



Worker's Compensation System and Rules for Conversion of Personal Property of Spouses in Divorce Proceedings

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Abstract. This study examines the significance, theoretical underpinnings, and associated doctrines of China's domestic labor compensation system. It also studies the domestic labor compensation systems of important foreign nations and draws inspiration from them to enhance China's system. Then, we examine the actual state of China's domestic labor compensation system, as well as its legislative shortcomings and root reasons, and offer workable legislative recommendations for enhancing it. The first section provides background information, discusses the topic's relevance to daily life, and highlights the opinions of some domestic and international intellectuals on the domestic labor compensation system using examples from various works of literature. In the second section, the system is described, the ideas are sorted out, the many philosophies of the domestic labor compensation system are examined, and the importance of creating a perfect domestic work compensation system is briefly discussed. The third section examines the domestic labor compensation systems of significant foreign nations and takes inspiration from them in order to improve the system. The fourth section examines the flaws in the application procedure and addresses the reasons why domestic employment in China is imperfect, using the actual remuneration for domestic work in China as a starting point. The fifth section elaborates legislative solutions to address the shortcomings of China's

domestic labor compensation system from many angles, including application and compensation methods, using the aforementioned analysis as its foundation. Wu Changzhen reveals the actual implementation of the domestic labor compensation system in China at the time in his essay "The Implementation of the Marriage Law" through empirical research. In order to support the claim that there are not many matrimonial property agreements and, consequently, very few couples qualify for the domestic labor compensation system, he collects survey data on the implementation of the matrimonial property system, primarily in Harbin City, Heilongjiang Province. It seems sense to propose broadening the system's application possibilities. Wang Goya refers to this system under the Marriage Law as the domestic work compensation system. Wang Goya thinks that this system has a deep meaning of emancipating women and promoting gender equality in a particular social context. It also aims to relieve the interests of housewives under the contractual separate property system and improve their status in family life and society. Li Hongxiang explains in his work the function of the divorce financial compensation system (also known as the domestic work compensation system), which enables one party to make a claim for compensation for the loss of interests when they fully support the other party in obtaining certain interests or give up their time and energy to help the other party acquire more interests during the marriage.

Keywords: Family law, marriage law, workers' compensation, domestic and foreign differences study, divorce proceedings

1 Introduction

The concept of "cohabitation and common property" has been ingrained in Chinese family culture since ancient times, and the concept of property conversion between husband and wife has been a cornerstone of our marriage system for a very long time. China is a traditional family property state. The exchange of property between husband and wife has been crucial in fostering intra-family collaboration and production as well as preserving the moral hierarchy of marriage. Following the establishment of New China, the concept was also confirmed and acknowledged in the marriage legal system, and it was expressly defined in the form of particular legal laws in the 1993 judicial interpretation.² Sadly, it was removed from the 2001 reform of the Marriage Law and did not reappear in the new marriage legal framework. The evolution of China's matrimonial property system and the legislative definition of matrimonial and family property system may be seen in the history of its existence and abolition. The coordination of spouses' property interests has, however, been a heated topic of debate in the area of marriage law today as issues and conflicts in Chinese marriage and family life have grown more and more prominent in recent years.

2 Literature review

2.1 Origin

The conversion of a husband and wife's personal property originated in China's traditional family property system and persisted in the husband and wife's property system for a considerable amount of time after the establishment of New China. Following this, China's marriage legislation made a distinction between the husband and wife's personal property and common property, and the rules for the conversion of personal property were established in the form of legislation, which was abolished in 1949. When a man and a woman get married in rural China, the woman's property contribution to the family only consists of a few easily consumable daily necessities, while the man pays for more valuable production materials like houses. This rule was put in place to adapt to these peculiarities and prevent divorces that result in the disadvantaged party being thrown out of the house. For instance, Professor Yang Lixin stated in a 1994 article that the rule lacked theoretical support, comparative law precedents, and was likely to result in ambiguous property lines for the parties to the marriage as well as the social phenomena of enrichment by marriage [3]. In 1999, Professor Tian Lan claimed that the rule of conversion had eight paradoxes, including a conflict with existing laws governing the transfer of ownership and modification of property rights, a blurring of the line separating a spouse's separate property from their joint property, a lack of a theoretical foundation for the limitation, and a failure to take into account foreign legislative precedent regarding the legal right of residence. This is the justification for creating a spousal property law framework [5].

2.2 Related doctrines

The appraisal of productive work performed within the family can theoretically be handled under the guidelines of property law, according to Taiwanese academic Lin Hsiu-hsiung. One may demand the division of benefits in a partnership arrangement, compensation in an employment connection, and the return of unjust enrichment in the absence of a contractual relationship.

The employment relationship, which entails the employee providing labor and the hirer compensating for it, is a relationship of rights and obligations between the employee and the hirer. The employment hypothesis, which originally appeared under the German Empire, claimed that a wife's domestic labor belonged to her husband but that her professional labor belonged to her, allowing her to demand payment from her husband for her professional labor if she worked in his store. Domestic work is work done to support the family and take care of family members, even though it differs from labor provided in the broadest sense. In his paper "The Discourse of Women's Emancipation," Fuji Isono makes the case that a woman should be able to request just compensation for her labor. However, the principle of equality between men and women is fully stipulated in the Marriage Law in accordance with the constitutional principles, and the employment argument is obviously contrary to the constitutional

principles, the principles of the Marriage Law, and the value of equality between men and women that modern society places a high value on [7].

2.3 Foreign related systems

2.3.1 The British system.

England's appreciation of the value of domestic work is mostly reflected in its jurisprudence as a typical common law nation. In *White v. White*, Mr. Justice Nichols made it clear that there should be no prejudice in favor of the breadwinner to the detriment of the homemaker or the child-supporter and that there must be no discrimination between husband and wife and their respective roles as long as they contribute equally to the family in their respective spheres. Judge Denny ruled that even though the spouses contributed differently to the family's wealth, they should share equally in the event of a divorce. The aforementioned case law demonstrates that English law views domestic and professional work as being of equal value, and even if one spouse did not earn a living during the marriage, they are still considered to have made a significant contribution to the family's well-being by caring for the home and raising the kids [4]. This contribution cannot be disregarded or denied simply because the spouse did not engage in the professional work, even in some specific cases, in order to maintain the family's financial stability. In some situations, the split of property is prejudiced on purpose to make up for the disadvantageous housewife's loss as a result of giving up her work. When it comes to resolving divorce property issues, judges in the UK have a lot of latitude and are allowed to weigh all the relevant factors to ensure that the rights and interests of the disadvantaged party are completely protected. The scope of protection is particularly broad among national legislation [6], which is something that our law should learn from, and most importantly, English law not only recognizes the value of domestic work during the marriage but also recognizes the contribution of a party to the family's well-being in the near future.

2.3.2 The U.S. system.

The United States also has a dependency system, which operates similarly to our domestic work compensation system. The dependency system is intended to address situations where one spouse is experiencing financial hardship as a result of the dissolution of the marriage and where there is a disparity in the financial resources of the two spouses, with one spouse having significantly more financial resources than the other. In these situations, the dependent spouse may be required to pay support. Since more marriages end amicably, culpability is gradually being disregarded as a determining criterion for alimony. In the United States, there are primarily two forms of divorce maintenance: restorative divorce maintenance and compensatory divorce maintenance [2]. One of these is restorative divorce maintenance, which is paid by the other spouse so that the weaker spouse can become more self-sufficient over time and find employment through vocational training. One spouse may ask for compensatory divorce maintenance from the other spouse after the marriage has ended in exchange

for helping the other spouse attain particular credentials or licenses during the marriage [1]. The amount of alimony varies from state to state in the United States.

3 Conclusion

Following the repeal of the regulation allowing for the conversion of matrimonial property, the Marriage Law has undergone three legislative revisions that have helped to both clarify and condense the definition of matrimonial community property. Due to the different and unequal division of labor within marriage and families, many instability factors develop in marital relationships as a result of the calculation of interests. The high divorce rate and the protection of the interests of vulnerable family members have become issues that cannot be ignored in contemporary society. A healthy balance between individual and family interests can be achieved through the reorganization of the conversion rules, which will act as a centripetal force for the stability of marriage and family in China. In addition, it can lessen or even prevent family conflicts from occurring, which helps to maintain the stability and harmony of family relationships in a market economy where the pursuit of individual interests conflicts with the development of stable and harmonious family connections.

The divorce remedy system cannot safeguard the legal rights and interests. The ideal level of the divorce remedy system, a crucial component of marriage and family law, affects whether the parties' rights can be successfully maintained and whether the harms may be fairly made up. The current domestic job compensation system in China is crucial as one of the divorce relief methods. Domestic work is essential for preserving family stability and fostering family growth in modern families because it plays a significant role in satiating the material and spiritual needs of family members. It is a crucial aspect of family life and should not be ignored. The need to reward domestic labor and improve women's status in marriage and family life is becoming more and more critical. A crucial part is played by the system of pay for domestic work. The value of domestic labor is not only related to the right holder's lawful rights in the event of a divorce between the spouses, but it also makes a significant positive contribution to social harmony. The regulations of China's Marriage Law regarding payment for household work largely acknowledge the economic and social importance of domestic work, which is a significant indicator of the times' advancement. Some academics, on the other hand, have opposing opinions and think that the law ought to be repealed.

References

1. Barbara Arnell. Political science and feminism. Translated by Xiajuan Guo. Oriental Press. 2005: 152.
2. Gary Baker. Baker. The contribution of domestic work to GDP. Translated by Cao Guohuang. International markets. International markets. 1996: 8.

3. Huang Yu. Feminist analysis of marriage and family law [M]. Beijing: Mass Publishing House, 2012. Ran Qiyu. Research on the legal system of divorce in the humanistic field [M]. Beijing: Mass Publishing House, 2012.
4. Jiang Yue. The rights and obligations of husband and wife [M]. Beijing: Law Publishing House, 2001. [4] Xia Yinlan. The modern marriage and family system in the United States [M]. Beijing: China University of Political Science and Law Press, 1999.
5. Lei Chunhong. Review and construction of the value orientation of contemporary Chinese marriage and family law [M]. Hangzhou: Zhejiang University Publishing House, 2016.
6. Lin Hsiu-hsiung. The study of marriage and family law. China University of Political Science and Law Press. 2001.140-141.
7. Yang Lixin. Research and application of civil law precedents [Mq]. Beijing: China Legal Publishing House, 1994.

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