Research on Housework and its Compensation System from the Perspective of Marriage and Housework Law

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Abstract: Based on the perspective of marriage and housework law, this paper studies housework and its compensation system. First, through legal analysis, the legal basis of the housework value protection system is explored. In the legal and economic analysis of housework, the costs and benefits of housework need to be considered to determine its value. In addition, the housework value protection system needs to adapt to the changes in social structure and reflect the needs of the development of the times. The current situation analysis shows that the reasons for the current situation of housework involve many aspects, including relevant factors and the influence of traditional gender concepts. In my country, the provisions of the housework value protection system need to be studied in depth, including the clarity of legal provisions and applicable conditions. However, the existing housework compensation system has shortcomings, such as the limitations of applicable premises, the strictness of application time, and the ambiguity of compensation standards. In order to improve this system, it is recommended to clarify the legal provisions, extend the application time, and refine the compensation standards to ensure that houseworkers can obtain the rights and compensation they deserve. These measures will help promote the fairness and rationality of labor within the family and promote social progress and development.

Keywords: Housework; Marriage Law; Compensation Formulation

1. INTRODUCTION

As an indispensable part of family life, housework has always played an important role in the social and legal perspectives. However, with the continuous evolution of social structure and the redefinition of family roles, the cognition and value assessment of housework are also facing new challenges. This article aims to explore the relevant issues of housework and its compensation system based on the perspective of marriage and housework law. In the legal analysis of the housework value protection system, the intersection of law and economics will provide us with a profound understanding. How the costs and benefits of housework are defined and how this system adapts to the changes in social structure will become the focus of our research. At the same time, through the analysis of the current status of housework and its compensation, we will explore the reasons for the current status of housework and examine the provisions of the current housework value protection system in my country, from the legal provisions to the specific conditions of application. However, despite the existence of the housework compensation system, its shortcomings cannot be ignored. Problems such as the limitations of the applicable premise, the strict application time and the ambiguity of the compensation standards need to be solved urgently (Chungang, 2024b). Therefore, this article will also explore how to improve the housework compensation system, including suggestions such as clarifying legal provisions, extending the application period, and refining compensation standards, in order to provide new ideas and solutions for the fairness and value recognition of domestic labor.

2. LEGAL ANALYSIS OF THE VALUE PROTECTION SYSTEM OF HOUSEWORK

2.1 Legal and Economic Analysis of the Value Protection System of Housework

2.1.1 Housework Costs

(1) The energy cost of housework: One fact that we often overlook is that housework also comes at a cost, not only in terms of the energy of the person doing the housework, but also in terms of the cost of completing the housework (Chungang, 2024a). This invisible cost has a profound impact on the stability of a family and the growth of a person. Although housework does not directly participate in the market (Staudt, 1995), its value is to help the other party, help the other person to reproduce, and improve the economic income generation capacity of the whole family. There is a limit to a person's energy, so it is necessary to allocate energy according to needs, and if too much energy is spent on one job, then the time spent on another task will naturally be reduced (Geist & Cohen, 2011). In today's more common dual-income households, both spouses have to do social work to earn a wive. Suppose a person divides his energy into three parts, one for work (Siegel, 1998), one for family, and one for free disposal. Assuming that

- a couple spends the same amount of time on social activities, the remaining amount of housework is inversely related to rest time, and if the family work time is too long, there is not enough time available for personal discretion (Fuwa & Cohen, 2007).
- (2) the opportunity cost of housework: The family is a group that is different from other economic groups, and its members are all caring for each other and have a strong altruistic color. In couples, based on comparative advantage, they will choose to let one partner do housework and then give up social work (Zhu & Duan, 2022), or in a dual-income family, one partner will choose to do more housework and thus give up the more valuable social work, so there is an opportunity cost in housework. The one who does the housework is not just a physical labor, "it also includes something that is not visible (Garrido, 2023), such as something emotional, such as something mental, because it has not yet entered the market, so it has no market price. " People's daily time and energy are limited, because the housekeeper will focus more on family affairs, there is not enough energy or energy to devote to social work, for example (Batalova & Cohen, 2002), in dual-income families, most of the wives will choose to give up social interaction after work, most of the business trips, remote long-term training, etc., but take care of children at home, so that the housework party loses a lot of ability to improve themselves, At the same time, the opportunity cost of time and energy spent on housework is increasing (Hardesty & Bokemeier, 1989).

2.1.2 Income from Housework

(1) Promote the maximization of family economic returns: The basic assumption of economics is that law is rational and therefore can be analyzed using the concepts of economics (Costa et al., 2023). Legal economics is based on rational choice, and it is based on the premise that "human beings are individuals who pursue rational maximization for their own interests". The same principle applies to marriage, where all couples divide labor according to their comparative advantage and divide each other into those who do housework and those who do not. Because the division of labor leads to the specialization of labor, the productivity of the family is higher than that of the individual (Silbaugh, 1997). Only when the husband and wife sign a reasonable division of labor agreement can the normal operation of a family be guaranteed, and when the agreement is reached, it will also cost some expenses, especially when one party undertakes most of the housework, it is

necessary to make corresponding compensation to the party who does the housework (Marella, 2018), otherwise it is difficult to sign the agreement. In general, women are more efficient at housework, while men are better at social work, so in the usual division of labour in the family, men do social work and women do housework, or do most of the housework. On this basis, this paper proposes a new division method, that is, on this basis, to maximize the welfare of residents (Baxter, 2005).

- (2) Prevent the outflow of positive assets: According to the estimates of relevant scholars, it will cost 42 billion yuan a year to convert housework into fixed wages, especially now that housework is booming, a large number of dual-income families have emerged (Roberts, 1997), if it is not for the contribution of both husband and wife, the cost of family maintenance will increase, and domestic workers have played an important role in preventing the outflow of family property. The income from housework can also be reduced through the participation of domestic workers, so the income from housework should also be included in the income range of housework (Evertsson & Nermo, 2007).
- (3) Obtain exchange value: Ordinary items have to be traded in the market to realize their value, and housework cannot be directly traded in the market because it is widely present in the family and cannot be brought to the market. However, in the family, there is often an agreement between the husband and wife to provide resources to the domestic worker through non-domestic work or to exchange it for goods to realize the exchange value of the housework (McCluskey, 2011).

2.2 The System of Protection of The Value of Housework Conforms to The Changes in The Social Structure

The enactment of the "Marriage and Family Law" is closely related to the current situation of social classes, and where there is less social stratification, there is little difference in the requirements of various strata in terms of marriage, and there are fewer circumstances to consider, so the value of legislation is relatively simple; after social stratification, different ethnic groups will have different views and opinions on the issue of marriage, so the values of legislation should take into account the marriage needs of various ethnic groups, and will be more diverse. Generally speaking, the social structure will change with the change of social type, and the degree of differentiation of

social classes in different social types is also different, so the value of various classes must be fully taken into account when formulating marriage and family law. Take developed countries as an example, because of the rapid development of the economy, it has led to a large number of population movements, which has led to social differentiation. Under the interests and needs of multiple subjects in society, law has a more effective governance method than traditional morality, customs and other governance methods, so that the value of legislation can be developed and improved. In part, because of social stratification, even people in the same country or region have different social resources, education levels, and ideological concepts, so the degree and way of intervening in the laws and systems of marriage and family will also be different. For example, China's "Marriage Law" stipulates that urban residents generally have a better economic situation and a higher level of education, compared with the relatively backward economic development of rural areas, and many people have a relatively low level of education. Therefore, the proportion of old-age insurance in urban areas is much higher than that in economically underdeveloped rural areas. However, in our country, the divorce financial compensation system is only for marriages with a separate property system, so the degree of protection for the value of housework is higher in urban areas than in rural areas, while in rural areas, patriarchal and inferior to women, and most of the housework is undertaken by women, so they receive less protection. The stratification and differentiation of social classes can promote the legislative value orientation of marriage and family law, and the institutional differentiation of social classes is an important reason for the relationship between the two. For example, China's long-standing implementation of the "three rural" and "household registration-based" dual social security system has led to a widening income gap between urban and rural residents, and an increasingly serious gap between the rich and the poor. In order to increase their income, many peasants have left their hometowns to work in cities and towns, and this phenomenon has weakened the role of families in providing security to a certain extent, thus endangering the stability and development of rural families. In this process, a series of rural social problems, such as family divorce, left-behind elderly, left-behind women, and left-behind children, have become increasingly prominent. The government should ensure the stability and integrity of rural households, improve the protection of the institutionally poor and the socially disadvantaged,

and formulate corresponding policies and laws to minimize the negative effects of social differentiation caused by the system, so as to achieve the goal of narrowing the gap between urban and rural areas and achieving social justice.

3. ANALYSIS OF THE CURRENT SITUATION OF HOUSEWORK AND ITS COMPENSATION

3.1 Analysis of the Reasons for the Current Situation of Housework

3.1.1 Analysis of Relevant Factors

This paper uses SPSS software to conduct statistics on the third survey of women in Fujian Province, and obtains the correlation between women's working hours in housework and their employment status and education level. This is shown in Tables 1 and 2. Unemployed women spent 220.7 minutes more on household chores than employed women, about 1.8 times that of hired workers, and 85.6 per cent of unemployed women said that they were unable to find gainful employment because they had to do domestic work. And the more educated the housewife, the shorter the time to do housework. Whether it is employment or education level, it is closely related to economic income. People who have a job can get a certain amount of social remuneration through professional work. At the same time, the level of education and economic level are also directly proportional, and generally have a higher level of education and a higher income. It can be seen that domestic work is inseparable from the economic foundation. An analysis of data from three sample surveys in Fujian shows that only 63.1 per cent of workers are women, down from 24.6 percentage points in the same period. Even in Shanghai, only 70.9 per cent of women are employed. Although the number of women is increasing, they are in a distinctly disadvantaged position in terms of access to social resources. In addition, there are still varying degrees of discrimination against women's employment in society. The results showed that 11.3% of female students had experienced gender discrimination in the workplace. Some employers are concerned that having too many female employees will lead to higher operating costs, which in turn will lead to narrower access for women into the workforce, which in turn will affect their sources of income in society. In the same way, the level of education also affects the distribution of occupations and thus also affects income, so to speak, the difference in

the level of education between men and women has an impact on the difference in income between men and women. The higher the level of education, the stronger the ability to work professionally, the higher the income, and the higher the level of education, the more willing people are to devote themselves to society, and related to this, the less time they have to do housework. On the whole, the level of education of female students is generally lower than that of male students, especially in higher education, where female students are generally lower than male students. Therefore, women are of course paid less than men in social work.

Table 1: Relationship between Women's Domestic Work Hours and Employment

	Whether it is in Working Condition or not											
	Be	Retired, But	Retired	Not								
Continues to Work												
Housework Time	152	161	248	292								

Educational Attainment									_
	to		High		000		a	ent	
	69	tary	H	hool	al try Sch		raduate	e Stud	
	Didn't School	Elemen: School	Junior School	High Sc	Fechnical Secondary	College	Undergra	Graduate	
	S	N S	S	I I	L		<u> </u>		
Housework Time	221.5	195	192	185	152	134	100	46	

3.1.2. Traditional Gender Concepts

Under the impetus of the modern feminist movement, women's awareness of equality has gradually awakened, the status of women has been rising, and the idea of equality between men and women has become more and more deeply rooted in the hearts of the people. The results of the third survey on the social status of women in Fujian Province showed that most men and women felt that the social status of men and women was the same, and about half of them agreed with the equality of men and women, and agreed with the positive promotion of equality between men and women. of women are satisfied with their current family situation, an increase of one percentage point from the previous survey. This fully reflects the gradual rise of women's

status in society and the family, and the gradual acceptance of the concept of gender equality. However, due to the difference in fertility between men and women, the division of labor in the family has been created in which "the man is the outside, and the woman is inside", which has created a deep-rooted belief that women should do all the housework. China's millennia-old tradition of "Three Principles and Five Constants" has reinforced this gender-based division of labor, with only the husband's efforts to provide for the family and ignoring what she does for the family.

3.2 Provisions of China's Housework Value Protection System 3.2.1 Legal Provisions

- (1) The principle of equality between husband and wife: Since the founding of the People's Republic of China, we have vigorously advocated equality between men and women, so that women's social status has been greatly improved and all rights have been protected. However, in family life, most, if not all, of the housework is performed by women, and therefore there is a need for further conceptual and institutional advancement. The principle of gender equality established by the Marriage Law is reflected in the legislation on marriage and family, and it is also an important guarantee for housework. Article 13 of China's Marriage Law establishes the principle of "equality of status between men and women in the family". Not only must they have the same obligations, but they must also have the same rights, whether they are responsible for the family or the society, they must be shared by both husband and wife. The principle of equality between husband and wife cannot be understood as a complete equality of rights and obligations between husband and wife, nor can there be an absolute equal share of family work, which is the substantive equality pursued by the law. Because this principle is guiding and not yet mandatory, the protection of the value of family labor is mainly focused on the divorce economic compensation system, and only this system can reflect the value of housework, so the divorce economic compensation system stipulated in Article 40 of the Marriage Law is the focus of this article.
- (2) Divorce financial compensation system: Article 40 of the Marriage Law provides for a written agreement on the property acquired by the husband and wife in the course of their marital relationship, in which one of the spouses is required to raise children, take care of the elderly, In the event of divorce, the other party has the right to demand compensation from the other party, and the other party

should give corresponding compensation, but only if, firstly, the subject is the husband and wife, and there must be a legal special status relationship; second, there is a legal situation, that is, in the marital relationship, one of the spouses undertakes more domestic work; third, both spouses can choose their respective property regimes before marriage; and fourth, this right can only be exercised at the time of divorce.

3.2.2 Applicable Conditions

- (1) Prerequisites for application: Article 19 of the Amendment to the Marriage Act provides that property acquired during marriage and premarital property may be owned separately, jointly or partly separately or partly jointly by agreement. The agreement shall be in writing. According to article 40 of the Marriage Act, divorce family compensation is applicable to property jointly owned by the parties only if the parties have agreed in writing. This means that the spouses' individual, partial, and partial-owning spouses are not reflected in the post-divorce compensation. The divorce benefit of the spouses can only be applied in the event of divorce if the spouses choose to separate the property while the relationship is subsisting, but not in the case of an oral agreement. That is, an additional prerequisite for claiming a claim is that one party clearly benefits from the other party by doing more housework to maintain family life and the other party doing almost no housework.
- (2) Applicable Subjects: However, the right to claim compensation for housework in a divorce is a special right of claim that cannot be actively applied by the judge according to its own characteristics and nature, and can only be decided by the party who has undertaken more housework.
- (3) Applicable time: If one of the parties has decided on their respective assets before the marriage, and one of the parties has greater responsibility for the family, then, at the time of divorce, it is also necessary to apply to the court, otherwise, this right will not be protected by the law, and there will be no mandatory constraints. From the perspective of system design, this compensation can only be applied to families with separate property systems, so as to avoid duplicate assessment of the value of housework under the joint property system of husband and wife, so the addition of this system can indeed make up for the insufficient protection of the rights and interests of the party who has undertaken multiple tasks in the Marriage Law, and promote

the improvement of the marriage and family law. However, in practice, this system has not achieved the expected effect when it was formulated.

4. Inadequacy of The Compensation System for Housework

4.1 Limitations of Applicable Premises

The separate property system refers to the management, use, income and disposal of all property acquired by the husband and wife before and after marriage. This system emphasizes the need to maintain individuality and financial independence, regardless of the income situation of both parties and the extent of their contribution to the family. If there is economic inequality between husband and wife, especially if one of the spouses is not involved in social work, i.e. one of the spouses works outside the home and supports the family on his or her own income, while the other spouse takes care of the household at home, then the use of separate property does not necessarily protect the interests of the person who undertakes the housework. Although neither the marital property regime nor the joint property regime take into account the respective contribution of the spouses to the family, the conclusions of both are diametrically opposed. Because under the system of separate property between husband and wife, the income from labor belongs to one party, while the party who does not participate in labor has nothing left, and "leaves the house" at the time of divorce. Since women often bear a large amount of domestic work, our legislature has provided relief through "compensation for housework" for women. However, the matrimonial property regime already recognizes the value of family work, and if compensation is still made under the matrimonial property regime, there is a risk of double valuation. However, as mentioned earlier, the requirement for remuneration for family services excludes the mainstream of the matrimonial regime and prevents the usefulness of this relief system. This provision effectively ignores elements of certain elements. First of all, the creation of public property rights is a dynamic process, which cannot be realized at one time, but at a certain time interval. One party has to take care of the housework, but also take care of the elderly and children, at the expense of their own development opportunities, to fully support the development of the other party, so that the other party has enough time and energy to study and train, so as to obtain such as vocational qualifications, academic qualifications and other "intangible property". If the divorce is carried out at this time, the "intangible

property" of the spouse who undertakes more housework can still only be a kind of ability, and cannot be converted into actual income, especially when there is little left of the joint property of the husband and wife, and the simple division of the joint property of the husband and wife can no longer make a reasonable assessment of the value of the family work. Second, in urban households, dual-income families are still predominant, and most of them are women, who work harder than ordinary "stay-at-home wives", and the equal distribution of common property after divorce can no longer reflect the equality of rights and obligations between husband and wife, especially in the absence of joint property, the situation is even more worrying. To this end, there is an urgent need to go beyond the restrictions of the conditions under which it is applicable, so that domestic work can also be treated fairly in the system of joint husband and wife.

4.2 The Applicable Time is Strict

The current system of compensation for housework stipulates that it can only be applied for at the time of divorce, that is, at the time of divorce, and after this period, it no longer applies. Some scholars believe that allowing only the spouses to make financial compensation after marriage will affect the couple's investment in the marital relationship and adversely affect the stability of family life. This is inconsistent with the spirit of the current legislation on the unification of the rights and obligations of husband and wife in China, and may lead to the systematic denial of the main bearer of family work, which violates the principle of justice in civil law. Therefore, both spouses should be allowed the right to claim compensation during the existence of the marital relationship. However, I believe that marriage and family have both economic and moral characteristics, and the relationship between husband and wife is a contractual relationship based on emotion, and all investments made in marriage must be premised on maintaining the stability of the family. In addition, in the course of the relationship between husband and wife, both parties have the will to live together and bear the responsibility of supporting each other, and if the other party takes on more housework, then it can be reasonably evaluated by expecting the other party to provide support, so there is no need to evaluate this during the marriage.

4.3 The Compensation Standard is not Clear

Housework is not only a physical labor, but also a spiritual labor, and

it is also a "labor of love". Housewives not only have to invest their time, energy, and emotions, but in many cases, they also have to sacrifice the opportunities for housewives to rest and study. The value of family labor is reflected through compensation, but how and how much compensation is the key to making it truly valuable. However, neither the Marriage Law nor its relevant judicial interpretations have made clear provisions on the specific compensation standards and methods, let alone a detailed definition of them, and even the measurement reference factors have not been uniformly stipulated. This affects both the interests and expectations of domestic workers and the operability of justice. In judicial practice, the ambiguity of judicial adjudication standards leads to the expansion of the discretionary power of judicial adjudication, which makes it difficult to predict the outcome of adjudication, and can easily lead to different judgments in the same case. In addition, this also puts the court in an embarrassing situation of "no way to start".

5. IMPROVEMENT OF THE COMPENSATION SYSTEM FOR HOUSEWORK

5.1 Clarify The Legal Provisions

At present, China's provisions on compensation for housework are very limited, only the "Marriage Law" 40 mentioned in the raising of children, taking care of the elderly, assisting the other party to work, etc., according to the way of literal interpretation, the above three enumerated contents are related to the personal life of family members, can only provide services for the family members themselves, but there is no cooking, laundry, cleaning and other daily life also take a lot of time housework, such as cooking, laundry, Cleaning, etc., the current housekeeping services can be replaced by housekeeping services, and the housekeeping services in the market are also expensive, and these things cannot be taken for granted. As mentioned earlier, housework should be understood in a broad sense, not only referring to physical tasks that can be replaced by socialized domestic services, such as cleaning, cooking, taking care of children and the elderly, but also to include irreplaceable activities that require emotional and energetic investment, such as giving birth to children, maintaining family harmony, helping spouses with work, etc. The provisions of the current legislation in our country on the right to claim compensation for domestic work are too broad and too simple, and can only be claimed by the party who has undertaken a large amount of domestic work at the time of divorce, which ignores the protection of the value of domestic work in the conjugal relationship and during the period of separation before divorce. Therefore, it should be appropriately expanded, because even if it is a very ordinary thing, doing it in a family for a long time will waste a lot of energy and time, which will have a detrimental effect on the development of a person's society.

5.2 Extension of Application Period

The Marriage Act sets a time limit for claiming compensation for housework, which can only be filed by the spouse who did the housework. In China, many families do not have to go through divorce proceedings when they divorce, and many people will choose to register for divorce, because in this case, the applicable conditions for housework compensation are more stringent, and it is only limited to the time of divorce, which greatly reduces the protective effect of housework. On the basis of drawing on relevant foreign legislation, it is more reasonable to propose that it should be extended to a transitional period during the existence of the husband and wife and after the divorce. In the process of marriage, the feelings between husband and wife are based on equality and mutual assistance, if in marriage, the value of the party doing housework is not recognized and compensated, and must be compensated through divorce, then the enthusiasm of the housekeeper will be reduced, and the investment in the family will be less and less, and the stable development of marriage and family cannot be fundamentally maintained. The party who does housework, because he has chosen the family and gave up personal development, may find it difficult to work after the divorce, and may also take care of the children at home, so in this process, the domestic worker should be allowed to make such a request, so that after marriage, they can have a time to recover their financial situation, so that the domestic worker can maintain the normal operation of the family during the marriage.

5.3 Refine The Compensation Standard

First, from the perspective of the duration of the relationship between husband and wife, the longer the marriage relationship lasts, the higher the cost of opportunities and efforts to do housework, and

the more valuable the housework will be. The second is to refer to the average salary level of the husband and wife in the domestic service industry after marriage, for example, one of the husband and wife is supporting, Raising children, you can refer to the standards of local nannies; the third is to benefit from marriage, generally speaking, the party who does not do housework gets the help of the party who does housework, has obvious advantages in work and family life, has more human resources advantages and social status, which is inseparable from the contribution of domestic workers, and domestic workers can also get spiritual rewards from the family, so according to the differences between these two aspects, to determine the compensation required by the family workers; fourth, it is necessary to consider the expected benefits of domestic workers, marriage should be a mutually beneficial economic unit, and domestic workers provide opportunities for the spouse to develop socially, so that they can succeed academically, develop their careers, and have expectations of future benefits, so take this reasonable expectation into account when making compensation.

6. SUMMARY

Attaching importance to housework is of great significance to social stability and family harmony. The value guarantee of family labor not only has a legal basis in the fields of law, economics, and sociology, but also has the practical experience of marital life in contemporary society. Although the provisions of the Marriage Law on financial compensation for divorce are somewhat advanced, they can still play a role in guiding real life, and the value of family work should be publicized so that more divorced parties can actively use this system. On this basis, it is necessary to draw on the advanced systems of other countries or regions in the light of its own actual conditions, so as to make it more closely linked with reality and enable it to give better play to its vitality.

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