets like knowledge possess inherent property characteristics. They can be exchanged for monetary compensation or social status. In traditional "husband-managing-household, wife-managing-outside-world" families, husbands not only invest substantial time and effort in acquiring knowledge but also rely on their wives' dedicated contributions. Without wives handling household chores, husbands would spend more time dealing with trivial matters rather than gaining these intangible assets. The author suggests expanding the scope of intangible assets in marital property laws to include diplomas and professional certifications as joint marital property. However, legal standards must determine when such assets demonstrate indispensable contributions to a

husband's career development and their potential material value for division or compensation. [25]

5.2.2 Clarifying the norms of the divorce damages compensation system

First, the correction of the criteria for divorce.

The current divorce criteria in China exhibit excessive subjectivity and overly narrow coverage, lacking objective evaluation standards that may lead to value distortions. Through comparative analysis with international legal frameworks, the author proposes adopting the "marital relationship has irretrievably broken down" standard. This approach demonstrates significant superiority over the previously used "emotional breakdown" criterion. The "irretrievable breakdown of marital relationship" demonstrates greater objectivity, enabling legislative work to better align with social development trends and incorporate appropriate legal provisions. Simultaneously, it restricts judicial discretion to a certain extent, enhancing practical operability and facilitating judges' objective assessment of marital viability. This methodology effectively transforms the abstract concept of "emotional connection" into a concrete and actionable "marital relationship." [26]

Second, expand the circumstances of statutory fault liability.

The Marriage and Family Law does not specify the liability of the faultless third party, which makes it unreasonable for the innocent party to claim damages from the third party with subjective intent and is not conducive to the protection of their rights and interests. The third party should also be included in the joint and several liability.

China's Marriage and Family Law outlines four specific fault-based scenarios for divorce compensation, yet these provisions remain underutilized. The legislative framework exhibits significant gaps, creating an unjust and unreasonable situation. Statistics reveal that numerous daily infringements undermining marital relationships—often invisible to public awareness—lie outside legal provisions and escape accountability. These acts, however, carry devastating consequences. The author proposes adopting a comprehensive legislative approach to address these gaps and strengthen legal safeguards.[27]

The loopholes of the provisions should be eliminated to eliminate the influence of the lag of the law, and the judges should be given full

discretion to make fair and just decisions according to the specific analysis of the specific problems.

Third, the lowered burden of proof or reversal of the burden of proof. The principle of fault liability from tort law remains applicable to divorce damage compensation. Under current regulations, victims seeking compensation must provide legally compliant evidence to prove the fault party's misconduct. However, legislators appear to overlook the private nature of cohabitation or bigamy cases, where evidence collection is challenging and reliable witnesses are scarce. The author contends that applying litigation law's burden of proof principles to marital relationships lacks justification. The burden should be relaxed for the innocent party. When sufficient evidence exists, the burden of proof may be satisfied; however, if obtaining evidence proves difficult, courts may reverse the burden to demonstrate the innocent party's lack of marital misconduct. This approach prevents dismissed claims due to evidentiary difficulties faced by divorcing women. [28]

5.3 Improving Regulations on Custody

After divorce, child support has left many women at a loss. Most of these women are typical housewives in Chinese society. Unlike newly independent women, as a vulnerable group of women, even if they obtain a clear amount and method of child support through court rulings, in our country, these vulnerable women have no economic source after the breakdown of marital relations, making divorce relatively passive for them. If women insist on pursuing their careers and re-entering the workforce, they must work while also caring for newborn children, which leaves them in a state of prolonged fatigue, detrimental to their physical and mental health. Facing the issues of being cut off from independent income sources and the meager child support obtained through court rulings being insufficient to cover children's living expenses, the problem of regular and timely payment of child support also poses a significant challenge to rights protection. The author believes that China's child support system needs to strengthen both legislation and subsequent supervision. First, it is necessary to fill the gaps in legislation. Specific standards for child support payments should be listed, not just based on a broad concept of wages. By combining China's national conditions with

foreign legal practices, several scenarios regarding child support payments should be introduced. Then, it is necessary to continuously improve the social security supervision system by establishing a relative relief mechanism, focusing primarily on ensuring timely payment of child support and the realization of visitation rights. After understanding the marital relationship through litigation, the case enters the enforcement stage. In post-divorce relationships, communication between parties often deteriorates. When one party fails to fulfill child support obligations as mandated by court rulings, enforcement procedures should be promptly initiated to avoid delays. Furthermore, when a parent seeks visitation rights but faces obstruction, legal enforcement mechanisms can be invoked to maintain custody. However, repeated attempts to enforce these rights through coercive measures may create unnecessary burdens, potentially undermining rights protection. Therefore, authorities must rigorously select enforcement officers who possess advanced academic qualifications, strong professional capabilities, and extensive social experience. [29] The government should recruit professionals with relationship management expertise to work in enforcement agencies, establishing specialized follow-up relief enforcement teams to streamline problem resolution. Concurrently, authorities must define clear accountability frameworks to prevent regulatory gaps. By strengthening jurisdictional boundaries and consolidating enforcement resources, we can eliminate interdepartmental buck-passing. Guided by statutory procedures, these measures will effectively safeguard the rights of women seeking divorce. [30]

6. Conclusion

The inherent contradictions between legal frameworks and social realities persistently collide, yet these very tensions drive legal evolution to enhance current standards and fulfill their fundamental purpose. While the shadow of inequality over vulnerable women in divorce proceedings may eventually dissipate, the reform of rights protection mechanisms will not stop here. Grounded in the principle of equality, this initiative seeks to address previously overlooked perspectives within legal systems and correct entrenched societal biases. The core objective of protecting women's rights in divorce disputes lies not in reconstructing the existing family law

framework, but in upholding the inherent principles of justice when confronted with systemic imbalances. True social stability can only be achieved through steadfast adherence to these principles. The paramount human dignity lies in being treated equally—while practical circumstances may occasionally create disparities, substantive inequality within legal systems constitutes the gravest violation of legal principles. We must persistently pursue the path of equitable rule of law. Of course, the legal empowerment of vulnerable women in divorce matters extends far beyond this. The journey toward equality requires continuous exploration, as societal progress always advances through accumulated experience.

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